

July 12, 2007
 Capitola, California

CAPITOLA CITY COUNCIL

MINUTES OF A REGULAR MEETING

5:15 P.M. –CLOSED SESSION – CITY MANAGER'S OFFICE CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL

An announcement regarding the items to be discussed in Closed Session was made by Mayor Termini in the City Hall Council Chambers at 5:15 p.m. No one addressed the Council at this time.

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

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Govt. Code §54957)

Title: City Manager

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Talisyn Hunter

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

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

Mayor Termini called the Regular Meeting of the City Council to order at 7:39 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, City Attorney John Barisone, Finance Director Lauren Lai, Community Development Director Juliana Rebagliati, Public Works Director Steve Jesberg, Chief of Police Rick Ehle, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

*** PRESENTATION ***

Police Department Report on June 20, 2007, Police Pursuit

Chief of Police Ehle provided a report on a high-speed vehicle chase that occurred in Capitola. Utilizing a PowerPoint Presentation, the Chief shared photographs of the chase involving a stolen vehicle. The vehicle ultimately ended up driving through a fence and into a house located at 315 Laurence Avenue.

PRESENTATION (Continued)

Council Member Storey thanked the Chief for his report and for the efforts of the Police Department and the Fire Protection District. Chief of Police Ehle responded to Council Member Storey's request for information pertaining to protocol for such pursuits. He said all agencies have similar pursuit and chase policies and discussed necessary training of officers on these policies. He commented on the various options available to the officers.

Carin Hanna expressed concern that on that day a Sheriff's Department vehicle sped through Capitola Village at a very high speed in response to this pursuit.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone said the items discussed in closed session were those items listed on the posted agenda. For conflict of interest reasons, Council Member Graves recused himself from discussion of the Golino property. City Manager Hill provided a status report on the Golino property. No reportable action was taken.

The council then met with the City Attorney regarding the City Manager's employment contract. All council members were present. The attorney was directed to return with a contract amendment at the Council's next meeting. The new contract would provide for increases in the city manager's salary for the next two years for the purpose of offsetting the employee's portion of PERS.

The City Council then met with City Manager Hill and Community Development Director Rebagliati in connection with the evaluation of the city manager's performance in overseeing the Community Development Director and Redevelopment Department. No reportable action was taken.

The Council had a brief discussion of the Talisyn Hunter tort claim; however, no reportable action was taken in Closed Session. The claim is on the Council's consent agenda in open session.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

An unidentified woman in a wheelchair expressed concern about accessibility issues for persons in wheelchairs and other types of handicap transportation devices. She was particularly concerned about people who let bushes and landscaping grow over the sidewalk that obstruct passage, cars parking over the sidewalk, the need for marked ramps, etc. She said she would like to present a map of the areas in Capitola with such issues.

Council Member Storey suggested she provide this information to the Public Works Director. Council Member Graves said Building Official Daniel Kostelec has been the city's ADA staff person and that he should also receive that information. Council Member Graves said he would like to see the list she submits. He also said the Council has looked at this issue over the years.

C. Staff Comments – None

D. City Council/Treasurer Comments

1) City Treasurer Gualtieri said the Finance Advisory Committee would be meeting next week on procedures for new applications for community grants.

2) Council Member Graves commented on the minutes to Finance Advisory Committee meetings. Finance Director Lai said she doesn't send the minutes to council until they have been approved. Council Member Graves said he would be interested in receiving the draft of minutes. Staff was directed to provide the draft Finance Advisory Committee minutes to council members within a week or so after the meeting.

2. D. ORAL COMMUNICATIONS (Continued)

3) Council Member Storey said several meetings ago the County of Santa Cruz passed a temporary moratorium on the conversion of a mobile home park to resident ownership, and he would like to request that this item be placed on the Council's next agenda to place a similar moratorium in Capitola. City Attorney Barisone said he is prepared to bring forth an ordinance for the City Council's August 9th meeting regulating conversions of mobile home parks, and he does not think the council would need to pass a moratorium at the next meeting.

