

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

February 10, 2011
Capitola, California

MINUTES OF A REGULAR JOINT MEETING

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

At 5:34 p.m. in the City Hall Council Chambers, Mayor/Chairperson Norton noted that all Council Members/Redevelopment Agency Directors were present. 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)

Talbert vs. City of Capitola, et al. [U.S. District Court Case No. C 10-03113 JW (N.D. Cal.)]

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)

City of Capitola vs. Soquel Union Elementary School District
Santa Cruz Superior Court Case #167649

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.

Mayor/Chairperson Norton noted there was no one in the audience; therefore, the City Council/Redevelopment Agency recessed at 5:34 p.m. to the Closed Session in the City Manager's Office.

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 7:08 p.m. on Thursday, February 10, 2011, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

PRESENT: Council Members/Directors Stephanie Harlan, Michael Termini, Kirby Nicol, Sam Storey, and Mayor/Chairperson Dennis Norton

ABSENT: None

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/Agency General Counsel John G. Barisone, Public Works Director Steve Jesberg, Police Captain Tom Held, Assistant to the City Manager Lisa Murphy, and City Clerk/Secretary Pamela Greeninger

***** PRESENTATIONS *****

**Presentation by Julie Boudreau, Education and Outreach Coordinator
for Hospice of Santa Cruz County [330-30]**

Julie Boudreau, Hospice representative, spoke about the various Hospice programs, including End-of-Life Care, Grief Support and their Transitions Program. Utilizing a PowerPoint Presentation, she focused on providing information to the Council about the services provided by their medical social workers in the Transitions Program. They are available to help people diagnosed with a life-limiting illness by facilitating conversations, helping to create a plan, assisting with advance directives, and linking individuals to community resources.

**Presentation by Carrie Stevens, Program Manager
for Big Brothers Big Sisters [330-30]**

Carrie Stevens thanked the Council for the opportunity to discuss the services Big Brothers Big Sisters provide. She discussed their mission, which is to assist children and youth to achieve their highest potential by offering quality mentoring relationships. Ms. Stevens said their organization has been serving the community for over 27 years. She discussed the rigorous background check that volunteers must go through to become a mentor, and the process for matching adult volunteers with children between the ages of 7 and 14. She also said training materials are provided to the parents, volunteers and children participating in the program, and there is no cost for their services. Ms. Stevens shared a story about a Capitola boy who benefited from this program.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney/Agency Counsel Barisone reported that the City Council/RDA Directors convened in Closed Session at approximately 5:35 p.m. in the City Manager's office, to discuss those items listed on the posted agenda. All members were present, as were City Manager/Executive Director Goldstein, Community Development/Deputy Executive Director Johnson. City Attorney/Agency Counsel Barisone identified the cases of existing litigation that were discussed as follows:

Conference with Legal Counsel – Existing Litigation

- 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 pertaining to one case of Anticipated Litigation - Vieira Enterprises, Inc., vs. City of Capitola (Cabrillo Mobile Estates)

City Attorney/Agency Counsel Barisone reported that members received status updates and discussed all of the city's existing rent control litigation and threatened rent control litigation matters. Following discussion, direction was given to legal counsel by the city council pertaining to ongoing defense and negotiation of those cases. No reportable action was taken in Closed Session.

1. REPORT ON CLOSED SESSION (Continued)

City Attorney Barisone reported that the Council heard briefly from Community Development Director Johnson regarding the ongoing implementation of the settlement of the Capitola vs. Soquel Union Elementary School District litigation. A status report was provided; no reportable action was taken in Closed Session.

Due to time constraints, there was no discussion regarding the Talbert vs. City of Capitola matter, which was agendized.

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

1) Mayor Norton noted that a revised resolution was submitted for Item 5.A., pertaining to the City's Bicycle Transportation Plan.

2) City Clerk Greeninger commented on the Additional Material Agenda Report pertaining to a correction to RDA Item 5.G. on the Minutes of the Joint Regular Meeting of January 13, 2011. Staff's recommendation is to approve the minutes with the corrected language.

3) Mayor Norton announced that he would like to reorder Item 5.B. regarding the Rod & Custom Car Show Special Event Permit immediately following action on the Consent Calendar. Council Member Termini asked why that item was not on the consent calendar with the other two special event requests. Public Works Director Jesberg said that was at the request of the applicant as there was an additional request.

