



# **ACTION MINUTES**

## **CAPITOLA CITY COUNCIL**

### **REGULAR MEETING**

Thursday, June 28, 2007

#### **5:30 P.M. – SPECIAL/REGULAR CLOSED SESSION MEETING – CITY MANAGER’S OFFICE CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL**

At 5:30 p.m. in the City Hall Council Chambers, Mayor Termini made an announcement regarding the items to be discussed in Closed Session. He stated that the City Council/Agency Directors would be discussing a Special Closed Session Meeting item pertaining to the Golino Property and would also be meeting with the City Manager pertaining to labor negotiations.

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

Property: 1720 Wharf Road, Capitola (Golino Property – Golino Family as Tenants in Common, Owners)  
Agency Negotiator: City Manager  
Under Negotiation: Purchase of Property by City

#### **CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)**

Bargaining Units City Manager  
Negotiators: City Council

#### **6:45 P.M. REDEVELOPMENT AGENCY - (See Redevelopment Agency Action Minutes)**

#### **7:00 P.M. – CITY COUNCIL REGULAR MEETING**

Mayor Termini called the Regular Meeting of the City Council to order at 7:08 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

#### **ROLL CALL AND PLEDGE OF ALLEGIANCE**

**PRESENT:** Council Members Bob Begun, Kirby Nicol, Ron Graves, Sam Storey, and Mayor Michael Termini; City Treasurer Tony Gualtieri

**ABSENT:** None

**STAFF:** City Manager Rich Hill, Deputy City Attorney Jeff Barnes, Finance Director Lauren Lai, Community Development Director Juliana Rebagliati, Public Works Director Steve Jesberg, Chief of Police Rick Ehle, and City Clerk Pamela Greeninger

**\*\*\* PRESENTATION \*\*\***

#### **Update on Village Motorcycle Noise Project By Police Officer Andrew Dally**

Police Motorcycle Officer Andy Dally introduced himself and provided background regarding the 8 years he has worked for the Capitola Police Department. Officer Dally explained the project and goal to educate motorcycle riders and ask them to have respect for the businesses and residents in Capitola. This was a 16-week project that entailed distributing handouts to motorcyclists and personally talking with them about this issue. Copies of the handout were provided to council members. Officer Dally reported that there has been positive feedback on this issue, and the police department will continue its efforts.

Council Member Begun asked if he could get a copy of Officer Dally's report. Council Member Storey thanked Officer Dally for his efforts and commented on continued monitoring of motorcycle noise to keep the motorcycle community aware of the city's efforts. Council Member Nicol congratulated him on the project and asked if the department plans to take a stronger stance in the future if the education program doesn't work.

Chief of Police Ehle commented on the next phase of the project, which will include citations and enforcement, rotating cars, and, at the suggestion of a Capitola citizen, to possibly put a radar board at the top of the hill on Monterey Avenue.

**1. REPORT ON CLOSED SESSION [520-25]**

Deputy City Attorney Jeff Barnes reported that one item was discussed during closed session regarding a conference with Real Property Negotiator (City Manager Hill) pertaining to the potential purchase of property located at 1720 Wharf Road, Capitola. He said Council Member Graves recused himself from discussion of that item, and no reportable action was taken.

**2. ORAL COMMUNICATIONS**

A. Additions and Deletions to Agenda – None

B. Public Comments – None

C. Staff Comments

Chief of Police Ehle expressed appreciation to the City Council on behalf of the Capitola Public Safety Foundation for supporting the 2<sup>nd</sup> Annual Rod and Custom Classic Car Show held in Capitola Village on June 9 and 10. He said they would be soliciting input from the public, particularly the businesses in the Village, to critique the event. A meeting will be held on Tuesday, July 10, at 4 p.m. at the Capitola-Soquel Chamber of Commerce Office. He also announced that the Foundation would be having its 2<sup>nd</sup> Annual Golf Tournament on Friday, August 10, at Seascape Golf Course.

