



ACTION MINUTES
CAPITOLA CITY COUNCIL
REGULAR MEETING
Thursday, July 26, 2007

6:00 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 6:00 p.m.

The following people addressed the City Council on the Closed Session item pertaining to its Conference with Real Property Negotiators regarding the Golino Property at 1720 Wharf Road: Kathryn Gualtieri, Dennis Norton, Amie Forest, Barbara Graves, Molly Ording, and Kristin Jensen Sullivan. The speakers urged the Council to purchase the property using the grant money the City received from the state. *(Note: Council Member Graves recused himself from this discussion, due to a conflict of interest with the Golino property.)*

Seeing no further speakers, the Council adjourned at 6:13 p.m. to its Closed Session.

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

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Govt. Code §54957)

Title: City Manager regarding Succession Planning

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Dawn Cochran

6:30 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 7:31 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 Heather Lenhardt, Finance Director Lauren Lai, Community Development Director Juliana Rebagliati, Public Works Director Steve Jesberg, Chief of Police Rick Ehle, Assistant to the City Manager Murphy, and City Clerk Pamela Greeninger

1. REPORT ON CLOSED SESSION [520-25]

Deputy City Attorney Lenhardt reported on the City Council's closed session as follows:

- The council had a conference with real property negotiator, City Manager Hill, regarding the City's possible purchase of the Golino property located at 1720 Wharf Road, received an update on property negotiations, and provided Mr. Hill with guidance on those negotiations. Council Member Graves recused himself from this discussion. No reportable action was taken.
- Under the item pertaining to Public Employee Performance Evaluation of the City Manager, the City Council received information and analysis from City Manager Hill about succession planning and provided direction in that regard. No reportable action was taken.
- The council discussed the liability claim of Dawn Cochran, which is on the regular meeting agenda, and unanimously decided to deny the claim.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Mike Spence, 811 Laurence Avenue, said that two houses adjacent to his home have been damaged by cars as a result of traffic accidents. He expressed concern about cut-through traffic in the Hill Street neighborhood near Laurence Avenue. He said members of their neighborhood met to discuss ways to slow people down on Hill Street. There was a suggestion for a roundabout at the Hill and Laurence intersection. The residents are interested in making Hill Street less popular as a cut-through street and would also be interested in a sidewalk construction project.

2) Ron Skelton commented on the Golino property, 1720 Wharf Road. He expressed his support of the City's acquisition of that property.

3) Linda Banks commented on the Bay Avenue and Rosedale Avenue intersection and expressed concern about the rate of speed people turn right on to Rosedale from Bay Avenue.

C. Staff Comments – None

D. City Council/Treasurer Comments

1) Mayor Termini said he had the pleasure of accompanying Vice Mayor Nicol on his rounds for the Wharf to Wharf Race on Sunday. He commented on the number of people who participate in the race and thanked Kirby Nicol, the executive director of the Wharf to Wharf Race Committee, for another excellent race.

2) City Treasurer Gualtieri called attention to the positive effect of Measure P, the ¼% sales tax that was approved by Capitola voters in 2004. He said the funds have been spent to repair and resurface roads in Capitola and residents can see the positive effect of those funds on many city streets. City Treasurer Gualtieri said the residents should be applauded for voting for the measure, and that funds derived from the tax have been spent to repair several city streets.

E. Committee Reports/Appointments – None

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

Staff responded to questions from Council Member Nicol pertaining to Check #52331 regarding fish monitoring and Check #52427, wetland study.

Council discussion was followed by this action:

2. F. ORAL COMMUNICATIONS (Continued)

ACTION: Council Member Nicol moved, seconded by Council Member Storey, to approve the Check Register Reports dated July 6 and July 13, 2007, including checks numbered 52312 through 52390 in the amount of \$76,246.91, and checks numbered 52391 through 52489 in the amount of \$106,401.70, respectively, and payroll disbursements for the 7/06/07 payroll in the amount of \$230,525.00, for a Grand Total of \$413,173.61, 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. Council Member Graves commented on Items 3.F. and 3.G. (*See comments under those items.*) After limited discussion at this time, Mayor Termini pulled Item 3.I. for separate discussion and advised it would be discussed at the end of the meeting following Other Business Item 5.G. (*See discussion on Page 5 and further discussion and action on Page 9.*)

CONSENT CALENDAR ACTION: Council Member Graves 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 Closed Session and Regular Meeting of June 28, 2007.

