



ACTION MINUTES
CAPITOLA CITY COUNCIL
REGULAR MEETING
Thursday, September 27, 2007

6:00 P.M. –CLOSED SESSION – CITY MANAGER’S OFFICE
CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL

At 6:01 p.m. in the City Hall Council Chambers, an announcement was made by Mayor Termini regarding the items to be discussed in Closed Session. No one addressed the Council at this time.

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

Property: 1720 Wharf Road, Capitola, APN 035-111-10 (Golino Property –
Golino Family as Tenants in Common, Owners)
Agency Negotiator: City Manager
Under Negotiation: Purchase of Property by City

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Initiation of Litigation Pursuant to Subdivision (c) of Govt. Code §54956.9
Number of Potential Cases: One

6:30 P.M. REDEVELOPMENT AGENCY - (See Redevelopment Agency Action Minutes)

REGULAR MEETING OF THE CITY COUNCIL

Mayor Termini called the Regular Meeting of the City Council to order at 7:20 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, Sam Storey, and Mayor Michael Termini;
City Treasurer Tony Gualtieri
ABSENT: Council Member Ron Graves
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, Police Captain Brian Martin, Assistant to the City
Manager Lisa Murphy, and City Clerk Pamela Greeninger

***** PRESENTATIONS *****

Santa Cruz Public Libraries Annual Report
by Anne Turner, Director of Libraries [230-10]

Anne Turner introduced Mary Simmons, Manager of the Capitola Branch Library. She then reviewed various library statistics contained in the Annual Statistical Report for FY 2006-07, which was distributed to council members. Ms. Turner responded to questions of council members concerning the report. There was also discussion pertaining to a new library in Capitola pursuant to the agreement with the county.

**Mayor's Proclamation Commending Linda Smith-Banks,
Outgoing President of the Capitola Begonia Festival Committee [120-40]**

Mayor Termini commented that Capitola Begonia Festival President, Linda Banks, was stepping down from that position, and he wanted to acknowledge and commend Linda for her efforts in the festival's comeback. Mayor Termini then read and presented the Mayor's Proclamation Recognizing Linda Banks for her Service on the Capitola Begonia Festival Committee.

Linda thanked the mayor for this recognition and then named all the people she has worked with who help create the Begonia Festival extravaganza. She said Laurie Hill was the mastermind of the "Jazz" fundraiser, which has put viability into the continuance of the festival. In closing, she invited everyone to come to the Movie on the Beach tomorrow night – Ghost Busters.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone said there were 2 items for discussion in closed session. The first item was a conference with the city's real property negotiator pertaining to property located at 1720 Wharf Road. City Manager Hill provided a status report on the ongoing negotiations relating to the Golino property. No reportable action was taken. There was discussion regarding one item of threatened litigation. City Attorney Barisone said that item is no longer threatened litigation, and he reported to the council that the owner of Cabrillo Mobile Home Park has filed a writ of mandamus against City of Capitola, which challenges the city's decision made earlier this year pertaining to the Homeowners' Association's service reduction petition.

2. ORAL COMMUNICATIONS

Prior to receiving comments from the public, Mayor Termini commented on an erroneous letter that was distributed in the community about a multi-story parking structure, changing streets to one-way in the Burlingame neighborhood, and other misinformation. He wished to bring to the community's attention that none of the information provided in that letter was correct. Mayor Termini welcomed the person who generated the letter to contact and meet with him.

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Jacques Bertrand, on behalf of Friends of Nobel Gulch Park, wished to thank everyone who came to their neighborhood garage sale where they raised \$3,000.

Susan Tossy, Vice President of the Friends of Nobel Gulch Park, informed the Council that the group is still meeting and discussing various neighborhood issues, beyond use of the park. She said it has been a very positive experience that has brought the community together.

2) Anne Schroedel, resident at Pacific Cove Mobile Home Park, addressed the council regarding the city's plans for Pacific Cove. She said many of the residents in the mobile home park are concerned about a 3-story parking structure in the parking lot and the timeline for improvements to the property.

Mayor Termini said a meeting of the Burlingame neighborhood and Pacific Cove Mobile Home Park residents would be a good idea. He also commented on the council's Mission, Vision And Values, saying their #1 priority is the people who live here.

3) An unidentified man who lives at Pacific Cove Mobile Home Park said he has lived in the park for a long time. He thanked the council for retaining the mobile home park.

