

**CITY OF CAPITOLA  
CITY COUNCIL/REDEVELOPMENT AGENCY**

September 22, 2011  
Capitola, California

**MINUTES OF A REGULAR JOINT MEETING**

**5:30 P.M - CLOSED SESSION - CITY MANAGER'S OFFICE**

At 5:30 p.m. in the City Hall Council Chambers, Mayor/Chairperson Norton noted that all Council Members/Redevelopment Agency Directors were present, with the exception of Council Member/Director Stephanie Harlan. Mayor/Chairperson Norton made an announcement regarding the items to be discussed in Closed Session, as follows:

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Govt. Code §54956.9a)**

Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park)  
[Superior Court of the State of California for County of Santa Cruz, Case #CV 167716]

Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park)  
[U.S. District Court N.D., Case No. C09-05542 RS (Judge Richard Seeborg)]

Bill Newman, et al. (residents of Surf & Sand Mobile Home Park) vs. Surf and Sand, LLC,  
Ronald Reed, et al. [Superior Court County of Santa Cruz, Unlimited Jurisdiction, Case  
No. CV 171783]

Surf and Sand, LLC; Ronald Reed, Cross-Complainants vs. City of Capitola [Superior Court  
County of Santa Cruz, Unlimited Jurisdiction, Case No. CV 171783]

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9:  
One Case – Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957)**

Title: City Manager

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Govt. Code §54956.8)**

Property: McGregor Drive, APN 36-341-02 (City of Capitola, Owner)  
City Negotiator: City Manager  
Negotiating Parties: City and Soquel Creek Water District  
Under Negotiation: Real Property Lease/Sale

**LIABILITY CLAIMS (Govt. Code §54956.95)**

Claimant: Farmers Insurance Exchange; subrogee of Babette Beyer and  
Rainbow City Limits

Claimant: Mid-Century Insurance Company; subrogee of Panache Bath & Body Shop

Claimant: California Capital Insurance Company; subrogee of Stacey Basile, et al.

Claimant: Capitola Associates, LLC

Agency claimed against: City of Capitola

No one from the public was present for the announcement regarding the Closed Session; therefore, the City Council/Redevelopment Agency recessed at 5:31 p.m. to the Closed Session in the City Manager's Office.

**7:00 P.M. – OPEN SESSION****REGULAR JOINT MEETING OF THE CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY**

Mayor/Chairperson Norton called the Regular Joint Meeting of the Capitola City Council/Redevelopment Agency to order at 7:03 p.m. on Thursday, September 22, 2011, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

**ROLL CALL AND PLEDGE OF ALLEGIANCE**

**PRESENT:** Council Members/Directors Michael Termini, Kirby Nicol, Sam Storey and Mayor/Chairperson Dennis Norton  
**ABSENT:** Council Member/Director Stephanie Harlan  
**OTHERS:** City Treasurer Jacques Bertrand and Redevelopment Agency Treasurer Debbie Johnson  
**STAFF:** City Manager/Executive Director Jamie Goldstein, Deputy City Attorney/RDA General Counsel Adair Paterno, Community Development Director/Deputy Executive Director Derek Johnson, Chief of Police Michael Card, Public Works Director Steve Jesberg, Administrative Services Director Lisa Murphy, and City Clerk/Secretary Pamela Greeninger

**\*\*\* PRESENTATIONS \*\*\*****Mayor's Proclamation proclaiming  
October 1 to November 3, 2011 as "The Big Read Month" [120-40]**

Mayor Norton read and presented Teresa Landers, Executive Director of the Santa Cruz Public Libraries, with the Mayor's Proclamation proclaiming October 1 to November 3, 2011, as "The Big Read Month."

Ms. Landers said she hoped everyone would take advantage of opportunities during the Big Read Month. She commented on the writing contest for high school students and various events being planned throughout the county to celebrate Edgar Allen Poe.

**Presentation by Brenda Moss, Executive Director of  
Senior Network Services [330-30]**

Brenda Moss thanked the Council for the opportunity to discuss the work of Senior Network Services, a senior community resource center, which has been providing services to seniors since 1974. Ms. Moss discussed the various types of services provided by their agency and announced that the phone number is 462-1433. She said the greatest needs for seniors include transportation, housing, health insurance advocacy, and home care.

Mayor Norton thanked her for her presentation

**Presentation by Laura Kasa, Executive Director of  
Save Our Shores [330-30]**

Mayor Norton announced that Laura Kasa was unable to attend tonight's meeting and that Michelle Hohensee, Operations Manager, would make the presentation on her behalf.