ACTION: Council Member Graves moved, seconded by Council Member Storey, to approve the Minutes of the Special Closed Session and the Regular Meeting of the City Council of June 28, 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 July 19, 2007. [740-50]

ACTION: The City Council unanimously received the Planning Commission Action Minutes for the Regular Meeting of June 19, 2007. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

D. Approve Special Event Permit, Encroachment Permit, Sign Permit and Entertainment Permit to the Capitola Begonia Festival Committee for the 54th Annual Capitola Begonia Festival Activities to be held in Capitola Village from September 1 through 4, 2007; and Approval of a City Grant of all Costs Associated with Permits and Police and Public Works Fees in the Amount of \$8,568.00. [1050-70]

[Note: The City Council received an additional memo from the Police Department regarding a request for six volleyball courts, rather than four, for the Volleyball Tournament to be held on Monday, September 3, 2007, which was considered by the Council.]

3. D. CONSENT CALENDAR (Continued)

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

1. Approved the Special Event Permit, including Encroachment Permit, Entertainment Permit, and Sign Permit to hang banner, for the 54th Annual Capitola Begonia Festival to be held from Friday, August 31 through Monday, September 3, 2007, as submitted and authorize the Capitola Police Department to issue the permits; and
2. Provided the Capitola Begonia Festival Committee with a City Grant in the amount of \$8,568.00; and
3. Approved the Capitola Begonia Festival Committee's request for 6 volleyball courts as part of the "Volleyball on the Beach" activity on Monday, September 3, 2007, for the Capitola Begonia Festival Special Event Permit.

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

E. 420 Capitola Avenue – Project Application #06-031, Appeal of Planning Commission Decision To Deny a Coastal Permit, Conditional Use Permit and Architectural & Site Review for Construction of a Wireless Communications Facility in the PF/VS (Public Facility/Visitor Serving) Zoning District (APN 035-141-33). Filed 5/26/05 *1. Property Owner: City of Capitola. Representative: Peacock Associates, Evan Shepherd Reiff. Staff recommendation: set public hearing for August 9, 2007. [730-10]

ACTION: Council Member Graves moved, seconded by Council Member Storey, to direct staff to set a Public Hearing on the appeal of Application #06-031 for the City Council meeting of August 9, 2007. 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 Purchase to Replace One Police Patrol Vehicle and One Detective Vehicle and Adopt Resolution Amending the 2007-2008 FY Budget. [370-40/330-10]

Under discussion prior to voting on the Consent Calendar, Council Member Graves asked why this wasn't included in the budget? Chief of Police Ehle responded and Public Works Director Jesberg said it is part of vehicle replacement fund.

ACTION: Council Member Graves moved, seconded by Council Member Storey, to approve the recommended action as follows:

1. Awarded a purchase contract to Downtown Ford in the amount of \$30,000 for the purchase of one new police patrol vehicle;
2. Authorized expenditure of \$5,000 from the Police Department's FY 2007/2008 SLESF budget, towards the purchase of patrol vehicle emergency equipment and radio;
3. Adopted **Resolution No. 3648, Resolution Amending the FY 2007/2008 SLESF and Equipment Acquisition and Replacement Fund Budget for the Purchase of a Police Detective Vehicle and Emergency Equipment;** and
4. Awarded sole source bid to Ocean Honda in the amount of \$20,000.00 for the purchase of one unmarked police detective vehicle.

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 (Continued)

G. Approve the Purchase of a Replacement Riding Mower for the Parks Department at a cost of \$18,125.38. [370-40]

Under discussion prior to voting on the Consent Calendar, Council Member Graves asked why it was necessary to bring this item to council for approval when it was approved as part of the budget. City Manager Hill said the city's policy requires any purchase over \$10,000 must come to City Council for approval. Council Member Graves commented that the council has approved this equipment twice.

ACTION: Council Member Graves moved, seconded by Council Member Storey, to approve the purchase of a 2008 John Deere riding mower at the price of \$18,125 including tax from Turf and Industrial Equipment of Santa Clara for the Public Works Parks Department. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

H. Approve Contract Amendment with Harris & Associates for the Design of the Soquel Creek Lagoon Wetland in the amount of \$12,900, and Approval of Contract with Coastal Watershed Council for Development and Implementation of a Water Monitoring Plan in the amount of \$53,720. [430-50/500-10 A/C: Harris & Associates and Coastal Watershed Council]

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

1. Approved a contract amendment with Harris & Associates in the amount of \$12,900 for the final preparation of the bid and construction documents based on the permit conditions set forth in the various permits received; and
2. Approved a contract with the Coastal Watershed Council in the amount of \$53,720 for the design and implementation of a two-year water quality monitoring program as required by the State Clean Beaches Initiative Grant received for this project.

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

I. Receive Report on Contract for Construction of the Library Tot Lot Project; reject all bids received and direct Public Works Director to redesign project to reduce construction cost to \$130,000. [1040-20]

Mayor Termini commented on 3.I. and expressed interest in approving the lowest bid for the Tot Lot Project as designed by using the money budgeted for the streetlight purchase project that was rejected at the last meeting to augment this budget item and consider approving the project as designed.

