

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

January 27, 2011
Capitola, California

MINUTES OF A REGULAR JOINT MEETING

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

At 5:35 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, who was present for the Closed Session in the City Manager's Office. 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)

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 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 there was no one in the audience; therefore, the City Council/Redevelopment Agency recessed at 5:36 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 7:03 p.m. on Thursday, January 27, 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: Redevelopment Agency Treasurer Debbie Johnson
OTHERS: City Treasurer Jacques Bertrand
STAFF: Acting City Manager/Community Development Director/Deputy Executive Director Derek Johnson, Deputy City Attorney/Agency General Counsel Celestial Cassman, Public Works Director Steve Jesberg, Police Captain Tom Held, Assistant to the City Manager Lisa Murphy, and City Clerk/Secretary Pamela Greeninger

***** PRESENTATIONS *****

**Oath of Office Ceremony for Standby City Council Members
 Ron Graves and Mark Sullivan [420-20]**

Mayor Norton announced that newly appointed Standby City Council Members Michael Banks and Ron Graves were unable to attend tonight's meeting, and have been sworn in by the City Clerk at City Hall. Mark Sullivan came forward and City Clerk Greeninger administered the Oath of Office and provided him with information pertaining to his duties as a Standby City Council Member.

1. REPORT ON CLOSED SESSION [520-25]

Deputy City Attorney/Agency General Counsel Cassman reported that the City Council/RDA Directors convened in Closed Session at approximately 5:30 p.m. All members were present as were she, Deputy City Attorney Adair Patero, and Acting City Manager/Community Development Director Johnson. She identified the cases of existing litigation that were discussed as follows:

Conference with Legal Counsel – Existing Litigation

Talbert vs. City of Capitola

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)

Deputy City Attorney Cassman reported that council members received status updates and discussed all five cases of existing litigation. Following discussion, direction was given to legal counsel by the city council pertaining to ongoing defense of those cases. No reportable action was taken in Closed Session.

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

Deputy City Attorney Cassman reported that the city council conferred with and instructed its legal counsel on this matter, but took no reportable action in Closed Session.

Conference with Real Property Negotiators regarding McGregor Drive property, APN 36-341-02 (City of Capitola, Owner); Negotiating Parties: City and Soquel Creek Water District

The city council received information from its negotiators, Public Works Director Jesberg and Acting City Manager Johnson, regarding this matter. The council provided direction to its negotiator, but took no reportable action in Closed Session.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

Council Member/Director Termini suggested continuing Item 5.B., pertaining to the Rispin Mansion proposal, in light of the Governor's proposal to eliminate redevelopment funding. He does not think it is appropriate to discuss any RDA expenditures or any considerations of expenditures until the state determines its budget for redevelopment. [275-05]

ACTION: A motion was made by Council Member/Director Termini to continue RDA Item 5.B. pertaining to the Rispin Mansion proposal, indefinitely. Mayor/Chairperson Norton seconded the motion.

Under discussion of the motion, concerns were expressed by council members/directors regarding postponing this item, because continuance is indefinite.

The makers of the motion amended the original motion to include direction to staff to come back with an analysis as to whether it would be in the Redevelopment Agency's interest to encumber RDA funds so that the agency's funds are protected, and to analyze the impacts of the state proposal pertaining to redevelopment. Direction was also given to bring back the Rispin Mansion proposal at that time, as the report may trigger some action to be taken in order to encumber RDA funds.

Members of the public were invited to address the council/directors regarding the motion to continue Item 5.B. The following people spoke:

Mary Healy, Francesco Court, said she is interested in seeing some type of development at the Rispin site that will reduce the undesirable activities occurring in the area, and she would like to see the wall removed.

Bud Carney, planning consultant, commented on Barry Swenson's proposal and concerns he has that it will meet the provisions of the stipulated judgment and amended project conditions. He also commented on redevelopment, saying it is a major tool to address local blight and low-income housing.

Phil Lopez, Clares Street, urged the agency directors not to postpone this item. He said the Governor's proposal is just a proposal – not law. Mr. Lopez expressed concerns about the condition of the property, and he encouraged the Redevelopment Agency directors to consider the Barry Swenson proposal. He believes a public-private partnership would be appropriate for the RDA to consider.

Following public comment, Council Member/Director Termini restated the amended motion to continue Item 5.B., Rispin Mansion Proposal, until staff returns with a more thorough report regarding the disposition of Redevelopment and RDA funds, with guidance and understanding of what will become of the city's RDA funds, and the best method for preserving them.

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

B. Public Comments

1) Marilyn Garrett commented on SmartMeters and urged the Council to adopt and ordinance similar to the County of Santa Cruz prohibiting the installation of SmartMeters in Capitola.