Using a PowerPoint Presentation, Ms. Hohensee shared information about this year's beach clean-ups in Capitola and the items they pick up. She said they are grateful to Capitola for its grant, which helps fund private and public clean-ups. Ms. Hohensee responded to questions of Council Member regarding "plastic pieces" found in their clean-ups.

**1. REPORT ON CLOSED SESSION [520-25]**

Deputy City Attorney Adair Paterno reported that the City Council met in Closed Session from 5 p.m. until approximately 6:40 p.m., on those matters listed on the posted agenda. She noted that Council Member/Director Harlan was absent. She then reported as follows:

- The City Council received status reports on the existing litigation matters listed on the posted agenda.
- Under anticipated litigation, the City Council discussed the Noble Gulch storm pipe failure at Pacific Cove Mobile Home Park and took no reportable action.
- The Council then conducted a public employee performance evaluation of the city manager and took no reportable action.
- The Council had a conference with its real property negotiator and gave staff direction on how to proceed but took no reportable action in Closed Session.
- Deputy City Attorney Paterno stated the four liability claims listed on the Closed Session agenda would be acted upon by the City Council on the Open Session agenda under the Consent Calendar.

Mayor Norton announced that a number of students from Soquel High School government class are in attendance at tonight's meeting. He welcomed them and thanked them for coming.

**2. ORAL COMMUNICATIONS****A. Additions and Deletions to Agenda**

1) Council Member Storey moved, seconded by Council Member Termini, to continue Consent Item 3.F. liability claim Item 4) Capitola Associates, LLC, in the amount of \$541,724.72, until Council Member Harlan is able to join the Council for discussion of that claim. The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

2) Council Member Termini moved, seconded by Mayor Norton, to reorder Item 5.A., Amendments to the Polystyrene Ordinance, prior to Public Hearing Item 4.A. pertaining to the Skate Park, in order for interested parties to participate, because of back-to-school night.

3) Mayor Norton wanted to add an item to the agenda for discussion pertaining to redistricting of the supervisorial boundaries. He said Supervisor Ellen Pirie was in attendance, and he would like to schedule an added item after the consent agenda.

Council Member Termini moved to add the item regarding redistricting to the agenda proposed by Mayor Norton. City Clerk Greeninger said findings would need to be made to add the item to the agenda. Council Member Storey noted that, since this item is not on the agenda, the Council would need to make a finding that there is an emergency in order to add it to the agenda. Deputy City Attorney Adair Paterno said a 2/3 vote would be necessary to do so.

City Manager Goldstein said the Board took action on Tuesday, which was after our agenda was posted and that action would be required before the next regularly scheduled meeting of the Council.

There was considerable discussion regarding the addition of the proposed item to the agenda as an emergency item.

## 2. A. 3) ORAL COMMUNICATIONS (Continued)

Council Member Nicol offered a substitute motion to take Item 2.B., Public Comments, first to hear from Supervisor Pirie, and then return to Item 2.A., Additions and Deletions to Agenda, for possible addition to the agenda. The motion was seconded by Council Member Storey.

There was further Council discussion regarding the substitute, prior to the following vote: The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

B. Public Comments

1) Angela Flynn expressed concerns regarding the SmartMeters that are being installed in Capitola. She urged the Council to enforce its moratorium.

2) Marilyn Garrett said a meeting was held at the Soquel Grange regarding SmartMeters. She commented on a list of health conditions people experience as a result of SmartMeters and provided a number to call: 655-9502. Ms. Garrett also submitted written information regarding SmartMeters for the Council's information.

3) Supervisor Ellen Pirie, County Board of Supervisors from the 2<sup>nd</sup> District, addressed the council regarding the supervisorial redistricting matter and said she is not sure why this is becoming controversial. She explained the process that has been followed which began in May when a task force was appointed. The task force met in June, July and August, and in September there were public hearings on the redistricting. At its last meeting the Board voted 5-0 in favor of the redistricting ordinance. Following her discussion, Supervisor Pirie responded to questions of Council Members.

4) An unidentified woman expressed her frustration concerning the SmartMeter situation, saying she is thoroughly disgusted. She is especially concerned about the effects of the meters on her health that she has no control over.

C. Staff Comments

1) Community Development Director Johnson said Target has pulled their demolition permits and will begin work soon at Capitola Mall. They have indicated a July 2012 opening date.

The City Council then returned to Item 2.A., Additions and Deletions to the agenda.

Mayor Norton said he has a number of issues relative to the redistricting item that need to be brought to the attention of the public.

