



AGENDA COVER
Regular Joint Meeting of the
**CAPITOLA CITY COUNCIL/
REDEVELOPMENT AGENCY**
MEETING DATE: THURSDAY, MAY 12, 2011

CITY COUNCIL CHAMBERS: 420 CAPITOLA AVENUE, CAPITOLA

CLOSED SESSION

5:30 P.M.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY REGULAR MEETING

7:00 P.M.

Elected Officials

*Dennis Norton, Mayor
Michael Termini, Vice Mayor
Stephanie Harlan, Council Member
Kirby Nicol, Council Member
Sam Storey, Council Member

Jacques Bertrand, City Treasurer*

City Staff Members

*Jamie Goldstein, City Manager
John G. Barisone, City Attorney
Pamela Greeninger, City Clerk
Mike Card, Chief of Police
Derek Johnson,
Community Development Director
Steven Jesberg, Public Works Director*

Notice regarding City Council/Redevelopment Agency Meetings: The Capitola City Council and Redevelopment Agency meet jointly on the 2nd and 4th Thursday of each month at 7:00 p.m., in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

Agenda and Agenda Packet Materials: The City Council/Redevelopment Agency Agenda and the complete agenda packet are available on the Internet at the City's website: www.ci.capitola.ca.us. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola.

Agenda Document Review: The complete agenda packet is available at City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the City Clerk's office at 831-475-7300.

Agenda Materials Distributed after Distribution of the Agenda Packet: Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

Americans with Disabilities Act: Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk's office at least 24-hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

Televised Meetings: City Council/Redevelopment Agency meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed at 12:00 Noon on the Saturday following the meetings on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed "Live" on the City's website at www.ci.capitola.ca.us by clicking on the Home Page link "View Capitola Meeting Live On-Line." Archived meetings can be viewed from the website at anytime.

It is the intent of the City Council to adjourn by 11:30 p.m.



AGENDA

Regular Joint Meeting of the CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY Thursday, May 12, 2011

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

An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council/Redevelopment Agency Directors on closed session items only.

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)]

Los Altos/El Granada Investors vs. City of Capitola, et al. (Castle Mobile Estates) [U.S. District Court N.D., Case No. CV 04-05138 JF (Judge Jeremy Fogel)]

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9: One Case: Vieira Enterprises, Inc. vs. City of Capitola (Cabrillo Mobile Estates)
The City is in receipt of a December 30, 2010, Fair Return rent increase application for Cabrillo Mobilehome Park, which claims that if it is not granted in its entirety, the City will be liable for the unconstitutional taking of Mr. Vieira's property and further claims that the City's past enforcement of its rent control ordinance has already functioned to effect such a taking.

Initiation of litigation pursuant to subdivision (c) of Government Code §54956.9: One Case.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Titles: City Manager and City Attorney

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Marilyn Bierach
Claimant: Robert and Gay Allen
Claimant: Cathy Sutton
Claimant: Patricia Cox
Claimant: Douglas Rennels
Claimant: Ann Schroedel
Claimant: Stuart Hacker and Pamela-Bone Hacker
Claimant: Vivian E. Blomenkamp
Claimant: Katie Saldana and Charles Kjar
Claimant: Dorothy Houston
Claimant: Teresa Carlisle
Agency claimed against: City of Capitola

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

Property: McGregor Drive, APN 036-341-02 (City of Capitola, Owner)
City Negotiator: City Manager
Negotiating Parties: City and Soquel Creek Water District
Under Negotiation: Real Property Lease/Sale

Property: 426 Capitola Avenue, Portion APN 035-141-33 (City of Capitola, Owner)
City Negotiator: City Manager
Negotiating Parties: City and William and Joyce Budisch (520 Pilgrim Drive)
Under Negotiation: Real Property Sale

ROLL CALL AND PLEDGE OF ALLEGIANCE

Council Members/Directors Harlan, Termini, Nicol, Storey,
and Mayor/Chairperson Norton

*** * * PRESENTATIONS * * ***

2010 Capitola Police Department Civilian Employee of the Year Award
to Records Clerk Tracie Hernandez

2010 Capitola Police Officer of the Year Award
to Police Officer Andy Dally

Presentation by Maggie Ivy, CEO/Executive Vice President of
Santa Cruz County Conference and Visitors Council

Presentation by Kathleen Johnson,
Executive Director of Advocacy, Inc.