2. B. Public Comments

2) MJ "Red" Malone, resident of the 750 Bay Avenue Senior Housing development, expressed concerns regarding the loss of 25 parking spaces, CC&Rs pertaining to dogs, the criteria for being able to live in the development (55+ years of age and low income), and when a change in income results in a need for a different type of unit.

Mayor/Chairperson Norton said the city is not the administrator of the project. He suggested Mr. Malone write a letter to the management with copies to council members/directors regarding his concerns.

Housing and Redevelopment Project Manager Foster responded to questions of council members/directors pertaining to issues raised by Mr. Malone.

Acting City Manager/Community Development Director Johnson recommended that since this item is not on the agenda, Housing and Redevelopment Project Manager Foster should research this and report back.

Council Member/Director Harlan said the city put a lot of staff time and funding into the project, and she would hope that we pay attention to this project and make sure the residents are happy.

C. Staff Comments

Acting City Manager/Community Development Director Johnson informed the City Council/RDA Directors that staff would be reporting on the passageway in the wall from the Sommerfeld/Lotman neighborhood to Capitola Mall at a future meeting as requested.

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

1) City Treasurer Bertrand reported that the Finance Advisory Committee selected Bob Begun to serve as Chair, with Christine Buechting to remain Vice Chair. The committee has also changed its meeting day to the third Tuesday of each month at 6 p.m. in the Community Room.

2) Council Member Nicol said he visited the Capitola Beach Villas Project on 41st Avenue for information on rental of the units. He spent some time with the business manager and learned that 22 of the 55 units are rented, and 6 units are being offered for sale.

3) Mayor Norton said the Santa Cruz County Regional Transportation Commission was successful in acquiring the \$18.2 Million to acquire the rail corridor. He is excited that the corridor is in the public hands for future generations.

E. Committee Appointments

- 1) **City Council appointments to the General Plan Advisory Committee. Staff recommendation: confirm appointments and adopt Resolution Appointing Members to the General Plan Advisory Committee. [740-40]**

Mayor Norton reported on the nominations from the various committees/commissions as follows:

- | | |
|--|---------------------------|
| Planning Commission | - Ed Newman |
| Traffic and Parking Commission | - Linda Hanson |
| Commission on the Environment. | - Kristin Jensen Sullivan |
| Finance Advisory Committee | - Jacques Bertrand |
| Art & Cultural Commission | - James Wallace |
| Economic Development Committee of the Chamber- | Gary Wetsel |

2. E. 1) Committee Appointments (Continued)

Housing and Redevelopment Project Manager Foster provided a staff report utilizing a PowerPoint Presentation. He said the contract with Design Community Environment, the General Plan consultant, has been executed. He also said the city's website for the General Plan update is up and running at www.plancapitola.com.

Following staffs' presentation, Council Members nominated public members to the GPAC as follows:

Council Member Storey nominated Bruce Arthur from the Depot Hill neighborhood, Council Member Nicol nominated Ron Burke from the Jewel Box neighborhood, Council Member Harlan nominated Rick Halterman West Capitola neighborhood, Council Member Termini nominated Ed Bottorff from the Upper and Lower Village neighborhood, and Mayor Norton nominated Ann Wilson from the East Capitola neighborhood.

Community Development Director Johnson said staff is shooting for Wednesday, February 16, as the first meeting of the committee, and will confirm the meeting date once staff has communicated with the consultants and committee members.

Council Member Termini said there is a distinct possibility that we may lose a member during this 3-year process, and questioned if the applicants not appointed could attend meetings and be considered for appointment if that were to occur. Community Development Director Johnson said the meetings are open to the public, and all are welcome to attend.

ACTION: Council Member Harlan moved, seconded by Council Member Termini, to adopt **Resolution No. 3851, Resolution Appointing Members to the General Plan Advisory Committee**, inserting the names of the confirmed nominations approved by the City Council, as follows:

Depot Hill neighborhood	- Bruce Arthur
Jewel Box neighborhood	- Ron Burke
West Capitola neighborhood	- Rick Halterman
Upper & Lower Village neighborhood	- Ed Bottorff
East Capitola neighborhood	- Ann Wilson
Planning Commission	- Ed Newman
Traffic and Parking Commission	- Linda Hanson
Commission on the Environment	- Kristin Jensen Sullivan
Finance Advisory Committee	- Jacques Bertrand
Art & Cultural Commission	- James Wallace
Economic Development Committee of the Capitola Soquel Chamber of Commerce	- Gary Wetsel

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

2. E. Committee Appointments (Continued)

2) **Confirmation of Planning Commission appointments to the Art and Cultural Commission, the Commission on the Environment, and the Traffic and Parking Commission. [1010-60/430-05/470-60/110-10]**

ACTION: Council Member Nicol moved, seconded by Council Member Storey, to approve the Planning Commission nominations and made the following committee appointments:

Traffic and Parking Commission - Mick Routh
 Commission on the Environment - Ron Graves
 Art & Cultural Commission - Linda Smith

The motion carried unanimously.