There was considerable Council discussion about placing this matter on the agenda as an emergency item.

Council Member Termini moved to place this item as an emergency item on tonight's agenda for discussion. Mayor Norton seconded the motion. City Clerk Greeninger commented that certain findings would need to be made in order to do so.

Deputy City Attorney Adair Paterno informed the council that in order to add this item to the agenda, 2/3 of the council would need to make two specific findings: 1) that there is a need to take action immediately, and 2) the need to take action came to the attention of the city after the agenda was posted. She said if the council is not going to take any action, then she does not believe the council can make the necessary findings.

## 2. A. 3) ORAL COMMUNICATIONS (Continued)

Council Member Termini suggested getting a consensus to place this item on the Council's next agenda.

Council Member Termini then amended his motion to place this item on the agenda for discussion and possible action with the necessary findings articulated by the Deputy City Attorney. Council Member Nicol seconded the motion. The motion carried on the following vote: AYES: Council Members Termini, Nicol, and Mayor Norton. NOES: Council Member Storey. ABSENT: Council Member Harlan. ABSTAIN: None.

Council Member Storey expressed his concerns about adding this as an emergency item and stated that he would like to have this item agendaized for a future meeting when staff could provide a report, and the council could have more information about the supervisorial lines.

Mayor Norton asked the city manager to bring up the supervisorial boundary map on the screen. The mayor then pointed out and stated he believes the logical geographical boundary would be Soquel Creek. Another logical boundary would be 41<sup>st</sup> Avenue.

Supervisor Pirie and City Manager Goldstein responded to questions and comments made by council members.

There was considerable council discussion regarding this matter prior to the following action being taken:

**ACTION:** Council Member Termini moved to add this item to the Council's next agenda under Other Business, directing staff to provide a report and include the new supervisorial district map in the packet. Council Member Storey seconded the motion, with the added request that Supervisor Leopold be invited to speak to this item at that meeting. The motion carried unanimously.

Council Member Nicol commented that he would hope his colleagues at the Board of Supervisors would make the new maps more easily accessible on the County's website. He would also like to see maps that are clearer to read than the ones currently on the website.

D. City Council/RDA Director/Treasurer Comments/Committee Reports

1) Council Member Nicol welcomed the students from Soquel High who were in attendance at tonight's meeting.

2) Council Member Termini reminded everyone that the Mermaid Triathlon takes place on Sunday, September 25, in Capitola Village.

3) Council Member Storey reported on the recent meeting of the Monterey Bay Unified Air Pollution Control District Board. He announced that the board disbursed about \$1.4 Million in AB 2766 grants for pollution reduction projects throughout the tri-county area. He would encourage staff to look for possible applications from the City of Capitola for grants in the next years' cycle.

4) Mayor Norton said he had a request from someone in the audience who wished to address the Council. He asked that person to come forward.

Terry, a new business owner on Capitola Avenue, expressed concerns about the installation of a SmartMeter at her business, which is health-related. She thought she would be protected against the meters since the City has an ordinance. She was told that PG&E only recognizes the California Public Utilities Commission, not local moratoriums. Terry believes people should have a choice. Mayor Norton explained that there is an opt-out clause, which provides some rights. She thanked the Mayor for the opportunity to speak.

## 2. ORAL COMMUNICATIONS (Continued)

E. Committee Appointments – NoneF. Approval of Check Register Reports1) City: Approval of City Check Register Reports dated September 2, 2011 and September 9, 2011. [300-10]

*[Note: The City Council received a "Revised" Agenda Report for this item prior to the meeting, as the Check Register Report dates were incorrect. The Agenda was also corrected to include the correct dates.]*

**ACTION:** Council Member Termini moved, seconded by Council Member Storey, to approve the Check Register Reports dated September 2 and 9, 2011, including checks numbered 67440 through 67475 in the amount of \$84,590.14, checks numbered 67476 through 67546 in the amount of \$113,367.71, respectively; and payroll disbursements for the September 9, 2011, payroll in the amount of \$174,679.00, for a Grand Total of \$372,636.85, as submitted. The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

2) RDA: No Report.3. **CONSENT CALENDAR**

Mayor/Chairperson Norton asked if there were any items on the Consent Calendar that members of the public or the City Council/Redevelopment Agency Directors wished to pull for separate discussion.

Mayor/Chairperson Norton pulled Item 3.E. Council Member/Director Storey also wished to comment on that item.

Mayor/Chairperson Norton advised Item 3.E. would be discussed at the end of the meeting following Other Business Item 5.D. (See discussion and action on Page 12082.)