Chief of Police Ehle commented on the high-speed car chase incident that occurred in Capitola and said he plans to report on that incident at a future meeting.

D. City Council/Treasurer Comments

1) Council Member Begun asked for a cost breakdown on how much money the city is spending on construction projects that affect the PMP (Pavement Management Program) in the 2005/06, 2006/07, and 2007/08 budgets. Mayor Termini commented that the council knows what the CIP expenditures are and asked if staff could provide a breakdown on how much is specifically spent for road projects.

2) City Treasurer Gualtieri said that during the last budget session 41 groups were given grants. During the budget process, there was discussion regarding how future City Council members would evaluate future grant activities. He said the Finance Advisory Committee is working with staff to develop criteria for evaluating community grant applications. The committee will be reviewing this matter and would come back to the council with their recommendations.

3) Council Member Graves said the Village Master Plan Advisory Committee met Tuesday night. He thanked Public Works Director Jesberg for his presentation at the public meeting on Village circulation and traffic issues. As a result of that meeting, the committee was able to come to definite conclusions and recommendations that will be brought back to the council.

4) Council Member Storey complimented the public works department on the resurfacing project on Park Avenue.

## 2. D. ORAL COMMUNICATIONS (Continued)

5) Mayor Termini reported on the Twilight Concerts being held at the new Bandstand at Esplanade Park on Wednesday nights during the summer.

6) Mayor Termini commented on the loss of life of several firefighters from the Charleston, South Carolina Fire Department on June 18, 2007. He discussed the situation that occurred there and named the nine firefighters who lost their lives in that fire. Everyone stood for a moment of silence in memory of those firefighters.

7) Council Member Nicol said he had one housekeeping item that came to his attention when reviewing Attachment 1 for Item 5.B. on tonight's agenda. Attachment 1 is an excerpt from the May 10, 2007, City Council Minutes for Item 5.A. regarding the Administrative Policy to implement provisions of the Environmentally Acceptable Packaging Materials' ordinance. He said the "Aye" votes and "Noe" votes should have been reversed.

**ACTION:** It was the consensus of the council directing the City Clerk to bring the May 10, 2007, minutes back for review and correction of Item 5.A. at the next meeting.

E. Committee Reports/Appointments1) **Appointment/Reappointment of Four Members to the Capitola Historical Museum Board of Trustees. [240-40/110-10]**

Council Member Graves commented that it appeared to him there were only a limited number of applicants, and the Museum Board made its recommendation of the candidates. He said one of the applicants for reappointment has been a member of the board for over 10 years and has done an exceptional job; however, he believes preference for selecting members should be given to those who live within our community.

**ACTION:** Council Member Graves moved, seconded by Council Member Storey, to accept the recommendation of the Capitola Historical Museum Board to reappoint David Shoaf, Tom McGranahan, Gordon Van Zuiden, and Alistair "Bob" Anderson to continue to serve on the Capitola Historical Museum Board for three (3) years with terms expiring the second Thursday in June 2010. The motion carried unanimously.

F. Approval of Check Register Report [300-10]

Mayor Termini asked if there were any questions regarding the check register report. Seeing none, the following action was taken:

**ACTION:** Council Member Storey moved, seconded by Council Member Begun, to approve the Check Register Reports dated June 8 and June 15, 2007, including checks numbered 52078 through 52118 in the amount of \$56,978.26, and checks numbered 52119 through 52171 in the amount of \$41,472.68, respectively, and payroll disbursements for the 06/08/07 payroll in the amount of \$190,985.00, for a Grand Total of \$289,435.94, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

3. **CONSENT CALENDAR**

Mayor Termini asked if there were any items members of the council or public wished to pull for separate discussion. No items were pulled.