F. **Approval of Check Register Reports**1) **City: Approval of City Check Register Reports for January 7 and January 14, 2011 [300-10]**

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to approve the Check Register Reports dated January 7 and 14, 2011, including checks numbered 65204 through 65250 in the amount of \$125,654.91, and checks numbered 65251 through 65308 in the amount of \$335,138.16, respectively; and payroll disbursements for the January 14, 2011, payroll in the amount of \$181,496.37, for a Grand Total of \$642,289.44, 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. (*Note: Mayor Norton abstained on Check #65292 to Santa Cruz Regional 911 in the amount of \$105,114.75, only.)

2) **RDA: Approval of Redevelopment Agency Check Register Reports dated January 7, 2011 [760-25]**

ACTION: Director Harlan moved, seconded by Director Termini, to approve the Check Register Report dated January 14, 2011, including checks numbered 2891 through 2895 in the amount of \$11,871.46, 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.

Council Member Harlan pulled Item 3.E., pertaining to an Offer of Dedication and Subdivision Agreement for the Hill Street Minor Land Division at 509 Hill Street. The city council heard from Council Member Harlan regarding that item at this time. (See discussion under that item.)

CONSENT CALENDAR ACTION: Council Member/Director Termini moved, seconded by Council Member/Director Harlan, to approve the Consent Calendar as recommended. The motion carried on the following vote: AYES: Council Members/Directors Harlan, Termini, Nicol, Storey, and Mayor 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.

3. CONSENT CALENDAR (Continued)

- B. Approve City Council Minutes of the Regular Meeting of December 9, 2010, the Special City Council Workshop of January 10, 2011, and the Special Closed Session Meeting of January 10, 2011.**

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to approve the City Council Minutes of the Regular Meeting of December 9, 2010, the Special City Council Workshop of January 10, 2011, and the Special Closed Session Meeting of January 10, 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.

- C. Receive Planning Commission Action Minutes for the Regular Meeting of January 20, 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 January 20, 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. Receive City Treasurer's Report for the month ended December 31, 2010 (Unaudited). [380-30]**

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to accept the City Treasurer's Report for the Month Ended December 31, 2010 (Unaudited), 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.

- E. Adopt Resolution Accepting an Offer of Dedication of land on Hill Street, APN 036-022-37, from J. Edison Corporation for street and pedestrian purposes, and approve Subdivision Agreement for the Hill Street Minor Land Division. [940-30/730-75/500-10 A/C: Edison, J. Corporation]**

Prior to action on the Consent Calendar, Council Member Harlan had a few questions regarding the subdivision agreement and acceptance of the offer of dedication of land for street and pedestrian purposes. She expressed concern about the length of time that has elapsed since this project was first approved, and she questioned what the city could do to make this happen sooner.

Public Works Director Jesberg explained the developer was unable to move forward due to health issues, but he is motivated to sell the homes and the buyers cannot move in until the improvements are completed.

ACTION: Council Member Termini moved, seconded by Council Member Harlan, to take the following recommended actions:

1. Approved a Subdivision Agreement between the City of Capitola and J. Edison Corporation covering construction of public improvements for the Hill Street Minor Land Division and providing securities for their completion and authorized the City Manager to sign the agreement on behalf of the City; and
2. Adopted **Resolution No. 3852, Resolution Accepting an Offer of Dedication of Land from J. Edison Corporation along Hill Street for Street and Pedestrian Purposes (509 Hill Street; APN 036-022-37).**

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 – None**5. OTHER BUSINESS**

- A. Council determination regarding new Community Grant applications for FY 2011-2012. Staff recommendation: Council to determine whether or not to allow a new agency or organization to apply for a Community Grant for FY 2011-2012. [330-30]**

Council Member Storey announced that since he is employed by an agency that receives community grant funds, he would be recusing himself from participating in this item. He left the Council Chambers at 8:06 p.m.

Council Member Nicol moved not to accept new applications. The motion failed for lack of second.

ACTION: Council Member Termini moved to accept new Community Grant applications for Fiscal Year 2011/2012. The motion was seconded by Mayor Norton. The motion carried on the following vote: AYES: Council Members Harlan, Termini, and Mayor Norton. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None. DISQUALIFIED: Council Member Storey.

- B. RDA: Rispin Mansion proposal. Staff recommendation: consider a proposal to save and restore the Rispin Mansion and provide direction to staff. [275-05]**

Chairperson Norton announced at the beginning of the meeting under Additions/Deletions to the agenda that this item was continued. See page 11857 for discussion and action. Chairperson Norton asked if anyone wished to address the agency directors at this time. No one spoke.