1. REPORT ON CLOSED SESSION

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

B. Public Comments

Oral Communications allows time for members of the Public to address the City Council/Redevelopment Agency on any item not on the Agenda. Presentations will be limited to three minutes per speaker. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the minutes. A MAXIMUM of 30 MINUTES is set aside for Oral Communications at this time.

2. ORAL COMMUNICATIONS - Continued

C. Staff Comments

D. City Council/RDA Director/Treasurer Comments/Committee Reports
City Council Members/Redevelopment Agency Directors/City Treasurer may comment on matters of a general nature or identify issues for staff response or future council/RDA consideration. Council Members/RDA Directors/Committee Representatives may present oral updates from standing committees at this time.

E. Committee Appointments

Council Members/RDA Directors/Committee Representatives may present oral updates from standing committees at this time. Committee appointments may also be made by the City Council/Redevelopment Agency at this time.

- 1) Consideration of Nomination by Council Member Harlan to fill the West Capitola Neighborhood representative vacancy on the General Plan Advisory Committee and consider designation of GPAC alternates. Staff recommendation: City Council appointment and direction regarding alternate(s).

F. Approval of Check Register Reports

- 1) City: Approval of City Check Register Reports dated April 22 and April 29, 2011.
- 2) RDA: Approval of Redevelopment Agency Check Register Reports dated April 22 and April 29, 2011.

3. **CONSENT CALENDAR**

All matters listed under "Consent Calendar" are considered by the City Council/Redevelopment Agency to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the public or the Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following "Other Business."

- 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.
- B. City/RDA: Approve Joint Regular Minutes of April 28, 2011
- C. Receive Planning Commission Action Minutes for the Regular Meeting of May 5, 2011.

3. CONSENT CALENDAR - Continued

- D. Deny claim of Marilyn Bierach in the amount of \$2,775 and forward it to the City's liability insurance carrier.
- E. Deny claim of Robert and Gay Allen in the amount of \$13,161 and forward it to the City's liability insurance carrier.
- F. Deny claim of Cathy Sutton in the amount of \$10,000 and forward it to the City's liability insurance carrier.
- G. Deny claim of Patricia Cox in the amount of \$2,362.50 and forward it to the City's liability insurance carrier.
- H. Deny claim of Douglas Rennels in the amount of \$8,500 and forward it to the City's liability insurance carrier.
- I. Deny claim of Ann Schroedel in the amount of \$11,283 plus any unknown damage and forward it to the City's liability insurance carrier.
- J. Deny claim of Stuart Hacker & Pamela Bone-Hacker in the amount of \$12,400 and forward it to the City's liability insurance carrier.
- K. Deny claim of Vivian E. Blomenkamp in the amount of \$6,228.34 plus any unknown damage and forward it to the City's liability insurance carrier.
- L. Deny claim of Katie Saldana and Charles Kjar in the amount of \$10,000 and forward it to the City's liability insurance carrier.
- M. Deny claim of Dorothy Houston in the amount of \$4,619.89 and forward it to the City's liability insurance carrier.
- N. Deny claim of Teresa Carlisle in the amount of \$2,074.82 and forward it to the City's liability insurance carrier.
- O. Authorize funding for a Capital Improvement Project for the Police Department Heating, Ventilation and Air Conditioning (HVAC) System and transfer \$56,000 from the Esplanade Retaining Wall project; and award a contract to Geo. H. Wilson, Inc., in the amount not to exceed \$55,715 for installation of the HVAC System.