Council Member Graves expressed concern about updated information provided to council members via email after the packet is distributed. He referred to Item 3.D. and said it was difficult to know what the changes were. He is particularly interested in clearly seeing what the changes are in the update. Council Member Nicol suggested highlighting the changes in yellow on the emailed copy. Council Member Graves said when highlighted text is printed, it is often times difficult to read, and you don't know whether the language was added or stricken. There was discussion to strike-through and underline the changes. Council Member Graves said there is an agenda cut-off date, and he would recommend that items be removed from the agenda if they are not ready to be included in the packet.

## 3. CONSENT CALENDAR (Continued)

**CONSENT CALENDAR ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to approve the Consent Calendar as recommended. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

**A. Waive Reading of all Ordinances and Resolutions on the Agenda.**

**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. Approval of Minutes – Special Joint Meeting of the City Council and the Redevelopment Agency of May 9, 2007, Special Joint Budget Study Session Meetings of May 16 and 30, 2007, and the Regular Meeting of the City Council of May 24, 2007.**

**ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to approve the Minutes of the Special Joint Meeting of the Council and the Agency of May 9, 2007, the Special Joint Budget Study Session Meetings of May 16 and 30, 2007, and the Regular Meeting of the City Council of May 24, 2007, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

**C. Receipt of Planning Commission Action Minutes for the Regular Meeting of June 21, 2007. [740-50]**

**ACTION:** The City Council unanimously received the Planning Commission Action Minutes for the Regular Meeting of June 21, 2007, as submitted.

**D. Adopt Ordinance Amending Section 2.04.140 of the Capitola Municipal Code Pertaining to the Placement of Items on the City Council Meeting Agenda (2<sup>nd</sup> Reading). [520-40]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to adopt **Ordinance No. 919, Ordinance Amending Section 2.04.140 of the Capitola Municipal Code Pertaining to the Placement of Items on the City Council Meeting Agendas.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, and Mayor Termini. NOES: Council Member Storey. ABSENT: None. ABSTAIN: None.

**E. Adopt Resolution Amending City Classification Plan to Add an Accountant II Position, Approve Job Description and Amend the ACE-General Government Employee Bargaining Unit MOU to Add the Accountant II Classification and Salary. [600-10]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to adopt **Resolution No. 3642, Resolution Approving a New Classification and Job Description for the Position of Accountant II, and Amending the Memorandum of Understanding Between ACE-General Government Employee Bargaining Unit and the City of Capitola to Add the Accountant II Position and Related Salary Effective 7/1/07.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

**F. Approve an Amendment to the Administrative Policy Regarding the Memorial Program to Allow 50 Additional Wharf Plaques. [1040-50/100-10/Administrative Policy Binder]**

## 3. F. CONSENT CALENDAR (Continued)

**ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to approve the Amendment to the Administrative Policy Regarding the Memorial Program to allow 50 additional Wharf Plaques. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

**G. Adopt Resolution Amending the FY 06/07 City Budgets Pertaining to Housing Special Funds and General Plan Update Fund. [330-10]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to adopt **Resolution No. 3643, Resolution to Amend the Fiscal Year 2006-07 City Budgets as it Pertains to the Housing Special Funds and General Plan Update Fund.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

**H. Third Amendment to the Library Joint Powers Board Agreement. Staff recommendation: adopt resolution authorizing and directing the City Manager to execute amendment to agreement. [230-10/500-10 A/C: Santa Cruz County Library Financing Authority]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to adopt **Resolution No. 3644, Resolution Approving the Third Amendment to the Joint Powers Agreement Between the City of Santa Cruz and the County of Santa Cruz and the Cities of Capitola and Scotts Valley Relating to Library Services and Authorizing and Directing the City Manager to Execute the Agreement.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

**I. Accept and Authorize Recordation of Notice of Completion for Jade Street Park Playground Equipment Replacement Project. [1040-20/500-10 A/C: Ross Recreation Equipment of Aptos]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to accept the Jade Street Park Playground Equipment Replacement Project as complete at the final cost of \$33,062.16 and to authorize recordation of the Notice of Completion for the project. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