C. Staff Comments

Chief of Police Ehle addressed the council regarding his recent trip to San Diego to accept awards for Capitola's participation in the California Law Enforcement Challenge, and he displayed those awards. He said the most significant award was received by Sergeant Matt Eller, who was recognized with the Traffic Safety Excellence Award. Sergeant Eller has led the traffic initiative for the past 3-4 years and has been instrumental in the City receiving \$400,000 to \$500,000 in OTS (Office of Traffic Safety) grants. As a result of Sergeant Eller's efforts, Capitola took First Place Overall for agencies the size of Capitola (11 to 25 sworn personnel).

2. ORAL COMMUNICATIONS (Continued)

D. City Council/Treasurer Comments

1) City Treasurer Gualtieri said the Finance Advisory Committee received an explanation from Chief of Police Ehle regarding overruns in the Police Department budget contained in the year-end report. City Treasurer Gualtieri believes there should be a process to address overruns when they occur. After discussion it was suggested the Finance Advisory Committee look into a possible process for approving anticipated overruns.

2) Council Member Nicol said he thought the Council would be having an agenda report on the McGregor Drive property at this meeting. Community Development Director Juliana Rebagliati said the consultant's report has been received, and staff is working on an agenda report for the next meeting.

3) Council Member Storey reported on his attendance at the Monterey Bay Unified Air Pollution Control District board meeting where the board announced distribution of grants to various agencies for air quality programs. He said the District funded a new ethanol fueling station in Santa Cruz, an electric vehicle for the Capitola Police Department, among other grants.

4) Council Member Begun said he would like to agendize the Village cleanliness issue. He would like to see sidewalks cleaned, trashcans cleaned, painted, and checked for odors. Council Member Begun would like to involve the Capitola Village and Wharf Business Improvement Area in this effort.

5) Council Member Begun said the Wharf Group met, and a great deal was accomplished. At his request, Public Works Director Jesberg reported on the meeting and said Fire Chief Bruce Clark discussed a plan for a pressure line on the Wharf. The group discussed the needs of the tenants, and staff will look into plans for the restrooms.

6) Mayor Termini commented on the following items:

- He will be delivering a Proclamation Honoring Women's Crisis Support ~ Defensa de Mujeres for 30 Years of Service to Women and Children in Santa Cruz County at a luncheon next week.
- He commented on the railroad trestle and said Council Member Begun is working with the Union Pacific Railroad on this.
- He has learned that several Capitola Junior Lifeguards competed in the National Competition and both finished in top places.
- He reported on his conversation with the California Secretary of Agriculture concerning spraying of the light brown apple moth, which is set to occur the first week in November.

E. Committee Reports/Appointments1) **Appointment of Historical Museum Board Member [110-10/240-40]**

City Clerk Greeninger summarized the recruitment process for the vacancy on the Museum Board and the recommendation of the Museum Board to appoint Niels Kisling.

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to appoint Niels Kisling to fill the unexpired term ending the second Thursday in June 2010 on the Capitola Historical Museum Board. The motion carried unanimously.

2. E. ORAL COMMUNICATIONS (Continued)

2) Report on Committee Recruitment [110-10]

City Clerk Greeninger summarized the written agenda report pertaining to the current vacancy for a city representative on the Advisory Council of the Area Agency on Agency, and for Central Village Resident and Upper Village Resident representatives on the Village Master Plan Advisory Committee. She also stated the Capitola Village and Wharf Business Improvement Area (BIA) needs to fill one of its appointments on the Village Master Plan Advisory Committee. She announced that applications and recruitment information is available at City Hall, the Capitola Branch Library and on the city's website.

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

Staff responded to questions of council members regarding two checks and then took the following action:

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to approve the Check Register Reports for September 7 and 14, 2007, including checks numbered 53003 through 53042 in the amount of \$30,332.08, and checks numbered 53043 through 53113 in the amount of \$63,731.22, and payroll disbursements for September 14, 2007, in the amount of \$202,741.46, for a Grand Total of \$296,804.76, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Graves. 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 Storey mentioned he would again be voting "Noe" for Item 3.D. regarding the Ordinance Adding Chapter 9.10 to the Municipal Code (he voted no at the first reading). Council Member Nicol pulled Items 3.F. & 3.G.