4) Council Member Graves said he received information pertaining to a Capitola mobile home park that was previously discussed in Closed Session. He will provide that information to the City Attorney.

5) Mayor Termini said the Twilight Concerts are going well and invited everyone to come to the Bandstand on Wednesday nights at 6 p.m. He also announced that he presented a Mayor's Proclamation to the Capitola-Soquel Little League "Dodgers" Major League Team, who won the Division 39 T.O.C. Championship for 2007. He said it has been 17 years since Capitola-Soquel has won this title.

E. Committee Reports/Appointments – NoneF. Approval of Check Register Report [300-10]

City Treasurer Gualtieri responded to an inquiry of Council Member Nicol pertaining to Check #52244 to Endeman, Lincoln, Turek & Heater. He explained that this money is for the attorneys who are protecting the city's mobile home park rent control ordinance. City Attorney Barisone also said the city has prevailed in most recent Federal court challenge and that the mobile home park owners would need to go to 9th Circuit Court. He believes the park owners are abandoning litigation and looking at the conversion approach.

Finance Director Lai responded to a question of Council Member Storey's about Check #52230 from the general fund to the Redevelopment Agency.

City Manager Hill responded to questions from Council Member Begun regarding Checks #52199 and #52201.

Council Member Graves asked if it was necessary for staff to provide the council with the information contained on pages 9 to 16 of the report (the Cash Balances Report) each time the check register report is on the agenda. He would prefer receiving that information on a quarterly basis. After discussion, it was the consensus of the Council directing staff to provide that information to the council quarterly.

Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Storey, to approve the Check Register Reports dated June 22 and June 29, 2007, including checks numbered 52172 through 52215 in the amount of \$53,352.93, and checks numbered 52216 through 52311 in the amount of \$309,870.02, respectively, and payroll disbursements for the 06/22/07 payroll in the amount of \$186,211.00, for a Grand Total of \$549,433.95, 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.

The City Council also directed staff to provide the Cash Balances Report on a quarterly basis rather than with each Check Register Agenda Report.

3. CONSENT CALENDAR

Mayor Termini asked if there were any items members of the council or public wished to pull for separate discussion. Council Member Graves pulled Item 3.I, as that item relates to Public Hearing Item 4.B. (See *discussion and action on Page 7.*) Council Member Graves then commented on Items 3.E. and 3.G. (See *comments under those items.*)

CONSENT CALENDAR ACTION: Council Member Storey moved, seconded by Council Member Begun, 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 – Regular Meeting and Joint Meeting of the City Council/Redevelopment Agency of June 14, 2007.**

ACTION: Council Member Storey moved, seconded by Council Member Begun, to approve the Minutes of the Regular Meeting and the Joint Meeting of the City Council/Redevelopment Agency of June 14, 2007. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

C. **Approval of Corrections to the Minutes of the Regular Meeting of May 10, 2007 (Item 5.A., last paragraph on Page 10847). [170-10]**

ACTION: Council Member Storey moved, seconded by Council Member Begun, to approve corrections to the Minutes of May 10, 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.

D. **Receipt of Planning Commission Action Minutes for the Regular Meeting of July 5, 2007. [740-50]**

ACTION: Council Member Storey moved, seconded by Council Member Begun, to receive the Planning Commission Action Minutes for the Regular Meeting of July 5, 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.

E. **Approve Contract with Believe Ad Agency funded by Capitola Village and Wharf Business Improvement Area in an amount not to exceed \$19,000. [140-05/ 500-10 A/C: Believe Agency]**

Prior to action on the Consent Calendar, Council Member Graves commented on the contract with Believe Ad Agency with regard to approval of invoices and liability insurance. He asked if the BIA has a board that submits bills to the city and then the city pays the bills. Finance Director Lai explained that the BIA board treasurer approves invoices prior to the city processing payment for services, and that since the contract is with the city, liability insurance is required pursuant to the standard contract.