B. Public Comments

Margaret Kinstler announced that she was attending tonight's meeting representing the Capitola Village Residents' Association (CVRA).

C. Staff Comments

Community Development Director Johnson discussed the continuation of the Rispin Mansion item at the last meeting and his discussion with the Redevelopment Agency's special legal counsel. He commented on actions being taken by other Redevelopment Agencies pertaining to committing funds for Redevelopment Agency projects, and he said staff would be returning at the next meeting with a report from the RDA counsel and the Rispin Mansion item.

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

1) City Treasurer Bertrand said the Finance Advisory Committee met in January and would be meeting again next week on Tuesday, February 15, at 6 p.m. in the City Hall Community Room. He reported that the committee will be scheduling an offsite meeting.

2) Council Member Termini said several members of the General Plan Advisory Committee have contacted him about the GPAC discussing housing matters.

3) Council Member Nicol commented on a conversation he had with a resident who asked him if the council had ever considered fencing off a section of Jade Street Park between the children's playground and softball field for a dog park. He would like staff to look at that possibility. Council Member Termini would like to include the possibility of a small portion of the beach for dogs.

2. ORAL COMMUNICATIONS (Continued)

4) Council Member Harlan reported on the Sanitation District meeting and discussed the Aptos transmission main project.

5) Council Member Storey reminded everyone that the Library JPA will meet next Monday, February 14, at 6:30 p.m. in the Santa Cruz City Hall Council Chambers regarding four proposals. He said Capitola is not included on the list for library closures.

6) Mayor Norton said he would like staff to look into rent increases for Pacific Cove Mobile Home Park residents who are not permanent residents. He would like staff to return with a report on what alternatives the city has in taking care of those rents.

7) Marilyn Garrett requested that the WiFi in the Council Chambers be disconnected.

E. Committee Appointments1) **Nomination of City Representative to serve on the Santa Cruz County Hazardous Materials Advisory Commission. [430-50]**

Gene Benson provided a brief report on the Hazardous Materials Advisory Commission, informing the Council that it has been relatively inactive during the past few years. He expressed his interest in continuing to serve on the commission as the city's representative.

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to nominate Gene Benson to continue to serve as the City's representative on the County of Santa Cruz Hazardous Materials Advisory Commission and directed staff to forward the City Council's nomination to Mark Stone, Chairperson of the Board of Supervisors, who will make the appointment. The motion carried unanimously.

Council Member Harlan asked Mr. Benson to be sure to come to a council meeting to report any matters affecting Capitola. Mayor Norton suggested he provide an annual report to the council. Mr. Benson said he would be happy to do so.

F. Approval of Check Register Reports1) **City: Approval of City Check Register Reports for January 21 and January 28, 2011 [300-10]**

Staff responded to questions pertaining to several checks prior to the following action being taken:

ACTION: Council Member Termini moved, seconded by Council Member Nicol, to approve the Check Register Reports dated January 21 and 28, 2011, including checks numbered 65309 through 65358 in the amount of \$156,378.16, and checks numbered 65359 through 65404 in the amount of \$46,247.42, respectively; and payroll disbursements for the January 28, 2011, payroll in the amount of \$177,367.24, for a Grand Total of \$379,992.82, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

2) **RDA: Approval of Redevelopment Agency Check Register Report dated January 21, 2011 [760-25]**

ACTION: Director Harlan moved, seconded by Director Termini, to approve the Check Register Report dated January 21, 2011, including checks numbered 2896 through 2899 in the amount of \$175,899.84, as submitted. The motion carried on the following vote: AYES: Directors Harlan, Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

3. CONSENT CALENDAR

Mayor/Chairperson Norton asked if there were any items on the Consent Calendar that members of the public or city council wished to pull for separate discussion. No items were pulled.

CONSENT CALENDAR ACTION: Council Member/Director Termini moved, seconded by Council Member/Director Harlan, to approve the Consent Calendar as recommended, noting the recommended correction to the Minutes of the January 13, 2011, meeting. The motion carried on the following vote: AYES: Council Members/Directors Harlan, Termini, Nicol, Storey, and Mayor/Chairperson Norton. NOES: None. ABSENT: None. 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 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 City Council/Redevelopment Agency Minutes of the Joint Regular Meetings of January 13 and January 27, 2011.