**J. Receipt of Treasurer's Report for the Month Ended May 31, 2007 (Unaudited). [380-30]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to accept the Treasurer's Report (Unaudited) for the Month Ended May 31, 2007. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

## 4. PUBLIC HEARINGS

**A. Public Hearing to Consider a Resolution Adding New Fees, Removing Existing Fees, and Increasing Existing Fees for Various City Services. Presentation: Assistant to the City Manager. [390-40]**

After receiving staff report from Assistant to the City Manager Murphy, the council conducted the required public hearing on fees for city services. No one spoke.

Council discussion was followed by this action:

## 4. A. PUBLIC HEARINGS (Continued)

**ACTION:** Council Member Graves moved to adopt **Resolution No. 3645, Resolution Repealing Resolution No. 3549 and No. 3614 and Amending the City's Fee Schedule to Increase Various City Fees by the Consumer Price Index, Adding New Fees and Removing Several Planning Fees**, with the new proposed fee schedule presented by staff, and with the two requests from Council Member Nicol and himself with respect to future reports: One being the amount of fees collected, and the other being the actual cost of memorial plaques and benches. Council Member Begun seconded the motion. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

**B. Public Hearing regarding Reconsideration of Ordinance No. 913 which enacted Municipal Code Chapter 8.36 Pertaining to Environmentally Acceptable Packaging Materials. Presentation: Community Development Director. [930-30]**

The city council received staff report from Community Development Director Rebagliati and from Kristin Jensen Sullivan of the Commission on the Environment. There was considerable public testimony and council deliberation on this item prior to taking the following action:

**ACTION:** Council Member Graves moved to: 1) uphold the ordinance in its entirety, thereby putting the timeframe that is called for in the proposed implementation provisions for a survey to come back to council within 3 months, and 2) to hold in abeyance the implementation provisions of Municipal Code Chapter 8.36 with the proviso that staff involve both sides of the community, i.e., the environmental community and the Restaurant Association in pulling up the facts of the survey.

Mayor Termini commented that as he understands it, the council does not need a motion to do nothing with the ordinance and could just take Council Member Graves' proposal in the next item on the agenda. Deputy City Attorney Barnes said that would be correct.

Council Member Graves said he wanted to stick with his motion as stated and explained the reason for doing so. He said he wants to make a positive statement about the ordinance, which is the right first step; however, it does not go far enough in his opinion. He is interested in the results of the survey in 3 to 4 months that will show compliance of the ordinance.

Mayor Termini clarified that the motion was to leave the ordinance as it is and to return to the Council with the survey and Administrative Policy in 3 months (October).

As a point of order, Council Member Nicol said the Council is dealing with Item 4.B., but is also dealing with the Administrative Policy which is Item 5.A. Staff clarified that the council has the ability to deal with each item separately or together.

Council Member Graves clarified that the results of the study would be what is called for in the enforcement section of the ordinance.

After considerable discussion regarding Council Member Graves' motion, Council Member Storey seconded the motion.

City Manager Hill asked for more direction pertaining to the council's expectation regarding the survey. After further discussion, City Manager Hill communicated his understanding that staff will notify the affected community that the city's ordinance is effective and that there will be a survey conducted within the next 3 months to determine compliance pursuant to Section 8.36.030 A. of the ordinance.

## 4. B. PUBLIC HEARINGS (Continued)

City Manager Hill asked that two council members work on the survey with staff. The council also clarified that the survey will include an educational component.

Council Member Nicol said he would like the vote segregated.

Council Member Graves called for the question.

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

Council Member Nicol then moved to deny recommended action of staff for Item 4.B. The motion failed for lack of a second.

Council Member Begun suggested that it might be a good idea to put together an Adhoc committee of 2 council members, 2 representatives from restaurants, and 2 Commission on the Environment members to work with staff on the survey.