ACTION: Council Member Storey moved, seconded by Council Member Begun, to approve the contract with Believe Ad Agency funded by the Capitola Village and Wharf Business Improvement Area in an amount not to exceed \$19,000. 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 Volunteer Recognition Program Administrative Policy. [100-10/ Administrative Policy Binder]**

3. F. CONSENT CALENDAR (Continued)

ACTION: Council Member Storey moved, seconded by Council Member Begun, to approve the Volunteer Recognition Program Administrative Policy. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

G. Approve Sole Source Contract with Carolyn Flynn for Professional Services Related to CDBG Program Administration and Technical Assistance with City Economic Development Planning and Grant Coordination in an amount not to exceed \$11,900, and Adopt Resolution Amending the 2007-08 FY Budget. [330-10/500-10 A/C: Flynn, Carolyn]

Prior to action on the Consent Calendar, Council Member Graves commented on this item. He asked why this wasn't done during the budget process. Community Development Director Juliana Rebagliati said that a portion of the proposed contract is for CDBG grants the city recently learned became available.

ACTION: Council Member Storey moved, seconded by Council Member Begun, to take the recommended action as follows:

- 1) Approved the proposed contract with Carolyn Flynn for grant administration for the City's Community Development Block Grant (CDBG) program and assistance with City's economic development planning and grant coordination for an amount not to exceed \$11,900 in FY 2007-08; and
- 2) Adopted **Resolution No. 3647, Resolution Amending the 2007/2008 Budget by Transferring \$5,000 from the City Manager's Unanticipated Events Account to the Community Development Department Contracts Account increasing CDD Contract Expenditures by \$5,000 for Technical Assistance on Economic Development Planning and Grant Coordination.**

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

H. Deny Claim of Talisyn Hunter in the Amount of \$465.00 and Refer to the City's Liability Insurance. [Claims Binder]

ACTION: Council Member Storey moved, seconded by Council Member Begun, to deny the claim and forward it to the City's liability insurance carrier. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

I. Approve Contract with Peter Badalamente for Professional Services Related to Capitola Village Parking Study in an amount not to exceed \$15,000 in 2007-08 FY.

This item was pulled for separate discussion. (See Page 10896 for discussion and action.)

4. PUBLIC HEARINGS

A. Public Hearing to Consider Ordinance Amendments to the Capitola Municipal Code Regulating the Noise Level, Hours of Operation, and Methods of Use for Leaf Blowers, Mechanical Sweeping Devices and Parking Lot Vacuum Machines. Presentation: City Attorney and Community Development Department. [485-40]

4. A. PUBLIC HEARINGS (Continued)

Community Development Director Rebagliati summarized the written agenda report and responded to questions of council members. She said the Capitola Commission on the Environment was recommending adoption of two ordinances and discussed the provisions of the proposed ordinances. Staff is recommending the Council conduct a public hearing and then provide direction to staff.

Ken Nemire and Jessica Nemire, members of the Commission on the Environment, presented a PowerPoint Presentation regarding the proposed revisions to the city's ordinance pertaining to leaf blower regulations to reduce hours of use, address noise to prohibit noise levels above 65dBI, and proper use of leaf blowers. Mr. Nemire said the commission has identified several leaf blower models that meet the proposed noise requirement.

The following people spoke during the public hearing: Jack Long, Central Coast Landscape; Lynn Jackson, Jackson Landscape; Barbara Jackson and an unidentified female resident of Capitola Shores; Mr. Davis, Plum Street resident and landscape professional; and Commission on the Environment members Erin Bernall, Jessica Nemire and Barbara Graves.

After considerable council discussion, Mayor Termini clarified the Council's consensus regarding suggested changes for an ordinance to be brought back for further consideration by the City Council, including direction to:

- Remove all but the first two statements beginning in "Whereas"
- Include the 65 dBI limit on all leaf blowers
- Change the allowable hours of operation to 8 to 5 p.m. on weekdays
- Include parked vehicles in the list of areas regulated from leaf blower debris (along with windows, doorways, etc.)
- Remove the language that includes the person who contracts to a leaf blower operator from those who may be subject to penalties
- Limit or distinguish the regulations to use on residential properties, versus non-residential properties.