**CONSENT CALENDAR ACTION:** Council Member/Director Nicol moved, seconded by Council Member/Director Termini, to approve the Consent Calendar, as recommended, with the exception of Items 3.E. and 3.F.4) (Claim of Capitola Associates, LLC), which was continued to the next meeting under Oral Communications Item 2.A.1). The motion carried on the following vote: AYES: Council Members/Directors Termini, Nicol, Storey, and Mayor/Chairperson Norton. NOES: None. ABSENT: Council Member/Director Harlan. ABSTAIN: None.

**A. Approve Reading by Title of all Ordinances and Resolutions and declare that said Titles which appear on the Public Agenda shall be determined to have been read by Title and Further Reading Waived.**

**ACTION:** The City Council/Redevelopment Agency Directors unanimously approved the reading by title of all Ordinances and Resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

**B. City/RDA: Approve Minutes of the Regular Joint Meeting of the City Council/Redevelopment Agency of September 8, 2011.**

**ACTION:** Council Member/Director Nicol moved, seconded by Council Member/Director Termini, to approve the Minutes of the Regular Joint City Council Meeting of September 8, 2011, as submitted. The motion carried on the following vote: AYES: Council Members/Directors Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member/Director Harlan. ABSTAIN: None.

## 3. CONSENT CALENDAR (Continued)

**C. City Treasurer's Report for the month ended August 31, 2011 (Unaudited).  
[380-30]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to receive the City Treasurer's Report for the month ended August 31, 2011 (Unaudited), as submitted. The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

**D. Accept update report on the Rispin Property Hazard Abatement Project and, by 4/5 vote approval, make the determination that all hazards at the Rispin Property have not been eliminated and there is need to continue action. [275-60]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to accept the update report on the Rispin Property Hazard Abatement Project and made the determination that all hazards at the Rispin Property, as detailed in the March 1, 2011, Notice of Summary Abatement Order to Abate Dangerous Buildings and Grounds, have not been eliminated, and there is a need to continue action. The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

**E. Approve First Amendment to the Cooperative Agreement with Barry Swenson Builder for Village Hotel Planning, and adopt Resolution amending the FY2011-12 budget to accept \$30,000 in funds and to increase the General Plan Maintenance Fund Revenues & Expenditures by \$30,000. [330-10/500-10 A/C: Barry Swenson Builders]**

This item was pulled for separate discussion. (*See discussion and action on pages 12082 and 12083.*)

**F. Deny liability claims and forward to the City's liability insurance carrier. [Claims Binder]**

- 1) Farmers Insurance Exchange; subrogee of Babette Beyer and Rainbow City  
Limits: \$6,409.89
- 2) Mid-Century Insurance Company; subrogee of Panache Bath & Body Shop:  
\$12,682.23
- 3) California Capital Insurance Company; subrogee of Stacey Basile, et al.:  
\$250,000.00
- 4) Capitola Associates, LLC: \$541,724.72 [*Note: This claim was continued.*]

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to deny the claims of the above-listed claimants, with the exception of 4) Capitola Associates, LLC, in the amount of \$541,724.72, and to forward the claims to the City's liability insurance carrier. Item 4 was continued to the next Regular Meeting when Council Member Harlan could participate in the discussion of that claim. The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

**G. City/RDA: Adopt Uncodified Ordinance of the City of Capitola Determining it will Comply with the Voluntary Alternative Redevelopment Program Pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in Order to Permit the Continued Existence and Operation of the Redevelopment Agency of the City of Capitola [2<sup>nd</sup> Reading], and adopt the necessary City Council and Redevelopment Agency Resolutions approving various agreements required to implement the State's Voluntary Alternative Redevelopment Program established as part of the State's FY2011-12 Budget. [760-10/760-25/500-10/760-05 A/C: City/RDA Agency Transfer Payment Agreement/Loan and Repayment Agreement]**

## 3. CONSENT CALENDAR (Continued)

**ACTION:** Council Member/Director Nicol moved, seconded by Council Member/Director Termini, to take the following actions:

**CITY ACTIONS:**

1. Adopted **Ordinance No. 962, an Uncodified Ordinance Determining it will Comply with the Voluntary Alternative Redevelopment Program Pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in Order to Permit the Continued Existence and Operation of the Redevelopment Agency of the City of Capitola**, as submitted. The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.
2. Unanimously authorized the City Manager to notify the Department of Finance, State Controller's Office and the Office of the County Auditor-Controller of the City's participation in the Voluntary Alternative Redevelopment Program.
3. Adopted **City Council Resolution No. 3886, Resolution Approving and Authorizing the Execution of the Agency Transfer Payment Agreement with the Redevelopment Agency of the City of Capitola Pursuant to Part 1.9 of the Redevelopment Law**, as submitted. The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.
4. Adopted **City Council Resolution No. 3887, Resolution Approving and Authorizing the Execution of the Loan and Repayment Agreement with the Redevelopment Agency of the City of Capitola**, as submitted, to ensure that FY2011-2012 Agency housing programs are fully funded. The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

**RDA ACTIONS:**

1. Adopted **Agency Resolution No. 2011-11, Resolution Approving and Authorizing the Execution of the Agency Transfer Payment Agreement with the City of Capitola Pursuant to Part 1.9 of the Redevelopment Law**, as submitted. The motion carried on the following vote: AYES: Directors Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: Director Harlan. ABSTAIN: None.
2. Adopted **Agency Resolution No. 2011-12, Resolution Reducing its Deposit to the Low and Moderate Income Housing Fund for the 2011-2012 Fiscal Year and Making Certain Findings and Determinations**, as submitted and authorized the Executive Director to transfer \$150,000 from the Housing Trust Fund for Housing Programs for FY2011-2012 and make certain findings and determinations, as submitted. The motion carried on the following vote: AYES: Directors Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: Director Harlan. ABSTAIN: None.
3. Adopted **Agency Resolution No. 2011-13, Resolution Approving and Authorizing the Execution of the Loan and Repayment Agreement with the city of Capitola**, as submitted, to ensure that FY2011-2012 Agency housing programs are fully funded. The motion carried on the following vote: AYES: Directors Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: Director Harlan. ABSTAIN: None.



## 3. CONSENT CALENDAR (Continued)

- H. **Approve a three-year contract with Ed Morrison for Public Works Inspection Services in an amount not to exceed \$30,000 per year, effective January 1, 2012. [500-10 A/C: Morrison, Ed]**

*[NOTE: The City Council received an Additional Material Agenda Report on September 19, 2011, recommending adoption of a budget amendment resolution if the contract were approved.]*

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to approve a three-year contract with Ed Morrison for Public Works Inspection Services in an amount not to exceed \$30,000 per year, effective January 1, 2012, and adopt **Resolution No. 3891, Resolution Amending the FY2011-12 General Fund Budget by Transferring \$15,000 from the Public Works Department Salary & Benefits Account to the Public Works Department Contract Services Account for a Public Works Inspection Service Contract**, as submitted. The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

## 4. PUBLIC HEARINGS

- A. **Public Hearing to discuss possible Skate Park Locations and Options. Presentation: Public Works Department. [1040-20]**

Public Works Director Jesberg summarized the written agenda report utilizing a PowerPoint Presentation, and Deputy City Attorney Paterno discussed liability issues associated with skate board parks. They then responded to questions from council members.

Public Works Director Jesberg shared a map of the Monterey Park site showing different configurations for skate parks. Chief of Police Card commented that the City needs a site that is visible and a high traffic area. He also said videoing of the site is useful in the event something happens, and he would recommend lighting after dark. Mayor Norton noted that the City has an agreement with the neighbors that there will never be lighting in the park.

Council Member Termini read an email he received from William Delaney supporting the proposed skate park.

Mayor Norton opened the public hearing at 8:56 p.m. The following people spoke:

Tory Delfavero, Capitola resident, said she grew up in Capitola and is now raising her 3 sons here. She and a number of her friends and their children would like to see a non-destination skate park in Capitola.

Joy Richardson, resident of Capitola, offered her support for the proposed skate park.

Jacques Bertrand, Capitola resident living on Monterey Avenue, discussed the benefits of a skate park for Capitola families. He said perhaps the Recreation Department could organize activities at the skate park. In addition, he suggested working with the school district cooperatively to see if they would be willing to open the playground area for parking and open the restrooms.

Kristy Caplan, Capitola resident with two sons, supports a skate park in Capitola.

Sandra Wallace, neighbor of the park and a Soquel Union Elementary School District trustee, said she was not speaking for the board, but as a resident. She believes the city needs a skate park for the students at New Brighton Middle School. Due to the proximity of the proposed skate park, which would be next to the district office and the caretaker, she would recommend a noise study be taken. She also stated that when the park was first built, the neighborhood was assured there would be no lights or restrooms.