3. CONSENT CALENDAR - Continued

- P. 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 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 need to continue action.
- Q. Approve Request by Wharf to Wharf Race, Incorporated, for a Special Event Permit, Entertainment Permit, Encroachment Permit, and Sign Permit for the 39th Annual Wharf to Wharf Foot Race to be held on Sunday, July 24, 2011, from 6 a.m. to 12 p.m., and request for a grant of all Permits, Police and Public Works Fees in the Amount of \$8,079.
- R. Ordinance Amending Sections 12.12.040, 12.12.110, 12.12.190, and 12.12.270 of the Capitola Municipal Code pertaining to Community Tree and Forest Management [2nd Reading]. Staff recommendation: adopt ordinance.
- S. Adopt resolution designating the City Manager, Finance Director, and Public Works Director as agents of the City of Capitola authorized to provide information and sign agreements with the California State Office of Emergency Services for all matters pertaining to current and future disasters.
- T. Award contract to Bowman and Williams in an amount not to exceed \$32,840 for investigation and engineering work for slope failures in the Pacific Cove Mobile Home Park.
- U. RDA: Receive RDA Treasurer's Report for the quarter ended March 31, 2011 (Unaudited).
- V. Approve agreement with Hope Services in an amount not to exceed \$12,600 for cleaning of the beach and Esplanade sidewalk from June 6 to September 16, 2011, and authorize the Director of Public Works to execute the agreement on behalf of the City.
- W. Set Public Hearing for May 26, 2011, to consider appeal of Planning Commission denial of Project Application #11-028, for a Conditional Use Permit to allow a take-out window at an existing restaurant (Mr. Kebab) at 201 Esplanade in the CV (Central Village Zoning District) [APN 035-211-05].

3. CONSENT CALENDAR – Continued

- X. Approve agreement with the City of San Jose Office of Cultural Affairs Public Art Program, Barbara Goldstein, as the Project Manager for the 41st Avenue Public Art Project in an amount not to exceed \$19,800.

4. PUBLIC HEARINGS

Public Hearings are intended to provide an opportunity for public discussion of each item listed as a Public Hearing. The following procedure is followed for each Public Hearing listed: 1) Staff Explanation; 2) Public Discussion; 3) Council Comments; 4) Close public portion of the Hearing; 5) City Council discussion; and 6) Decision.

NOTE: Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that court action within ninety (90) days following the date on which the decision becomes final as provided in Code of Civil Procedure §1094.6. Please refer to code of Civil Procedure §1094.6 to determine how to calculate when a decision becomes “final.” Please be advised that in most instances the decision become “final” upon the City Council’s announcement of its decision at the completion of the public hearing. Failure to comply with this 90-day rule will preclude any person from challenging the City Council decision in court.

- A. City/RDA: Joint Public Hearing to consider Mobile Home Park Rental Assistance Program Options. Staff recommendation: approve agreement between the City, Redevelopment Agency, and the Housing Authority of the County of Santa Cruz to implement a Mobile Home Park Rental Assistance Program for Capitola. Presentation: Community Development Department.
- B. Public Hearing on Project Application #11-024, 3801 Clares Street, to consider appeal of Planning Commission denial of a Conditional Use Permit for a Medical Office Use (Dialysis Clinic) for an existing building located in the CC (Community Commercial) Zoning District [APN 034-261-47]. Property Owner: Capitola Roth Investments, LLC. Representative: Barry Maner, Entos Design. Presentation: Community Development Department.
- C. Public Hearing to Consider Applications to the State of California Community Development Block Grant (CDBG) Program for Two Planning Technical Assistance (PTA) Grants of \$70,000 each for Capitola Village Hotel Design Alternatives and City Hall/Pacific Cove Area Plan, and a Cooperative Agreement for a Village Hotel. Staff recommendation: adopt Resolution approving applications, and approve Cooperative Agreement regarding Village Hotel Planning & Parking Structure Financing Costs with Barry Swenson Builders. Presentation: Community Development Department.

5. OTHER BUSINESS

- A. Support of SB 568 - Ban On Polystyrene Take Out Food Containers. Staff recommendation: Council direction.

- B. Consider a Memorandum of Understanding (MOU) between the City of Capitola, County of Santa Cruz, and Soquel Union Elementary School District for use of the Capitola Community Center located at 4400 Jade Street as an Alternate Care Site (ACS). Staff recommendation: approve Memorandum of Understanding.

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

6. COUNCIL/RDA DIRECTOR/STAFF COMMUNICATIONS**7. ADJOURNMENT**

Adjourn to a Special Joint Budget Study Session of the City Council/Redevelopment Agency to be held on **Wednesday**, May 25, 2011, at 6:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.