Mayor Termini advised Items 3.F. & 3.G. would be discussed at the end of the meeting following Other Business Item 5.C. (*See discussion and action on Page 7.*)

CONSENT CALENDAR ACTION: Council Member Begun moved, seconded by Council Member Nicol, to approve the Consent Calendar as recommended. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Storey, and Mayor Termini. NOES: None. (*Note: Council Member Storey voted "Noe" on Item 3.D. only.*) ABSENT: Council Member Graves. 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 – None**C. **Receipt of Planning Commission Action Minutes for the Regular Meeting of September 20, 2007. [740-50]**

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to receive the Planning Commission Action Minutes for the Regular Meeting of September 20, 2007, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

3. CONSENT CALENDAR (Continued)

D. Adopt Ordinance Adding Chapter 9.10 to the Capitola Municipal Code Pertaining to Trespassing on Business Property (2nd Reading). [485-10]

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to adopt **Ordinance No. 925, Ordinance Adding Chapter 9.10 to the Capitola Municipal Code Pertaining to Trespassing on Business Property**, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, and Mayor Termini. NOES: Council Member Storey. ABSENT: Council Member Graves. ABSTAIN: None.

E. Adopt Ordinance Describing the Redevelopment Agency's Program to Acquire Real Property by Eminent Domain in the Capitola Redevelopment Project (2nd Reading). [760-10]

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to adopt **Ordinance No. 926, Ordinance Describing the Redevelopment Agency's Program to Acquire Real Property by Eminent Domain in the Capitola Redevelopment Project**, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

F. Approve Plans, Specifications and Engineer's Estimate for the Soquel Creek Wetland Project and Authorize the Public Works Department to Advertise for Bids.

This item was pulled for separate discussion. (See page 7 for action.)

G. Receive Treasurer's Report for the Month Ended August 31, 2007 (Unaudited).

This item was pulled for separate discussion. (See page 7 for action.)

H. Resolution Approving a Sole Source Contract with Warren Lewis Roseman for Parking Meter Collections and Repairs in the Amount of \$33,000 a Year, Amending the 2007/2008 Budget Authorizing Expenditure of \$3,000 from the City Manager's Unanticipated Events Account to the Police Department's Contract Services Account. Staff recommendation: adopt resolution. [470-30/330-10 2007-2008 Budget/500-10 A/C: Roseman, Warren Lewis]

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to adopt **Resolution No. 3662, Resolution Approving a Sole Source Contract with Warren Lewis Roseman for Parking Meter Collections, Maintenance and Repairs in the Amount of \$33,000 a Year and Amending the FY 2007/08 Budget Authorizing the Transfer of \$3,000 from the City Manager's Contract Services-Unanticipated Events Account to the Police Department's Contract Services Account**, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

4. PUBLIC HEARINGS

A. Public Hearing to Consider a Resolution Approving a New Rate and Fare Schedule for Taxicabs Conducting Business within the City Limits of Capitola Pursuant to Municipal Code Section 5.08.180. Staff recommendation: adopt resolution. Presentation: Police Department. [770-10]

Police Captain Brian Martin summarized the written agenda report for this item and responded to questions of council members. No members of the public addressed the council on this item.

4. A. PUBLIC HEARINGS

ACTION: Council Member Nicol moved, seconded by Council Member Begun, to adopt the proposed resolution as submitted.

Under discussion, Council Member Storey commented on the resolution adopted by the City of Santa Cruz, which also has a 10% discount for persons with disabilities and waives the minimum charge of \$7 for seniors and disabled persons.

After discussion of the motion to adopt the proposed resolution, Council Member Nicol then moved, seconded by Council Member Begun, to accept the suggested amendments to the proposed resolution by Council Member Storey to include a 10% discount in fare for disabled persons having a Santa Cruz METRO ParaCruz Pass, and to provide that the Minimum Charge of \$7.00 be waived for seniors ages 60 and over and for disabled persons, thereby adopting **Resolution No. 3662, Resolution Repealing Resolution No. 3492 and Approving a Rate and Fare Schedule for Taxicabs Conducting Business within the City Limits of Capitola Pursuant to Municipal Code Section 5.08.180**, as amended. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

5. OTHER BUSINESS

A. Polystyrene Ordinance Survey. Staff recommendation: receive information. [930-30]

City Manager Hill summarized the written agenda report and the Report on the Polystyrene Ordinance Survey. He said there was a 20% response, which is typical for a mail-back survey. Council Member Nicol commented that the value of surveys is mainly educational.

ACTION: After limited discussion, the City Council unanimously received the Report on the Polystyrene Survey, as submitted.

B. Continued Consideration of Administrative Policy to Implement the Provisions of Municipal Code Chapter 8.36 Pertaining to Environmentally Acceptable Packaging Materials. Staff recommendation: approve policy. [930-30/100-10/ Administrative Policy Binder]

City Manager Hill summarized the written agenda report.

The City Council received public comments from the following individuals: Amalia Chamorro, California Restaurant Association; Laura Kasa, Save our Shores; Barbara Graves, Capitola Commission on the Environment; and Dennis Norton, Capitola resident.