## 4. A. PUBLIC HEARINGS (Continued)

Emily Martin stated she has spoken several times regarding her support of a skate park in Capitola. She believes the proposed location at Monterey Park is a good one, since it is close to New Brighton Middle School.

Ted Donnelly, parent of a New Brighton Middle School student, as well as a Trustee for the Soquel Union Elementary School District, stated that he is not speaking as a trustee. Mr. Donnelly believes this is a great move, and he supports the proposed location for a skate park, especially since it is near New Brighton Middle School.

Rick, Capitola resident, said he as well as his three children would be interested in using the skate park. They all enjoy skateboarding, and he strongly supports a park in Capitola. He noted that a number of parents were not able to attend tonight's Council meeting as it is Back to School Night.

Dan Steingrube, resident on Monterey Avenue, said he lives directly across the street from the proposed skate park. He commented on the noise he has had to deal with by people using the parking and playing loud music from their cars, etc. He is not concerned so much with a small skate park; however, he is worried about the use of the facility on evenings and weekends. If the noise at the park gets worse, he will be contacting the police department.

Chris Valdez, Soquel High student and resident of Capitola, said he loves to skate every day, and it would be great to have a place to skate close to home.

Nathan Cross, Capitola resident and a former skateboarder, expressed the need for the city to provide youth in our community with recreational outlets. He encouraged the city council to move forward with a skate park at Monterey Park.

A young boy named Kaleb said he would like a skate park in Capitola.

Derek Finch expressed his support of a skate park in Capitola as he generally has to go to Santa Cruz to skate. He would like it as big as possible.

Mayor Norton closed the public hearing at 9:12 p.m.

Council Member Nicol said there were no comments about taking down the eucalyptus tree. He also commented on the council's previous discussions regarding locations for a skate facility and believes the proposed location is a good one. Council Member Nicol spoke with his neighbor, George Slettehaugh, whose wife was killed in a skateboarding accident, and Mr. Slettehaugh would be honored if the facility could be named in her honor if it is built.

Council Member Termini said he could support a skate park at this location next to New Brighton Middle School. He thinks 4,000 square feet is a good size and that it should be privately funded. With regard to noise, the City needs to respect those concerns of neighbors by installing signage that the park is closed at dusk. He said the council might want to consider a tot lot adjacent to this park, and a restroom would be important. Council Member Termini said Mr. Bertrand's idea for the Recreation Department to have a program in skateboarding is a good one.

Considerable Council discussion was followed by this action:

## 4. A. PUBLIC HEARINGS (Continued)

**ACTION:** Council Member Termini moved, seconded by Council Member Nicol, to direct staff to elaborate on the potential costs to design the skate park, to put the project out to the skating community to begin fundraising efforts for a skate park project at Monterey Park, because he anticipates it will cost approximately \$300,000 for the project, and to approve the project in concept.

Under discussion of the motion, Council Member Storey said he supports the motion. Since he has been on the Council, they have had trouble finding the right location. Staff should focus on this site and move forward to see this become a reality. Council Member Storey emphasized that, although the city has the site, it does not have the money; therefore, private funding is critical if the skate park is to be built anytime soon. Although there were individuals from the school district who spoke tonight, staff should communicate with the school district to obtain their position on the proposed skate park.

Council Member Storey also commented on the letter submitted tonight by Richard Lippi, the caretaker for New Brighton Middle School, who expressed his support and interest in being included in the design process.

Mayor Norton identified the following list of items that were brought up by the council or members of the public that he wished to be included on the Public Works Director's list:

- Liability issue
- Sight line from the street
- Signage
- Videoing
- No lighting
- Restrooms (residents do not like the idea of putting a bathroom on the site – look into making arrangements with the school district for the use of bathroom facilities)
- Define age group
- Small in scale, non-destination skate park
- Cost of financing (possibility of forming an organizational group to take on this issue)
- Noise test
- Removal of eucalyptus trees (check with school district)
- Perfect project for community funding
- Staff to come back with an organizational format on how to organize a group who would be the driving force for the skate park.

Council Member Nicol said all the trees should be removed as they would be a hazard. On the noise issue, the city might want to look at some type of boom-box noise discussion.

The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

## 5. OTHER BUSINESS

- A. **Environmentally Acceptable Packaging Materials: Ordinance Amending Sections 8.36.010, 8.36.020, 8.36.030, 8.36.040, 8.36.050, 8.36.060 and 8.36.070 of the Capitola Municipal Code pertaining to the use of Polystyrene Foam and Biodegradable and Compostable Disposable Food Service Ware [1st Reading]. Staff recommendation: adopt ordinance. [930-30]**

## 5. A. OTHER BUSINESS (Continued)

Administrative Services Director Murphy summarized the written agenda report and responded to questions of council members. She also noted that the council has received communications from the Grocers' Association and that staff has been working together with them in drafting the proposed ordinance.