ACTION: Council Member/Director Termini moved, seconded by Council Member/Director Harlan, to approve the City Council/Redevelopment Agency Minutes of the Joint Regular Meeting of January 13, 2011 with the correction to Item 5.G. on Page 11852 pertaining to adoption of Agency Resolution No. 2011-1 as proposed, and approve the Minutes of January 27, 2011, as submitted. The motion carried on the following vote: AYES: Council Members/Directors Harlan, Termini, Nicol, Storey, and Mayor/Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

C. Receive Planning Commission Action Minutes for the Regular Meeting of February 3, 2011. [740-50]

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to receive the Planning Commission Action Minutes for the Regular Meeting of February 3, 2011, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

D. RDA: Receive RDA Treasurer's Report for the quarter ended December 31, 2010 (Unaudited). [760-25]

ACTION: Director Termini moved, seconded by Director Harlan, to accept the RDA Treasurer's Report for the quarter ended December 31, 2010 (Unaudited), as submitted. The motion carried on the following vote: AYES: Directors Harlan, Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

E. Approve request from the Capitola-Soquel Chamber of Commerce for a Special Event Permit for the 6th Annual Vintage Motorcycle Show "Bikes on the Bay" with DJ Music to be held on Sunday, June 26, 2011, from 9:00 a.m. to 4:00 p.m. at the Capitola Mall; and approve grant for permit fees in the Amount of \$150. [1050-70]

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to approve the recommended action, as follows:

- 1) Approved the Special Event Permit, including all other permits, for the 6th Annual Vintage Motorcycle Show to be held on Sunday, June 26, 2011, from 9 AM to 4 PM at Capitola Mall and authorized the Capitola Police Department to issue said permits; and

3. E. CONSENT CALENDAR (Continued)

- 2) Approved a grant in the amount of \$150 for permit fees.

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

- F. **Approve request from the Capitola-Soquel Chamber of Commerce for a Special Event Permit, Encroachment Permit and Entertainment Permit for the 29th Annual Art & Wine Festival in Capitola Village and live music in Esplanade Park on Saturday and Sunday, September 10 and 11, 2011; and approve grant for permits and Police and Public Works Department fees in the amount of \$2,303. [1050-70]**

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to approve the recommended action, as follows:

- 1) Approved the Special Event Permit, including all other permits, for the 29th Annual Capitola Art & Wine Festival to be held on Saturday and Sunday, September 10 and 11, 2011, and authorized the Capitola Police Department to issue said permits; and
- 2) Approved a grant in the amount of \$2,303.00 for permits and Public Works fees.

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

- G. **Approve Special Event Permit Request by the Capitola Art & Cultural Commission for the 2011 Twilight Concert Series at the Bandstand in Esplanade Park on 11 Wednesday evenings from 6:00 p.m. to 8:00 p.m., and the hanging of a banner prior to each concert. [1010-10]**

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to approve the recommended action, as follows:

- 1) Approved the Special Event Permit for the 2011 Twilight Concert Series and authorized the Capitola Police Department to issue said permit;
- 2) Authorized Public Works to hang the event banner on the Monday preceding each concert.

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

The City Council then dealt with Other Business Item 5.B., which had been reordered:

5. OTHER BUSINESS

- B. **Request from the Capitola Public Safety and Community Service Foundation for approval of a Special Event Permit for the 6th Annual Capitola Rod & Custom Classic Car Show in Capitola Village on Saturday and Sunday, June 11 and 12, 2011, and approval of a grant in the amount of \$1,406. Staff recommendation: approve Special Event Permit and a Grant in the amount of \$1,406 for Permit Fees. [1050-70]**

Bruce Clark, representing the Capitola Public Safety & Community Service Foundation said that there was a concern expressed from the Capitola Village and Wharf Business Improvement Area regarding the new request for a Beer Garden at the event.

