



ACTION MINUTES

CAPITOLA CITY COUNCIL

REGULAR MEETING

Thursday, December 13, 2007

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

At 6:03 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 LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to Litigation Pursuant to Subdivision (b) of Govt. Code §54956.9

Number of Potential Cases: Two (Save the Habitat claim re: Rispin Mansion Project
and Save the Habitat claim re: PG&E Gas Transmission Line)

CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION Govt. Code §54956.9

Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates)

Surf & Sand LLC vs. City of Capitola (Surf & Sand Mobile Home Park)

6:55 P.M. REDEVELOPMENT AGENCY - (See Redevelopment Agency Action Minutes)

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REGULAR MEETING OF THE CITY COUNCIL

Mayor Termini called the Regular Meeting of the City Council to order at 7:02 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 G. 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

*** * * PRESENTATIONS * * ***

Mayor’s Proclamation to Toni Castro, CEO of the Capitola-Soquel Chamber of Commerce [120-40]

Mayor Termini read and presented the Mayor’s Proclamation Recognizing Toni Castro for her Leadership and Service to the Capitola Community as Chief Executive Officer of the Capitola-Soquel Chamber of Commerce.

Toni Castro thanked the Mayor for his proclamation. She loves Capitola and said it is a pleasure to live and work in the Capitola community. She said the Chamber began doing business on December 7, 1941, (Pearl Harbor Day) and just celebrated its 66th Anniversary. Toni said it is a real privilege working with the city staff and thanked the Council for their support. She announced that Chief of Police Rick Ehle would be the Chamber’s President next year. In closing Toni said she loves working with everyone and feels privileged to be here.

**Mayor's Proclamation Honoring Community Bridges
for 30 Years of Outstanding Service to the
Santa Cruz County Community [120-40]**

Mayor Termini called Sam Storey, the Executive Director of Community Bridges, forward to accept the Mayor's Proclamation Honoring Community Bridges for 30 Years of Outstanding Service to the Santa Cruz County Community. Mayor Termini read the entire proclamation and commended and thanked Community Bridges for all the services they provide for the children, families and seniors of Santa Cruz County.

Council Member Storey said it was a real honor to accept the Mayor's Proclamation on behalf of the staff, the board, and all the volunteers of Community Bridges. He said it has been a pleasure for him to serve Community Bridges for the past 24 years, and it is particularly fitting to receive this award during the holiday season, as the ability for Community Bridges and other such groups to exist depends on the spirit of giving that lives in Santa Cruz County. Community Bridges could not provide the services they do without the people who generously serve and give to their fellow human beings. He hopes their organization has lived up to the community's high expectations; they will continue to serve everyone in the community.

**Mayor's Proclamations to Local Residents
Who Have Recently Served Our Country Overseas [120-40]**

Mayor Termini spoke of the appreciation he and others who are unable to serve have for the service many men and women have given for our country. He would like to recognize several local residents who have recently served our country overseas, and who have willingly put themselves in harm's way. Mayor Termini then called each honored person's name and that person or a family member accepted the Mayor's Proclamation in Appreciation for his service.

Kirk Adney, Sergeant, US Marine Corps – Accepted by his dad, Kirk Adney, Sr.

Nathan Gorin, 82nd Airborne Division, US Army,

and Sergeant, California National Guard – Accepted by Nathan

Brandon Greeninger, Specialist E4, US Army – Accepted by Brandon

Kyle Matson, Corporal, US Marine Corps – Accepted by Kyle

Nick Matson, Corporal, US Marine Corps – Accepted by his dad, Steve Matson

Mayor Termini said Steve Matson was a personal friend of his and that both of his sons were in Iraq simultaneously.