Mayor Norton opened this item to the public for comment at 9:48 p.m.

Sandy Prather, store manager for Capitola Save-Mart, said her company feels it is important to highlight a concern regarding the draft ordinance before the council tonight. Save-Mart believes the ordinance, as written, is overreaching and would include all products that include polystyrene foam. This would include hundreds of products the council may not want to ban for sale. For additional information or questions regarding their concerns, Ms. Prather recommended contacting Alicia Rockwell at Save-Mart Corporate Office or Tim James at the California Grocers' Association.

Kristin Jensen Sullivan, on behalf of the Capitola Commission on the Environment, is proud that Capitola has been a model around the Monterey Bay and the state. She said that businesses have been generally supportive of the ordinance and that the goal is to have zero waste. The Capitola Commission on the Environment asked staff to bring these amendments forward to the Council and supports the amendments.

Michelle Hohensee, Save Our Shores, commented that Styrofoam never really breaks down or decomposes. It is a very big problem along the coast, because the products end up in the bay. She commented on the number of Styrofoam pieces being collected by volunteers at coastal cleanups and responded to questions of council members.

Mayor Norton closed the matter to the public at 9:54 p.m. and brought it back to the council for discussion and action.

Council Member Termini questioned whether the council is ready for a first reading or whether the council would consider continuing this item for some word-smithing before a first reading.

Council discussion was followed by this action:

**ACTION:** Council Member Termini moved, seconded by Council Member Storey, to rewrite the ordinance changes to be more specific and to eliminate the products that the city does not want to control, such as encapsulated floatation devices and coolers, and to focus on banning cups, bowls, plates and meat trays.

Council Member Nicol asked if the direction is to make a list of the banned things. Council Member Termini thinks the ordinance should list the things that are banned.

The motion carried unanimously.

**B. Report on Implementation of the Parking Pay Stations in Capitola Village. Staff recommendation: receive report. [470-30]**

Public Works Director Jesberg summarized the written agenda report and provided information regarding the implementation of the parking pay stations in Capitola Village around November 1. Once installed, he said there would be a press release and brochures regarding the new parking payment system. After his report he answered questions of council members.

**ACTION:** It was the consensus of the City Council to accept the report on the Implementation of the Parking Pay Stations in Capitola Village, as submitted.

## 5. OTHER BUSINESS (Continued)

- C. **Adopt Resolution Accepting the State of California CDBG Disaster Recovery Initiative Grant in the amount of \$250,000 and amending the FY2011-12 budget accordingly, and approve the following agreements associated with the expenditure of the grant funds: [700-10/330-10/500-10 A/C: RBF Consulting/ Design, Community & Environment (DCE)/Flynn, Carolyn]**
- 1) RBF Consulting in the amount of \$93,450 to prepare a Local Hazard Mitigation Plan;
  - 2) Amendment to agreement with Design, Community & Environment (DCE) in the amount of \$68,500 for expanded portions of the Safety Element; and
  - 3) Amendment to the agreement with consultant Carolyn Flynn in the amount of \$37,500 for project management, grant administration and reporting.

Community Development Director Johnson summarized the written agenda report utilizing a PowerPoint Presentation, discussed the recommended action, and responded to questions of council members.

Council Members discussed their reluctance to vote for this and expressed concerns about spending \$250,000 to prepare a report even though this is grant money. They also questioned the amendments to the Design, Community & Environment and the Carolyn Flynn agreements.

City Manager Goldstein responded to comments and questions of council members and said he understands the Council's inherent reluctance; however, the State requires all local jurisdictions to prepare a local Hazard Mitigation Plan. Having a plan in place is necessary to receive funding from the state in the event of an emergency. He encouraged the council to approve the staff's recommendation.

City Treasurer Bertrand asked if this study had been in place at the time of the flood this year, whether the city would have obtained relief. City Manager Goldstein said it would not have helped the city in this case.