5. B. OTHER BUSINESS (Reordered Item - Continued)

Mr. Clark informed the Council that the Foundation has abandoned their request to sell beer in the parking lot of 109 San Jose Avenue; however, they would still retain their VIP area at Esplanade Park. He said this event is one of the Foundation's major fundraisers. People can sign up for the car show from the website at www.Capitolacarshow.com

Mayor Norton opened this item to the public. No one spoke.

ACTION: Council Member Nicol moved, seconded by Council Member Storey, to approve the Special Event Permit for the 6th Annual Capitola Rod and Custom Classic Car Show to be held in Capitola Village on Saturday and Sunday, June 11 and 12, 2011, including approval of an Encroachment Permit, an Entertainment Permit, authorization to serve beer and wine to select guests and sponsors (VIP's) on the City's property located in Esplanade Park behind the Bandstand during the event, to hang banners prior to the event; and approved a grant in the amount of \$1,406.00 for permit fees.

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

4. PUBLIC HEARINGS

A. Public Hearing on Project Application #10-104, 100-200 Kennedy Drive, to consider Appeal of a Planning Commission approval for a Master Use Permit for an existing industrial property in the IP (Industrial Park) Zoning District; APN: 036-031-01; Filed: 12/15/10; Property Owner: John McCoy. Presentation: Community Development Department. [730-10: 100-200 Kennedy Drive, Project Application #10-104]

Senior Planner Bane summarized the written agenda report and conditions of approval made by the Planning Commission utilizing a PowerPoint Presentation. He responded to questions of council members and reviewed the four options contained under recommended action in the agenda report.

Council Member Termini said he appealed this application as it relates to a Master Use Permit for the property. He would prefer each individual new use proposed for the building, which is adjacent to a residential neighborhood, be brought to the Planning Commission so that the neighbors would have an opportunity to voice their concerns, if any. He is very much in favor of the applications and proposed uses that came before the Planning Commission, including Pelican Ranch Winery and the micro-brewery.

Council Member Harlan said Mr. McCoy's letter addressed permit fees, and she would like staff to address that matter.

There was discussion regarding the gate adjacent to Mr. McCoy and Mr. Vieira's property. City Attorney Barisone said the gate issue is between the private property owners, and he would advise not making a condition regarding the gate.

Mayor Norton opened this item up to the applicant at 8:09 p.m.

John McCoy, owner of 100-200 Kennedy Drive, commented on the synergy created by small food businesses. He said the city has control over the uses with a Master Use Permit. He expressed the need for this type of business in Capitola, and he urged the council to approve the Master Use Permit for the property.

4. A. PUBLIC HEARINGS (Continued)

Following the applicants comments, Mayor Norton opened the hearing for public comments at 8:12 p.m.

Phil Cruz, owner and operator of Pelican Ranch Winery with his wife Peggy, commented on their business at this location. He said they are members of the Santa Cruz Mountain Wine Association, the Capitola Soquel Chamber of Commerce, and they participate in the Capitola Art & Wine Festival.

John Benedetti, Director of **Think Local First** and co-owner of Sante Arcangeli Family Wines & Sante Adairius Rustic Ales, said he is hoping to move his family's brewery business near the Pelican Ranch Winery in Capitola. He commented on the history of his family's local business and believes the Kenney Drive location would meet their needs. Mr. Benedetti said their lease is contingent upon approval of the conditional use permit, and he encouraged the council to approve the Master Use Permit.

Karl Heiman, Co-chair of **Think Local First** and owner of Caffe Pergolesi and Mr. Toots Coffee House, said he was at tonight's meeting to fight for small businesses. He said the council should consider what is best for the community and the economic conditions of Capitola. As a local businessman, he urged the council to deny the appeal and move forward.

Eric Gil, Board Member of **Think Local First** and owner of Sock Shop & Shoe Co. in Santa Cruz, said he has known John Benedetti for many years, and he believes John's business would be a perfect match for this location and would benefit the local economy. Not only will his business bring a great product to Capitola, but it will also offer jobs to local residents. Mr. Gil urged the council to approve this use permit.

Mark Crain, homeowner on Bay Avenue since 1991, spoke in favor of denial of the appeal and requested that the council approve the Planning Commission decision. He said the city has many controls within the Master Use Permit for regulating potential uses.