## 5. OTHER BUSINESS

- A. Continued Consideration of Administrative Policy to Implement the Provisions of Municipal Code Chapter 8.36 Pertaining to Environmentally Acceptable Packaging Materials. Staff recommendation: adopt proposed Polystyrene Foam, Disposable Food Service Ware, and Biodegradable or Compostable Disposable Food Service Ware Policy. [930-30/100-10/Administrative Policy Binder]**

**ACTION:** Under Item 4.B. above, the City Council continued this item for 3 months until such time as staff has conducted the survey called for in the ordinance.

The council took a short break at 10:54 p.m. and reconvened at 11:05 p.m.

- B. Purchase and Use of “Blackball” Flags for City Lifeguards to Regulate Water Sports and Beach Equipment Activities on the City Beach as Authorized by City Ordinance. Staff recommendation: authorize purchase and use. [1020-20]**  
Chief of Police Ehle summarized the written agenda report and responded to questions of council members.

Council Member Graves commented that the intent is good, but there should be some type of education conducted.

Council discussion was followed by this action:

**ACTION:** Council Member Graves moved, seconded by Council Member Begun, to authorize the City Lifeguards to purchase and utilize two “Blackball” flags on the City beach to regulate water sports and beach equipment activities as authorized by City ordinance. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

- C. Report on Debt and Unfunded Liability Analysis, and Review of Possible Revenue Impacts from Non-Residential Development. Staff recommendation: receive report. [380-05]**

Council discussion was followed by this action:

## 5. C. OTHER BUSINESS (Continued)

**ACTION:** Council Member Begun moved, seconded by Mayor Termini, to receive the report on Debt and Unfunded Liability Analysis, and Review of Possible Revenue Impacts from Non-Residential Development as submitted. The motion carried unanimously.

**D. Authorize Payment of \$1 Million of City Funds to California Public Employees Retirement System to Pay Down a Portion of the PERS Side Fund Balance and Amend City Budgets Accordingly. Staff recommendation: adopt resolution. [340-20/330-10]**

Finance Director Lai summarized the agenda report and informed the council that staff has researched whether to make the \$1Million payment in the current or next fiscal year. After speaking with CalPERS staff, staff recommends adopting the proposed resolution for fiscal year 2007/08. Finance Director Lai said the money would be wired as close to July 13, 2007, as possible.

Council discussion was followed by this action:

**ACTION:** Council Member Begun moved, seconded by Council Member Nicol, to adopt **Resolution No. 3646, Resolution to Authorize Payment of \$1 Million to California Public Employees Retirement System (“PERS”) to Pay Down a Portion of the City’s “PERS” Side Fund Balance and Amend the Fiscal Year 2007/2008 Budgets Accordingly.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, and Mayor Termini. NOES: Council Member Storey. ABSENT: None. ABSTAIN: None.

**E. Consideration of Bids Received for Library Tot Lot Project. Staff recommendation: reject bids and provide direction. [1040-20]**

Public Works Director Steve Jesberg summarized the written agenda report and responded to questions of council members.

Mayor Termini asked if the council could accept the low bidder and negotiate to delete portions of the project to bring it in line with the budget and still maintain the integrity of the project. Public Works Director Jesberg said he has not received an opinion from City Attorney Barisone on that question.

Council Member Graves said the plans were much more ambitious than he anticipated for this project, and he made some suggestions about items he feels could be removed.

Council discussion was followed by this action:

**ACTION:** Council Member Nicol moved, seconded by Council Member Graves, directing staff to work with the low responsible bidder (Monterey Peninsula Engineering), and to bring the project into budget by reducing the scope of work or whatever it takes to move forward with the project, and to bring this matter back to council for approval consistent with the engineers’ estimate. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

## 6. ORAL COMMUNICATIONS - None

## 7. ADJOURNMENT

The City Council adjourned at 11:29 p.m. to its next Regular Meeting to be held on Thursday, July 12, 2007, beginning at 7:00 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.