ACTION: Council Member Graves moved to direct the City Attorney and the Community Development Director to a future meeting an ordinance with the suggested changes discussed by the council. The motion was seconded by Council Member Begun and passed unanimously.

City Attorney John Barisone informed the Council that it would be best to include these provisions all in one area of the Municipal Code and that he would bring back an ordinance based on the council's direction.

At 9:50 p.m. the City Council took a short break and reconvened at 9:58 p.m.

B. Public Hearing regarding Village Traffic Circulation and Parking Report. Presentation: Public Works Director. [490-20]

Public Works Director Jesberg recapped the community meeting that was held on June 5, 2007, and reviewed the specific plans for parking and circulation identified and voted upon by people attending the meeting. He discussed the proposed traffic circulation ideas utilizing maps showing directional flow of traffic. Public Works Director Jesberg also commented on concerns that were previously expressed by the Fire District regarding the proposed plans and said he has met with Fire Chief Clark, who is interested in working with the city.

4. B. PUBLIC HEARINGS (Continued)

Public Works Director Jesberg also commented on the feasibility of expanding UPRR parking and said a petition was received from residents of the Surf & Sand Mobile Home Park in opposition to the addition of parking spaces on Cliff Drive. He then discussed staff's recommended action and responded to questions of council members.

Mayor Termini opened this item to the public and the City Council received testimony from the following individuals:

Molly Ording, member of the Village Master Plan Advisory Committee
Peter Hubback, member of the Village Master Plan Advisory Committee
Dennis Norton, Oak Drive resident

Considerable Council discussion was followed by this action:

ACTION: Council Member Storey moved, seconded by Council Member Begun, to direct staff to hire a traffic engineer to look at the various alternatives that were presented to the City Council and to come back with proposals on the recommendation by the Village Master Plan Advisory Committee regarding a city-wide shuttle and more employee permits for parking at Pacific Cove Parking Lot. The motion carried on the following vote: AYES: Council Members Begun, Graves, Storey, and Mayor Termini. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.

City Manager Hill received clarification that the Council was not authorizing a survey regarding public parking areas along the railroad corridor at this time. Staff was directed to investigate whether Union Pacific would allow public parking areas along the railroad corridor and to report back to the council.

Mayor Termini stated that he would like to reorder Consent Calendar Item 3.1. for discussion at this time, rather than following Other Business.

3. I. **Approve Contract with Peter Badalamente for Professional Services Related to Capitola Village Parking Study in an amount not to exceed \$15,000 in FY 2007-08. [470-40/500-10 A/C: Badalamente, Peter]**

Public Works Director Jesberg and Community Development Director Rebagliati responded to questions from council members regarding the proposed contract for the Capitola Village parking Study.

Council discussion was followed by this action:

ACTION: Council Member Storey moved, seconded by Council Member Begun, to approve the proposed contract with Peter Badalamente in an amount not to exceed \$15,000 for professional technical assistance with the Capitola Village Parking Study. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Storey, and Mayor Termini. NOES: Council Member Graves. ABSENT: None. ABSTAIN: None.

5. OTHER BUSINESS

A. **Continued Consideration of Award of Contract to Harris & Associates in the Amount of \$25,000 for Consulting Services for Citywide Streetlight Acquisition. [940-55/500-10 A/C: Harris & Associates]**

Public Works Director Jesberg provided information regarding Mr. Rocco Colicchia's experience in purchasing streetlights for numerous cities in California. He informed the Council that Harris & Associates is not willing to perform services on a commission basis and that staff continues its recommendation to approve the proposed contract.

Mr. Colicchia and Public Works Director Jesberg responded to questions of council members pertaining to this item.