Frederick Coquelin, resident of Cabrillo Mobile Home Park, said that the people in the park agree with the proposed businesses of the winery and brewery. Tonight he has heard about a bakery use. Mr. Coquelin supports council approval of the 3 businesses. He also commented on the gate issue, saying he would like to see the gate closed at night.

Marilyn Garrett commented that there is a huge cell tower near that location. She expressed her concern about businesses being located near the tower.

Manuel Vieira, an owner of Cabrillo Mobile Home Park, commented on the use of Mr. McCoy's property as it relates to weekend traffic. He asked the council to keep in mind this is an Industrial Park, which is normally open Monday through Friday and closed on weekends. Mr. Vieira suggested the council approve Option 2, Denial of the Master Use Permit.

Mayor Norton closed the public hearing at 8:41 p.m.

Senior Planner Bane and Community Development Director Johnson responded to numerous questions of council members.

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

4. A. PUBLIC HEARINGS (Continued)

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to approve Option 4 to deny the Master Conditional Use Permit, but to approve Conditional Use Permits for the uses discussed at the Planning Commission, including a small winery with retail sales and a tasting room (Pelican Ranch Winery), one small micro-brewery with retail sales and a tasting room (Santa Adairius Rustic Ales), and one small bakery or food producer with retail sales and a tasting room, subject to the Conditions and Findings provided in Attachment 7 of the Agenda Report, and with the following added conditions:

- 1) That the gate be closed after business hours, by 9 p.m.,
- 2) That signage be placed on Mr. McCoy's property at the entrance to the mobile home park stating, "**Not a Through-Street – Resident Traffic Only**," and
- 3) Staff review of enhanced landscaping.

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

B. Public Hearing to consider Ordinance on SmartMeters. Presentation: Public Works Department. [565-30]

Public Works Director Jesberg summarized the written agenda report, providing background on the city's prior action pertaining to SmartMeters, discussing Assemblymember Huffman's bill, AB37, and the draft urgency ordinance prepared for council consideration should they wish to adopt it.

There was discussion regarding the urgency of the ordinance and the vote needed to pass an urgency ordinance, which is a 4/5 vote.

Mayor Norton opened the public hearing at 9:32 p.m.

The following individuals voiced their opposition and concerns regarding the installation of SmartMeters, and urged the council to adopt the urgency ordinance:

Kathy Dominguez, Capitola resident

Marilyn Garrett, Aptos resident

Karen Nevis, Capitola resident

Mike Boyd, Soquel resident & President of Californians for Renewal Energy, Inc., (CARE), said he would like the council to add language to the ordinance to be able to red tag units that are not UL approved.

Kim Tenella thanked everyone for their concerns and efforts and submitted written information to council members

Edna Williams expressed concern about the rubber-stamping of the SmartMeters by the CPUC.

Professor Glen Chase (*Note: An email from Mr. Chase is included in the record.*)

The City Council also heard from Hunter Stern, Business Representative for International Brotherhood of Electrical Workers (IBEW) Local Union 1245, expressing their support of the continued installation of the SmartMeters. He commented on the work their members do and their interest in reducing greenhouse emissions. Mr. Stern also stated that his members have a right to work in a safe environment, and he expressed concerns regarding members being threatened while doing their job installing SmartMeters. He thanked the council for the opportunity to speak to this issue and urged them not to vote on the proposed ordinance. (*Note: An email from Mr. Stern is included in the record.*)

4. B. PUBLIC HEARINGS (Continued)

Carla Rodriguez-Lomax, representative of PG&E, was available for questions. She encouraged Capitola residents to attend meetings being held at their education centers each month. She also said people could call their SmartMeter help line at 1-866-743-0263.

Mayor Norton closed the public hearing at 10:18 p.m.

In response to a comment from Mike Boyd, Council Member Termini asked if anyone knew whether there is a UL sticker on SmartMeters. Michael Herz, EMF Program Manager for PG&E, said he had a meter in his car, and he would get it. He mentioned that they have FCC approval. Council Member Termini said he would be extremely concerned if these meters are not UL (Underwriters Laboratory) approved. Council Member Termini did not find a UL label on the SmartMeter.