Considerable Council discussion was followed by this action:

**ACTION:** Council Member Nicol moved, seconded by Mayor Norton, to take the following actions:

1. **Adopted Resolution No. 3888, Resolution Accepting the CDBG Disaster Recovery Initiative (DRI) Grant in the Amount of \$250,000 and Amending the FY 11/12 Budget to Increase CDBG Revenue and Expenditures in the Amount \$250,000 for the DRI Local Hazard Mitigation Plan & Safety Element Update**, as submitted;
2. Authorized the City Manager to execute a standard City contract with RBF Consulting for \$93,450 for development of the City's Local Hazard Mitigation Plan per the Scope of Work as submitted;
3. Authorized the City Manager to execute a contract amendment with Design, Community & Environment for \$68,500 for expanded portions of the Safety Element, including a review of relocating emergency responders, and sea level rise analysis, as submitted; and
4. Authorized the City Manager to execute a contract amendment with consultant Carolyn Flynn for \$37,500 to provide project management of the LHMP consultant team and the Safety Element consultant team, and all DRI grant administration and reporting, as submitted.

The motion carried on the following vote: AYES: Council Members Nicol, Storey, and Mayor Norton. NOES: Council Member Termini. ABSENT: Council Member Harlan. ABSTAIN: None.

## 5. OTHER BUSINESS (Continued)

- D. Professional Services Agreement with William Statler for Interim Finance Director. Staff recommendation: approve agreement with William Statler, and adopt Resolution Amending the FY2011-2012 budget in the amount of \$30,000. [500-10 A/C: Statler, William]**

City Manager Goldstein summarized the written agenda report and staff's recommendation to enter into an agreement with William Statler for Interim Finance Director services. He discussed the scope of work and the need for high-level financial expertise.

City Manager Goldstein then introduced Bill Statler, who addressed the council.

Mr. Statler said he is delighted to have an opportunity to serve the City of Capitola and be part of the management team, and he responded to questions of council members.

Council discussion was followed by this action:

**ACTION:** Council Member Termini moved, seconded by Council Member Storey, to take the following actions:

1. Adopted the proposed Professional Services Agreement with William Statler as the Interim Finance Director in a amount not to exceed \$30,000, as submitted; and
2. Adopted **Resolution No. 3889, Resolution Amending the FY2011-2012 General Fund Budget by Transferring \$30,000 from the Finance Department Salary & Benefits Account to the Finance Department Contract Services Account to Fund the Interim Finance Director Contract**, as submitted.

The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

AT THIS POINT, ITEMS REMOVED FROM CONSENT CALENDAR WILL BE CONSIDERED

3. CONSENT CALENDAR (*Items pulled for separate discussion.*)

- E. Approve First Amendment to the Cooperative Agreement with Barry Swenson Builder for Village Hotel Planning, and adopt Resolution amending the FY2011-12 budget to accept \$30,000 in funds and to increase the General Plan Maintenance Fund Revenues & Expenditures by \$30,000. [330-10/500-10 A/C: Barry Swenson Builders]**

Council Member Storey commented that we are moving ahead of the CDBG grant, and he is concerned that by doing so we might be wasting money.

Community Development Director Johnson said the scope of work has been reduced and that Swenson plans to fully fund the reduced scope. This work will be part of the General Plan work for a Village Hotel.

Council discussion was followed by this action:

**ACTION:** Council Member Storey moved, seconded by Mayor Norton, to take the following actions:

1. Approved the proposed "First Amendment to the Cooperative Agreement regarding Village Hotel Planning and Parking Structure Financing Costs" between the City and Barry Swenson Builder, accepting \$30,000 in funds for the Capitola Hotel Design Alternatives Study, as submitted; and

3. E. CONSENT CALENDAR (*Items pulled for separate discussion - Continued.*)
2. **Adopted Resolution No. 3890, Resolution Accepting \$30,000 in Funds and Amending the FY2011-12 Budget to Increase General Plan Maintenance Fund Revenues and Expenditures by \$30,000 for the Village Hotel Project, as submitted.**

The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

6. **COUNCIL/RDA DIRECTORS/STAFF COMMUNICATIONS - None**

7. **ADJOURNMENT**

The City Council/Redevelopment Agency Meeting was adjourned at 11:10 p.m. to a Special Joint Study Session with the Finance Advisory Committee to be held on Wednesday, October 12, 2011, at 6:00 p.m. in the City Hall Council Chambers, and then to its next Regular Joint Meeting to be held on Thursday, October 13, 2011, at 7:00 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Dennis R. Norton, Mayor  
Redevelopment Agency Chairperson

ATTEST:



Pamela Greeninger, City Clerk  
Redevelopment Agency Secretary

, MMC

MINUTES WERE UNANIMOUSLY APPROVED ON 10/27/2011, WITH COUNCIL MEMBER/DIRECTOR HARLAN ABSTAINING SINCE SHE WAS ABSENT