Council Member Graves suggested that when the city goes out with RFP's for these types of projects, that there be a provision that allows the city to redefine the project without it having to re-bid it, but to have the ability to deal with bids on a lesser project when projects are overbid. Public Works Director Jesberg said it was possible to write the RFP so as to reserve the right to delete any items, and then staff would need to recalculate the low bid. After limited discussion prior to Consent Calendar action, Mayor Termini pulled Item 3.I. for separate discussion. (*See discussion and action on Page 9.*)

J. Deny Claim for Damages from Dawn Cochran and forward to the City's liability insurance. [Claims Binder]

ACTION: Council Member Graves moved, seconded by Council Member Storey, to deny the claim of Dawn Cochran 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.

3. CONSENT CALENDAR (Continued)

K. Receipt of Preliminary Treasurer's Report for the Month Ended June 30, 2007 (Unaudited). [380-30]

ACTION: Council Member Graves moved, seconded by Council Member Storey, to accept the Preliminary Treasurer's Report (Unaudited) for the month ended June 30, 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.

4. PUBLIC HEARINGS

A. Continued Public Hearing to Consider an Ordinance Amending Section 9.12.015 of the Capitola Municipal Code Pertaining to Mechanical Sweeping Devices, Parking Lot Vacuum Machines, and Leaf Blowers (1st Reading). Staff recommendation: adopt ordinance. Presentation: Community Development Department. [485-40]

Community Development Director Rebagliati summarized the written agenda report and responded to questions of council members. The Council heard from the following members of the public on this item: Diane Ramer, Lois Robin, Barbara Graves, and Ken Nemire.

Council discussion was followed by this action:

ACTION: Council Member Begun moved, seconded by Council Member Graves, to pass the proposed Ordinance Amending Capitola Municipal Code Section 9.12.015 Pertaining to Mechanical Sweeping Devices, Parking Lot Vacuum Machines and Leaf Blowers to a second reading, as submitted.

Council Member Nicol asked about the resolution that designates a list of various business/commercial centers pertaining to hours of operation for leaf blowers. City Clerk Greeninger said a resolution repealing that resolution could be brought back at the time the ordinance is brought back for a second reading.

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

Council Member Graves said that if someone is concerned about the noise level of leaf blowing equipment being used, they should contact the city. The city will provide the decibel reader and someone to operate the reader to validate a complaint.

B. Ordinance Amending Chapter 18.02 of the Capitola Municipal Code, Pertaining to the Provisions of Affordable (Inclusionary) Housing in the City of Capitola to Include Creation of Mobile Home Parcels (1st Reading). Presentation: Community Development Department. [750-10]

Community Development Director Rebagliati summarized the written agenda report. No one from the public addressed the City Council on this item.

Limited Council discussion was followed by this action:

ACTION: Council Member Storey moved, seconded by Council Member Graves, to pass the proposed Ordinance Amending Sections 18.02.020, 18.02.030, 18.02.060 A, & 18.02.070 A of the Capitola Municipal Code Pertaining to the Provisions of Affordable (Inclusionary) Housing in the City of Capitola to Include Creation of Mobile Home Parcels, to a second reading. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

5. OTHER BUSINESS

A. Resolution Establishing Parking Time Limits for Three (3) Parking Spaces along Reposa Avenue at the Intersection with 41st Avenue. Staff recommendation: adopt resolution. [470-40]

Public Works Director Jesberg summarized the written agenda report and, using the overhead project, he identified the subject parking spaces on a map. Council Member Nicol asked that staff label the 3 spaces A, B, & C for identification purposes.

The following residents of Reposa Avenue addressed the council on this item and urged the council not to change the parking spaces: Armando Dominguez, Doris Sakamoto and Bonnie Ford.

Considerable Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to deny the recommendation and to send the matters relating to setbacks at intersections in commercial areas and with regard to designated parking spaces to staff for review, and to leave the rest alone. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None. City Manager Hill asked if after staff measures the setbacks and makes a determination whether there was interest by the Council in marking parking spaces in those areas. There was not.

B. Resolution Amending the 2006-07 FY Budget by Transferring \$11,000 from the City Council Department, Contract Services Budget to the City Attorney Department Contracts Account increasing the Mobile Home Litigation Contract Expenditures by \$11,000 for Mobile Home Park Rent Control Litigation Services. Staff recommendation: adopt resolution. [750-25/330-10]

Finance Director Lai summarized the written agenda report and responded to questions of council members.