There was a great deal of discussion by council members regarding this item prior to taking the following actions:

ACTION: Council Member Storey moved, seconded by Council Member Harlan, to adopt **Urgency Ordinance No. 952, An Uncodified Ordinance Adopted as an Urgency Measure Imposing a Temporary Moratorium on the Installation of PG&E SmartMeters and related equipment in, along, across, upon, under and over the Public Streets and other Places within the City of Capitola**, until AB 37 is enacted.

Under discussion of the motion, Council Member Termini asked what impacts adoption of this ordinance would have on staff time.

Community Development Director Johnson said there would be staff time involved in enforcing the ordinance.

City Attorney Barisone said he would not be enforcing the ordinance unless he received specific direction to do so. He indicated that the city would incur substantial attorneys' fees in an attempt to enforce this ordinance.

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

Council Member Harlan then moved, seconded by Council Member Storey, to authorize the Mayor to send a letter of support to Assembly Member Bill Monning for Assembly Bill 37 (Huffman) amending the California Public Utilities Code to include an opt-out provision in the California Public Utilities Code for customers who do not want a SmartMeter, including the ability to remove SmartMeters already installed and informing them of the urgency ordinance adopted by the City Council.

The motion carried unanimously.

5. OTHER BUSINESS

A. **Approval of the draft Bicycle Transportation Plan. Staff recommendation: approve the draft Bicycle Transportation Plan, adopt Resolution authorizing the submittal of the Bicycle Transportation Account Grant Application for FY 2011-2012, and approve a Notice of Exemption pursuant to Sections 15301 and 15304 of the California Environmental Quality Act. [770-05]**

5. A. OTHER BUSINESS (Continued)

Community Development Director Johnson introduced Ariana Green.

Ariana thanked the city for the opportunity to work on the city's Bicycle Transportation Plan. She brought to the Council's attention a change to the revised resolution; that being the reference to "State Department of Transportation" should be changed to "Santa Cruz County Regional Transportation Commission" for being responsible for certification of the plan. Utilizing a PowerPoint Presentation, she reviewed the plan and then responded to questions of council members.

Council members commented on the proposed Bicycle Transportation Plan and discussed the rail trail, the Tiki Cab business, projects recommended for grant funding, share the road signs, a Soquel Creek bicycle path, clearly defined bike lanes leading to New Brighton Middle School, etc.

Council discussion was followed by this action:

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to adopt the revised resolution with replacement of words, "State Department of Transportation" with "Santa Cruz County Regional Transportation Commission," thereby adopting **Resolution No. 3853, Resolution Adopting the Capitola Bicycle Transportation Plan, approving the Notice of Exemption, Authorizing the Submittal of a Bicycle Transportation (BTA) Grant Application for \$147,500 for the Purchase and Installation of Video Detection Systems and Bicycle Parking, and Authorizing and Directing the City Manager to Submit the Plan to the Santa Cruz County Regional Transportation Commission for Certification.** The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

B. Request from the Capitola Public Safety and Community Service Foundation for approval of a Special Event Permit for the 6th Annual Capitola Rod & Custom Classic Car Show in Capitola Village on Saturday and Sunday, June 11 and 12, 2011, and approval of a grant in the amount of \$1,406. Staff recommendation: approve Special Event Permit and a Grant in the amount of \$1,406 for Permit Fees. [1050-70]

NOTE: This item was reordered. See discussion and action following Consent Calendar Item 3.G. on Pages 11869 and 11870.

6. COUNCIL/RDA DIRECTORS/STAFF COMMUNICATIONS

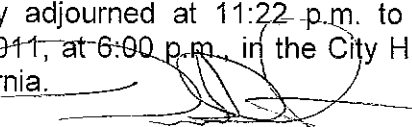
Mayor Norton reminded everyone that the speed limit in Capitola is 25 miles per hour and to "Shop Local."

7. ADJOURNMENT

The City Council/Redevelopment Agency adjourned at 11:22 p.m. to a Special Meeting to be held on Thursday, February 17, 2011, at 6:00 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ATTEST  MMC

Pamela Greeninger, City Clerk
Redevelopment Agency Secretary


Dennis R. Norton, Mayor
RDA Chairperson

MINUTES WERE UNANIMOUSLY APPROVED ON MARCH 10, 2011