Considerable Council discussion was followed by this action:

ACTION: Council Member Storey moved to approve the proposed Administrative Policy to implement the provision of the city's Environmentally Acceptable Packaging Materials ordinance. In addition, Council Member Storey wanted to take note of the offer from the California Restaurant Association to work with the council and city staff to educate local restaurateurs about the ordinance, and he expressed his appreciation for their offer. Council Member Nicol seconded the motion.

After further discussion, Council Member Storey and Council Member Nicol amended their motion and second to approve the proposed Administrative Policy pertaining to "Polystyrene Foam, Disposable Food Service Ware, and Biodegradable or Compostable Disposable Food Service Ware," with direction to the City Manager to include language in paragraphs 2, 3 and 4 pertaining to suitability and affordability, as discussed.

5. B. OTHER BUSINESS (Continued)

City Manager Hill clarified he would prepare language and provide it to council off agenda prior to finalizing the policy. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

C. Award of a Sole Source Contract to RBF Consulting for a Village Traffic Circulation and Parking Study. Staff recommendation: approve contract in the amount of \$23,406. [470-40/490-40/500-10 A/C: RBF Consulting]

Public Works Director Jesberg summarized the written agenda report and provided clarification pertaining to the work performed pursuant to the prior agreement with RBF Consulting. He announced there would be a Kick-off Community Meeting at the Tuesday, October 23, 2007, Village Master Plan Advisory Committee Meeting where members of the community can give the consultant their ideas.

Council discussion was followed by this action:

ACTION: Council Member Begun moved, seconded by Council Member Storey, to approve a Sole Source Contract with RBF Consulting in the amount of \$23,406 for a Village Traffic Circulation and Parking Study as contained in the Scope of Work dated August 24, 2007, and with direction to staff to work with the consultant to include the areas addressed by Council Member Storey, including the Monterey and Bay Avenue intersection, and to include the Rosedale and the Sunset/Gilroy areas as impacted neighborhoods. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

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

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

F. Approve Plans, Specifications and Engineer's Estimate for the Soquel Creek Wetland Project and Authorize the Public Works Department to Advertise for Bids. [430-50]

Council Member Nicol said the council did not receive copies of the plans. Public Works Director Jesberg said typically the plans are available in his office for review. Council Member Nicol asked if this beautification project would affect the city's general fund. Public Works Director Jesberg said there would be maintenance expenses and staff time. He also responded to further questions of Council Member Nicol pertaining to operation and purpose of the project.

Council discussion was followed by this action:

ACTION: Council Member Storey moved, seconded by Mayor Termini, to approve the plans, specifications and engineer's estimate of \$192,000 for the Soquel Creek Wetland Project, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Storey, and Mayor Termini. NOES: Council Member Nicol. ABSENT: Council Member Graves. ABSTAIN: None.

G. Receive Treasurer's Report for the Month Ended August 31, 2007 (Unaudited). [380-30]

Council Member Nicol questioned the LAIF (Local Agency Investment Fund) Quarterly Apportionment Rates provided in the report. City Treasurer Gualtieri responded that the rate varies from year to year based on investments.

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

Finance Director Lai said the chart provided in the report comes from the LAIF website. She also stated that the City and the Redevelopment Agency invest their savings in LAIF. City Treasurer Gualtieri said it is the highest interest rate available to the City/Redevelopment Agency.

Mayor Termini asked what interest rate staff included in this year's budget. Finance Director Lai said she would provide that figure to the council via email.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Begun, to accept the Treasurer's Report for the month ended August 31, 2007 (Unaudited), as submitted. The motion carried unanimously.

6. **ORAL COMMUNICATIONS**

A) Council Member Nicol commented on the copy of a petition he received regarding bottle collection in the Village. City Attorney Barisone stated that an opinion from Susan Barisone of his office was given to Lisa Murphy. He said the city has the authority to cite regarding its noise ordinance, and he responded to questions of council members regarding this matter.

B) Council Member Begun asked Assistant to the City Manager Murphy to provide information about what products are recyclable and what products are not recyclable. Lisa Murphy said that GreenWaste Recovery has distributed a pamphlet to all residents, and an article will be included in the next issue of the Capitola Current newsletter on recycling.

C) Mayor Termini commented on a radio announcement he heard saying that all Capitola Beaches were unsafe and posted. Public Works Director Jesberg said a press release goes out from Environmental Health to the news media, and he would check into it.

7. **ADJOURNMENT**

The City Council adjourned at 9:25 p.m. to its next Regular Meeting to be held on Thursday, October 11, 2007, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.