



AGENDA COVER
Regular Joint Meeting of the
**CAPITOLA CITY COUNCIL/
REDEVELOPMENT AGENCY**
MEETING DATE: THURSDAY, APRIL 28, 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, April 28, 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)]

Vieira Enterprises, Inc., vs. City of Capitola (Cabrillo Mobile Estates)

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.

CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION

 (Govt. Code §54956.9(c))

One Case to be Discussed

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Titles: City Manager and City Attorney

LIABILITY CLAIMS

 (Govt. Code §54956.95)

Claimant: David and Vanessa Drivon

Claimant: David Moore, on behalf of Dorean Moore

Claimant: Theresa Viola

Claimant: Natthakan Inpong

Claimant: Daniel M. Finkel

Claimant: Edward A. Maghakian

Claimant: Veronica Shepardson

Agency claimed against: City of Capitola

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

ROLL CALL AND PLEDGE OF ALLEGIANCE

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

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.

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.

F. Approval of Check Register Reports

1) City: Approval of City Check Register Reports dated April 8 and April 15, 2011.

2) RDA: Approval of Redevelopment Agency Check Register Report dated April 15, 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 Minutes of the Emergency Meeting of the City Council of March 27, 2011, the Special Meeting of the City Council of March 30, 2011, the Joint Special Meeting of the City Council/Redevelopment Agency of April 1, 2011, and the Regular Joint Meeting of the City Council/Redevelopment Agency of April 14, 2011.
- C. Approve hiring one Records Clerk position in the Police Department and authorize the City Manager to proceed with recruitment.
- D. Deny claim of David & Vanessa Drivon in the amount of \$125,000 and forward to the City’s liability insurance carrier.
- E. Deny claim of David Moore, on behalf of Dorean Moore, in the amount of \$2,950 and forward to the City’s liability insurance carrier.
- F. Deny claim of Theresa Viola in the amount of \$921.07 and forward to the City’s liability insurance carrier.
- G. Deny claim of Natthakan Inpong in the amount of \$8,500 and forward to the City’s liability insurance carrier.
- H. Deny claim of Daniel M. Finkel for an undetermined amount and forward to the City’s liability insurance carrier.
- I. Deny claim of Edward A. Maghakian for an undetermined amount and forward to the City’s liability insurance carrier.
- J. Receive City Treasurer’s Report for the month ended March 31, 2011 (Unaudited).

3. CONSENT CALENDAR - Continued

- K. 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.
- L. Accept Quarterly Sales Tax and Transient Occupancy Tax Report for the Second Quarter of FY 2010-2011.
- M. Accept update report on Storm Drain Repair Project and, by 4/5 vote approval, make the determination that an Emergency Condition remains as detailed in Resolution No. 3863 adopted on March 27, 2011, and there is need to continue action.
- N. Set Public Hearing for May 12, 2011, to consider appeal of Planning Commission denial of Project Application #11-024, for a Conditional Use Permit for a medical office use (dialysis clinic) at 3801 Clares Street in the CC (Community Commercial) Zoning District [APN 034-261-47].

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. Public Hearing to consider Pacific Cove Mobile Home Park options to respond to flood damage. Presentation: City Manager's Department.
- B. Public Hearing to consider amendments to 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. [Ordinance 1st Reading] Presentation: Community Development Department.

5. OTHER BUSINESS

- A. Finance Advisory Committee Charter. Staff recommendation: accept the Finance Advisory Committee Charter as submitted.

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

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

Adjourn to the next Regular Joint Meeting of the City Council/Redevelopment Agency to be held on Thursday, May 12, 2011, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.