5. OTHER BUSINESS (Continued)

ACTION: After considerable council discussion and deliberation, no action was taken on this item. Public Works Director Jesberg received clarification from the City Council that the streetlight acquisition project contained in the Capital Improvement Program will not occur, and staff will take this project off the books.

B. Consideration of an Ordinance Amending Section 2.04.110 A of the Capitola Municipal Code Pertaining to the Time of Regular Meetings of the City Council (1st Reading). [520-40]

City Attorney John Barisone summarized the written agenda report and responded to questions of council members.

ACTION: Council Member Nicol moved to pass the proposed ordinance Amending Section 2.04.110A of the Capitola Municipal Code Pertaining to the Time of Regular Meetings of the City Council to a second reading. Council Member Begun seconded the motion with a friendly amendment to change the time from 6:00 pm to 6:45 pm.

Council Member Graves said perhaps we should begin the Council meetings at 6:30 p.m., adjourn to the Redevelopment Agency Meeting, and then resume the Council meeting immediately after RDA business is complete, so that everyone will know what time the Council meeting starts.

After discussion Council Member Begun asked if his amendment was agreeable to the motion maker. Council Member Nicol said it was not; therefore, Council Member Begun withdrew his second. Mayor Termini then seconded the motion. The motion carried on the following vote: AYES: Council Members Nicol, Graves, and Mayor Termini. NOES: Council Members Begun and Storey. ABSENT: None. ABSTAIN: None.

C. Status Update on Public Employees Retirement System (PERS) Unfunded Liability Refinancing. (Pension Obligation Bonds) [340-20]

Finance Director Lai reported that the refinancing of the PERS Unfunded Liability is expected to close tomorrow in the amount of approximately \$6M. \$1M is paid by the city's available funds, and the other \$5M comes from bonds at an interest rate of 6.01% for 10 years. The average annual payment will be about \$690,000. City Manager Hill advised no further action was necessary by the Council.

ACTION: The City Council received report from staff.

D. Designate Voting Delegate and Alternates for the 2007 League of California Cities Annual Conference to be held in Sacramento on September 5-8, 2007. [150-50]

Council discussion was followed by this action:

ACTION: Council Member Begun moved, seconded by Council Member Graves, to designate Council Member Nicol as Capitola's Voting Delegate at the 2007 League of California Cities Annual Conference, with Council Member Storey as an Alternate if he decides to attend. The motion carried unanimously.

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

3. CONSENT CALENDAR (Items pulled for separate discussion.)

- I. **Approve Contract with Peter Badalamente for Professional Services Related to Capitola Village Parking Study in an amount not to exceed \$15,000 in 2007-08 FY.**

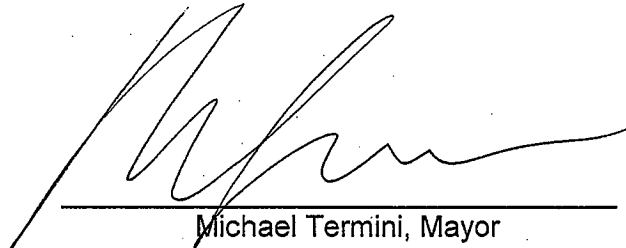
This item was reordered after Public Hearing Item 4.B. See Page 10896 for discussion and action.

6. ORAL COMMUNICATIONS

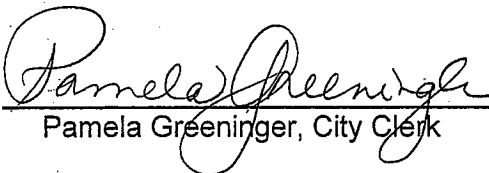
None

7. ADJOURNMENT

The City Council adjourned at 11:50 p.m. to its next Regular Meeting to be held on Thursday, July 26, 2007, beginning at 7:00 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Michael Termini, Mayor

ATTEST:  CMC
Pamela Greeninger, City Clerk

MINUTES WERE UNANIMOUSLY APPROVED BY THE CITY COUNCIL ON 8/9/07