Council discussion was followed by this action:

ACTION: Council Member Begun moved, seconded by Council Member Graves, to adopt **Resolution No. 3649, Resolution Amending the 2006/2007 Budget by Transferring \$11,000 from the City Council Department Contract Services Account to the City Attorney Department Contract Services Account Increasing City Attorney Contract Expenditures by \$11,000 for Litigation Expenses Related to Defending the Mobilehome Park Rent Control 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. Contract with Endeman, Lincoln, Turek & Heater, LLP, for Professional Legal Services related to the City's Mobile Home Park Rent Control Ordinance for FY 2007-08. Staff recommendation: approve contract in an amount not to exceed \$40,000. [750-25/500-10 A/C: Endeman, Lincoln, Turek & Heater]

Limited Council discussion was followed by this action:

ACTION: Council Member Storey moved, seconded by Council Member Graves, to approve the Professional Services Contract with Endeman, Lincoln, Turek & Heater in the amount of \$40,000 for Fiscal Year 2007/08 legal services relating to mobile home rent control litigation. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

5. OTHER BUSINESS (Continued)

D. Resolution Amending the City's Fee Schedule Resolution No. 3645 to Increase Boarding Fees of Impounded Animals. Staff recommendation: adopt resolution. [390-40]

Chief of Police Ehle apologized that the correct fees were not included as part of the fee update at the last meeting. He explained the proposed Board fees for cats and dogs, and staff's reasons for recommending the increased fees.

Council discussion was followed by this action:

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to adopt **Resolution No. 3650, Resolution Amending the City's Fee Schedule Resolution No. 3645, Exhibit B, Pertaining to Animal Services Fees, to Increase Board Fees for Cats and Dogs.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

E. Set Special Meeting Date to Consider the Matter of the City's Mission, Vision and Values. Staff recommendation: Set date and time for special meeting. [120-10]

City Manager Hill summarized the written agenda report and asked for the council to provide staff with a date to schedule a special meeting.

ACTION: It was the consensus of the City Council to schedule a special meeting to consider the matter of the City's Mission, Vision and Values on Thursday, August 16, 2007, at 7 p.m., in the City Hall Community Room.

F. Resolution Approving the Sixth Amendment to the City Manager's Employment Agreement. Staff recommendation: adopt resolution. [600-10/500-10 A/C: Hill, Richard]

Mayor Termini commented briefly on this item prior to the following action begin taken:

ACTION: Council Member Storey moved, seconded by Council Member Begun, to adopt **Resolution No. 3651, Resolution Authorizing the Mayor to Execute the Sixth Amendment to City Manager Employment Agreement.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Storey, and Mayor Termini. NOES: Council Member Graves. ABSENT: None. ABSTAIN: None. *(NOTE: Council Member Graves said that his no vote is based on his concern about the retroactivity of the amendment.)*

G. Ordinance Amending Section 2.04.110 of the Capitola Municipal Code pertaining to Time of Regular Meetings of the City Council. (2nd Reading) Staff recommendation: Council direction. [520-40]

City Clerk Greeninger and City Manager Hill provided information contained in the agenda report pertaining to concerns of staff regarding the adoption of this ordinance.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Mayor Termini, to adopt **Ordinance No. 920, Ordinance Amending Section 2.04.110A of the Capitola Municipal Code Pertaining to the Time of Regular City Council Meetings.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, and Mayor Termini. NOES: Council Member Storey. ABSENT: None. ABSTAIN: None.

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

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

- I. **Receive Report on Contract for Construction of the Library Tot Lot Project; reject all bids received and direct Public Works Director to redesign project to reduce construction cost to \$130,000. [1040-20]**

Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Begun, to approve the original low bid in the amount of \$179,500 for Library Tot Lot Project and consideration of budget amendments to transfer unused project funds from the two projects identified by Public Works Director Jesberg and the \$25,000 budgeted for purchase of streetlights to cover the amount of the bid over budget, with a 10% contingency on the \$179,500, if needed, to come from contingency reserves. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

Following Council action, City Manager Hill received clarification from the council that the motion was to award the contract to the lowest bidder, Monterey Peninsula Engineering, in the amount of \$179,500, for the original project specifications, and to transfer into the Library Tot Lot Project funds from the Riverview Project and Jade Street Project, \$25,000 from the streetlight purchase project, and the 10% contingency, if needed, to be paid from contingency reserves.

6. **ORAL COMMUNICATIONS**

A. Council Member Begun commented on increasing the rents for tenants at Pacific Cove Mobile Home Park who use their coach as a second home. City Treasurer Gualtieri said the city could do that. Council Member Begun requested a report be prepared for council consideration on this item.

B. Council Member Graves informed staff that there is a hole in the pavement at the intersection of 49th Avenue and Capitola Road in the westbound direction.

7. **ADJOURNMENT**

The City Council adjourned at 9:29 p.m. to its next Regular Meeting to be held on Thursday, August 9, 2007, beginning at 7:00 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.