- C. Consider Letter in Opposition to Governor Brown's Proposal to Eliminate Redevelopment. Staff recommendation: authorize the Mayor to execute letters to State officials. [580-40]**

ACTION: Council Member Nicol moved, seconded by Council Member Harlan, to authorize the Mayor to execute letters to Governor Jerry Brown, State Senator Joseph Simitian, and State Assemblyman Bill Monning, opposing Governor Brown's proposal to eliminate Redevelopment. with the inclusion of the city's commitment to a permanent library in the letter. The motion carried unanimously.

- D. Village Parking Pay Station Program. Staff recommendation: approve the selection of Cale Parking Systems, USA, Inc., for the implementation of the Village Pay By Space Station Program and authorize the Public Works Director to negotiate and execute a final contract with Cale for replacing all parking meters along the Esplanade with pay stations at an estimated cost of \$100,000. [470-30/500-10 A/C: Cale Parking Systems, USA, Inc.]**

After receiving staff's report and responses to questions of council members by Public Works Director Jesberg, Mayor Norton asked if anyone from the public wished to address this item.

Marilyn Garrett expressed concerns about the use of microwave radiation in the pay station program. She submitted a copy of an article from "The EMR Policy Institute" entitled, "Blind Faith in Wireless Technology – Facts Everyone Should Know." Ms. Garrett urged the Council to keep the current coin meters, saying Capitola is about "nature," and it should be kept natural.

5. D. OTHER BUSINESS (Continued)

Ed Bottorff, member of the Traffic & Parking Commission, offered his support of the proposed pay to park program and said he would be willing to serve as an ambassador during the transition from parking meters to the new pay by space system.

ACTION: Council Member Termini moved, seconded by Council Member Storey, to approve the selection of Cale Parking Systems, USA, Inc., for the implementation of the Village Pay By Space Pay Station Program and authorized the Public Works Director to negotiate and execute a final contract and implementation plan with Cale for replacement of all parking meters along the Esplanade as recommended, with the added area on Monterey Avenue to Capitola Avenue, with pay stations at an estimated cost of \$100,000.

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

E. Grant for Electric Vehicle Charging Station Installation. Staff recommendation: approve recommended action accepting grant from Coulomb Technologies, Inc., authorizing the City Manager to execute agreements, approve installation of charging stations in Pacific Cove Parking Lot, and approve Notice of Exemption from CEQA for the installation of the charging stations. [370-40/500-10 A/C: Coulomb Technologies, Inc.,/500-10 A/C: Phat Energy]

The City Council received a verbal report from Public Works Director Jesberg on this item. He introduced Sharon Sarris, Monterey Bay EV Alliance, who has been a key figure in obtaining funding for these electric vehicle charging stations. Ms. Sarris informed the Council that Capitola will be the first of 5 locations in the county taking advantage of this grant.

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

1. Accepted a grant from Coulomb Technologies, Inc., for two electric vehicle charging stations near City Hall and authorized the City Manager to execute two agreements with Coulomb;
2. Approved the installation of the charging stations in the Pacific Cove Parking Lot utilizing three parking spaces for two stations;
3. Awarded a soul source contract to Phat Energy in an amount not to exceed \$4,500 for the installation of the two charging stations at a site to be determined; and
4. Approved a Notice of Exemption from CEQA for the installation of the charging stations.

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

6. COUNCIL/RDA DIRECTORS/STAFF COMMUNICATIONS

Council Member Termini announced that a local celebrity – Kim Hogan – is celebrating her birthday today. The council members and others present sang *Happy Birthday* to Kim.

Council Member Harlan commented on the parking lot at the theater site where someone could not get out of the lot for over 30 minutes due to a malfunction in the gate.

Mayor Norton expressed concerns about the visibility on Stockton Avenue and the Esplanade. He said it is often difficult to see people in the crosswalks at night, and he wondered if additional lighting could be considered for that location.

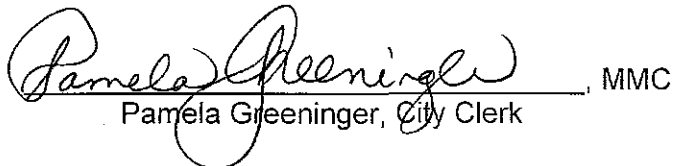
7. ADJOURNMENT

The City Council/Redevelopment Agency adjourned at 9:16 p.m. to its next Regular Meeting to be held on Thursday, February 10, 2011, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Dennis R. Norton, Mayor

ATTEST:



Pamela Greeninger, City Clerk, MMC

MINUTES WERE UNANIMOUSLY APPROVED BY THE CITY COUNCIL ON 2/10/2011