

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

August 25, 2011
Capitola, California

MINUTES OF A REGULAR JOINT MEETING

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

At 5:31 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 Harlan. He 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)]
Veronica Shepardson, et al. (residents of Surf & Sand Mobile Home Park) vs. City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 171269]
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]

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

Mayor/Chairperson Norton noted that there was no one in the audience; 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 7:14 p.m. on Thursday, August 25, 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: Acting City Manager/Community Development Director/Deputy Executive Director Derek Johnson, City Attorney/RDA General Counsel John G. Barisone, Public Works Director Steve Jesberg, and City Clerk/Secretary Pamela Greeninger

***** PRESENTATIONS *****

**Presentation to Kyle Brinton Jack
in Recognition of his Quick Actions and Bravery
by Calling 9-1-1 which saved his Grandfather's Life [120-40]**

Mayor Norton announced that we have a hero in our community, Kyle Brinton Jack. He asked Kyle to come forward and tell the story about what happened to him and the actions he took to help save his grandfather. Kyle said he is a 4th grader at Soquel Elementary School. He told the City Council and the audience that he was with his grandfather when he began choking. When he could not stop choking, his grandfather asked Kyle to call 9-1-1, which he immediately did, and the paramedics and fire trucks arrived to save his grandfather. Mayor Norton read the Mayor's Proclamation in recognition of Kyle Brinton Jack for his Quick Actions and Bravery in dialing 9-1-1 on the occasion of a family medical emergency on August 2, 2011, which saved his Grandfather's life. Mayor Norton announced that he is naming Kyle as "Citizen of the Month."

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone announced that the City Council/Redevelopment Agency Directors met in Closed Session at 5:30 p.m. on those items listed on the posted agenda. He then reported on those items as follows:

The Council met with Public Works Director Jesberg, the city's negotiator, pertaining to Real Property Negotiations regarding the city's parcel located on McGregor Drive (APN 36-341-02). Public Works Director Jesberg provided a report, and the City Council gave instructions pertaining to ongoing negotiations.

The Council then met with Administrative Services Director Lisa Murphy for her performance evaluation and gave her instructions and feedback with regard to certain aspects of her professional responsibilities. No reportable action was taken.

The City Council also met with the City Attorney and the city's insurance adjuster, Robert Fry, with regard to potential litigation with the city's insurance company concerning property damage that the city sustained and the question as to whether or not there is coverage for that property damage. The council received a status report on the negotiations with the insurance company and took no reportable action in Closed Session.

City Attorney Barisone said he provided the Council with an update pertaining to the four items of existing and threatened litigation. No reportable action was taken.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

Mayor Norton asked if there were any additions or deletions to the agenda.

1) City Clerk Greeninger stated that the Council received at their places tonight a Revised Exhibit A to the Redevelopment Agency Resolution under consideration on Item 4.B.

2. A. ORAL COMMUNICATIONS (Continued)

2) Council Member Termini announced that although he is ready to vote on Item 4.A., he would like to continue the item so that the entire City Council is present to vote on the Ordinance Repealing the city's Mobile Home Park Rent Stabilization Ordinance.

ACTION: Council Member Termini moved to continue Item 4.A., the Public Hearing to consider adoption of an Ordinance Repealing Capitola Municipal Code Chapter 2.18 pertaining to Mobile Home Park Rent Stabilization [2nd Reading], in order that all members of the City Council could be present. Council Member Storey seconded the motion. The motion carried on the following vote: AYES: Council Members Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

Mayor Norton clarified that Item 4.A., the Public Hearing to consider adoption of an ordinance repealing Capitola Municipal Code Chapter 2.18 pertaining to Mobile Home Park Rent Stabilization, was continued to the City Council's next Regular Meeting to be held on Thursday, September 8, 2011. [750-25]

B. Public Comments

1) Irving Richman, resident of Cabrillo Mobile Home Estates, discussed comments made by council members to members of the public at the last city council meeting pertaining to repeal of the city's mobile home park rent control ordinance. He also discussed an incident involving Council Member Nicol, who made the motion to repeal mobile home park rent control. Mayor Norton informed Mr. Richman that personal attacks on council members are not allowed. Mr. Richman continued to speak, saying he has 3 minutes of free speech. Sergeant Cliff Sloma informed Mr. Richman he must not verbally attack council members, and Sergeant Sloma escorted Mr. Richman from the podium.

2) Sandra Williams, resident of Surf & Sand Mobile Home Park, said she just arrived from a meeting of the Area Agency on Aging in Sacramento. She expressed her concern about Public Hearing Item 4.A. being continued at the last minute, and she explained the effort it takes to get people to the meeting. She said many people cannot drive, and rides need to be coordinated, etc. [750-25]

Mayor Norton informed Mrs. Williams that a number of people requested that this item be continued.

[Note: Under Oral Communication Item 6.B., Council Member Termini said he was sorry to make an oral communication after Sandy Williams left the meeting, but he wished to note that the only way the City Council could continue Public Hearing Item 4.A. was to do so at tonight's meeting. Once it was agendaized, the item could not be continued without action to do so by the City Council.]

3) Carol Lerno, Pacific Cove Mobile Home Park resident, said the residents of their mobile home park understand the problems the City Council is dealing with. She said there is a great deal of responsibility resting with the Council. The council members need to stand up to it and have compassion; there is no need to be defensive. [750-25]

4) Laurie Beamish, resident of Surf and Sand Mobile Home Park, commented on what the residents of her mobile home park are going through and discussed the lease agreements they are being required to sign. She thinks the council is opening another can of worms by repealing the city's rent control ordinance, and she urged the Council to please search their hearts and reconsider not repealing the rent control ordinance. Ms. Beamish also informed the Council that the residents watched the first mobile home at Surf and Sand Mobile Home Park get demolished by the home owner this week. [750-25]

2. ORAL COMMUNICATIONS (Continued)

C. Staff Comments - NoneD. City Council/RDA Director/Treasurer Comments/Committee Reports

Council Member Termini announced that tomorrow night, Friday, August 26, beginning at dusk, all are invited to come to the Esplanade Park Bandstand for the first Movie at the Beach, "The Incredibles." In addition to the free movie, there will be free popcorn.

E. Committee Appointments

City Clerk Greeninger said recruitment has been ongoing for the vacancy on the Commission on the Environment.

Council Member Termini said he has interviewed one person for the vacancy. City Clerk Greeninger believes applications were provided to two potential applicants. She will check into the applications received and schedule the appointment for the next Council Meeting on September 8, 2011.

F. Approval of Check Register Reports1) City: Approval of City Check Register Reports dated August 5 and August 12, 2011. [300-10]

Mayor Norton questioned Check #67156 to the Santa Cruz County Conference and Visitor's Council for the 4th Qtr FY10/11 County TMD fee.

Administrative Services Director Murphy said the amount is a percentage of the city's TOT tax collected for the Tourism and Marketing District. She said this was a pass-through fee from TOT tax the city collects.

ACTION: Council Member Storey moved, seconded by Council Member Termini, to approve the Check Register Reports dated August 5 and 12, 2011, including checks numbered 67117 through 67184 in the amount of \$105,191.04, checks numbered 67185 through 67273 in the amount of \$182,423.27, respectively; and payroll disbursements for the August 12, 2011, payroll in the amount of \$223,937.23, for a Grand Total of \$511,551.54, 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: Approval of Redevelopment Agency Check Register Reports dated August 12, 2011. [760-25]

ACTION: Director Storey moved, seconded by Director Termini, to approve the Check Register Report dated August 12, 2011, including checks numbered 2986 through 2991 in the amount of \$21,957.39, 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. **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.

Amy McKenna stated she would like to comment on Item 3.G. pertaining to recruitment of a City Clerk. Mayor Norton asked Mrs. McKenna to come forward and speak to the item at this time. (See comments under Item 3.G.)

3. CONSENT CALENDAR (Continued)

CONSENT CALENDAR ACTION: Council Member/Director Termini moved, seconded by Council Member/Director Nicol, to approve the Consent Calendar, as recommended. 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. Receive City Treasurer's Report for Month Ended July 31, 2011 (Unaudited). [380-30]**

ACTION: Council Member Termini moved, seconded by Council Member Nicol, to receive the City Treasurer's Report for the month ended July 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.

- C. 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 Termini moved, seconded by Council Member Nicol, 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 Member Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: Council Member Harlan. ABSTAIN: None.

- D. Authorize the City Manager to execute the Santa Cruz County Criminal Justice Council Joint Exercise of Powers Agreement, and participate in the Santa Cruz County Criminal Justice Council. [150-70/500-10 A/C: Santa Cruz County Criminal Justice Council]**

[Note: The City Council received a revised agreement, which added the word "County" to all references to the "Santa Cruz County Criminal Justice Council Joint Exercise of Powers Agreement.]

ACTION: Council Member Termini moved, seconded by Council Member Nicol, to authorize execution of the revised Santa Cruz County Criminal Justice Council Joint Exercise of Powers Agreement, and to approve the City's participation in the Santa Cruz County Criminal Justice Council, 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.

- E. Adopt Ordinance Amending Sections 12.52.010 and 12.52.030 of the Capitola Municipal Code pertaining to Skateboarding Regulations [2nd Reading]. [485-10]**

ACTION: Council Member Termini moved, seconded by Council Member Nicol, to adopt Ordinance No. 960, Ordinance Amending Sections 12.52.010 and 12.52.030 of the Capitola Municipal Code Pertaining to Skateboarding Regulations, 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.

3. CONSENT CALENDAR (Continued)

- F. Adopt Ordinance Amending Section 13.04.010 of the Municipal Code pertaining to Discharge to Sanitary Sewer and Adding a new Section 13.04.060 to the Municipal Code pertaining to Greywater Use [2nd Reading]. [950-10]**

ACTION: Council Member Termini moved, seconded by Council Member Nicol, to adopt **Ordinance No. 961, Ordinance Amending Section 13.04.010 of the Capitola Municipal Code Pertaining to Discharge to Sanitary Sewer and Adding Section 13.04.060 to the Municipal Code Pertaining to Greywater Use**, 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.

- G. Authorize the City Manager to recruit for the position of City Clerk. [650-05]**

Prior to action being taken on the Consent Calendar, Capitola resident Amy McKenna stated that she hopes the City Council will select someone from the City of Capitola or the County of Santa Cruz when hiring a new City Clerk.

ACTION: Council Member Termini moved, seconded by Council Member Nicol, to authorize the City Manager to recruit for the position of City Clerk, 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.

- H. RDA: Approve contract with Goldfarb and Lipman, LLP, for legal services related to Redevelopment Agency Housing Programs and miscellaneous Redevelopment legal services for FY2011-2012 in an amount not to exceed \$15,000. [750-10/760-05 A/C: Goldfarb and Lipman, LLP]**

ACTION: Director Termini moved, seconded by Director Nicol, to approve a sole source contract with Goldfarb and Lipman, LLP, for legal services related to Redevelopment Agency Housing Programs and miscellaneous Redevelopment legal services for FY2011-2012 in an amount not to exceed \$15,000, as submitted. The motion carried on the following vote: AYES: Directors Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: Director Harlan. ABSTAIN: None.

4. PUBLIC HEARINGS

- A. Public Hearing to consider adoption of an Ordinance Repealing Capitola Municipal Code Chapter 2.18 pertaining to Mobile Home Park Rent Stabilization. [2nd Reading] Presentation: City Manager. [750-25]**

Mayor Norton announced that a motion was made and approved under Oral Communications Item 2.A.1), to continue this item to the next Joint Regular Meeting of the City Council/Redevelopment Agency to be held on Thursday, September 8, 2011.

- B. RDA: Public Hearing to consider adoption of an Agency Resolution Approving and Adopting the Enforceable Obligation Payment Schedule Pursuant to Part 1.8 of the Redevelopment Law. Presentation: Community Development Department. [760-10/760-05 A/C: City of Capitola/Redevelopment Agency]**

Utilizing a PowerPoint Presentation, Community Development Director Johnson provided a verbal report regarding this item. He gave information on new legislation, the effect of the Supreme Court Stay, the revised Enforceable Obligations Payment Schedule (Exhibit A to the proposed Agency Resolution), the continuation of the ordinance and related resolutions/documents which were removed from the August 11, 2011, agenda, and the recommended Redevelopment Agency actions. Community Development Director Johnson also responded to questions of Director Storey pertaining to the Rispin property, which is located in the Redevelopment Agency Project Area, but was deeded back to the City.

4. B. PUBLIC HEARINGS (Continued)

Chairperson Norton opened the public hearing at 7:54 p.m. Seeing no one, the public hearing was closed.

ACTION: There was no additional discussion prior to the following action being taken:
Director Nicol moved, seconded by Director Termini, to take the following actions:

1. Adopted **Agency Resolution No. 2011-10, Resolution Approving and Adopting the Enforceable Obligation Payment Schedule Pursuant to Part 1.8 of the Redevelopment Law**, with the revised Exhibit A presented at the meeting, and
2. Scheduled a Public Hearing to consider an Urgency Ordinance and necessary City/ Agency Resolutions determining the City will comply with the Voluntary Alternative Redevelopment Program for the next Joint Regular Meeting of the City Council/ Redevelopment Agency to be held Thursday, September 8, 2011.

The motion carried on the following vote: AYES: Directors Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: Director Harlan. ABSTAIN: None.

5. OTHER BUSINESS - None

6. COUNCIL/RDA DIRECTORS/STAFF COMMUNICATIONS

A. Steve, a resident of Depot Hill, asked if the plastic doggie bags had been cut from the budget and whether the City replenishes the bags when they are gone. Public Works Director Jesberg said the city does supply those doggie bags, and he would see to it that the crew refills the containers soon.

B. Council Member Termini said he was sorry to make this oral communication after Sandy Williams has left the meeting, but he wished to note that the only way the City Council could continue Public Hearing Item 4.A. was to do so at tonight's meeting. Once it was agendized, the item could not be continued without action to do so by the City Council.

7. ADJOURNMENT

The City Council/Redevelopment Agency Meeting was adjourned at 7:56 p.m. its next Regular Joint Meeting to be held on Thursday, September 8, 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:

 MMC
Pamela Greninger, City Clerk
Redevelopment Agency Secretary

THE MINUTES WERE APPROVED ON SEPTEMBER 8, 2011, WITH COUNCIL MEMBER HARLAN ABSTAINING SINCE SHE WAS ABSENT