Joseph Adam Phantom, Sergeant, US Army Infantry – Accepted by his dad, Frank Phantom

Brett Roth, Corporal, US Marine Corps – Accepted by his mom, Debbie Roth

Mark "Smittie" Smith, Petty Officer, US Navy Reserves,

and Sergeant, US Army Reserves – Accepted by Smittie

Adam Taylor, Lance Corporal, US Marine Corps – Accepted by Adam

Before the final applause for all the proclamation recipients, Mayor Termini commented on those who made the ultimate sacrifice and did not make it back.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone said the items discussed in closed session were those listed on the posted agenda. He said the Council met with the City Attorney concerning two matters of pending litigation. The first item was *Vieira Enterprises vs. City of Capitola* regarding Cabrillo Mobile Estates service reduction award to the tenants. He informed the Council that he learned today that the tenants of the mobile home park are being served on that matter. City Attorney Barisone also informed the Council that although he cannot represent the park tenants, he could provide information. If they have questions, the tenants could contact him. No reportable action was taken.

1. REPORT ON CLOSED SESSION (Continued)

City Attorney Barisone said the Council received a very brief status report on the Surf & Sand Mobile Home Park matter and that they reviewed a letter prepared by special counsel in connection with that matter. No reportable action was taken.

The council discussed the Save the Habitat Claims pertaining to the PG&E gas transmission line and ongoing administration of the Stipulated Judgment in the settled lawsuit regarding the Rispin Mansion Project. City Attorney Barisone stated that Mayor Termini recused himself on this item due to a recently learned conflict of interest. City Manager Hill, Community Development Director Juliana Rebagliati and City Attorney Barisone provided a status report on those matters. No reportable action was taken.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Anna Marie Gotti, Capitola resident, informed the Council that the community is facing the prospect of the eventual loss of a tremendous community and regional resource - Jade Street Park. She commented on the school district's plans for a preschool at Jade Street Park. Ms. Gotti submitted petitions with approximately 1,000 signatures expressing opposition to the proposed preschool and urging the City Council to keep the current community recreational facilities located at Jade Street Park as is. She further requested that the council give this matter its highest priority and save Jade Street Park for future generations.

In addition to Ms. Gotti, the following people spoke in support of the petition to "Save Jade Street Park:"

Michael Hobson, 10-year Capitola resident

Richard Crocker, Capitola resident

Ron Burke, Planning Commissioner and resident of the Jewel Box neighborhood

Shirley Forsythe, a senior citizen who lives in the Jewel Box because it is close to Jade Street Park.

Debbie Johnson, business owner and resident of Capitola

Nancy Brewer, resident for 4-1/2 years, supports retaining the Community Gardens at Jade Street Park.

Keith Gaylon, Capitola resident for over 20 years, gathered signatures on petitions

Ron Lorenzo said he collected signatures, and everyone wants to keep the park.

Richard Glass, Opal Street resident

Boris Seibert, Capitola resident, commented on the questions he asked Council Member Begun about this effort. Mr. Seibert expressed his concerns about education for the children in Capitola. He encouraged the council to provide educational facilities for our children and not take away the option for a preschool, but to work with the school district to provide education for children in Capitola.

Judy McGooden, Trustee of Soquel Union Elementary School District, said she was here tonight to provide answers to frequently asked questions concerning the Jade Street Site Planned Preschool Project. Ms. McGooden offered a handout of the project information to interested parties and left copies in the rear of the council chambers.

C. Staff Comments – None

D. City Council/Treasurer Comments

1) Council Member Storey reported on the meeting of Monterey Bay Unified Air Pollution Control District Board, wherein the board divided the district between coastal and inland zones for the purpose of designating the number of burn days. Inland areas will have 5 to 10 more burn days.

2) Council Member Begun reported on the LAFCO meeting held the first Wednesday of the month. He said there would be hearings throughout the county pertaining to "Areas of Interest."

3) Council Member Begun informed the Council that the City received a reply from Union Pacific concerning bridge inspections. Public Works Director Jesberg reported to the Council that a letter was received from Scott Moore of Union Pacific Railroad Company in response to the city's letter about inspections of the railroad trestle over Soquel Creek. He read excerpts from the letter regarding bridge inspections, which are done by UPRR twice each year.

4) Mayor Termini said he has one item, and that is to wish a "Happy Birthday" to Capitola resident, Juliette Bourgeois, who turns 100 years old tomorrow.

E. Committee Reports/Appointments**1) Appointments to the Capitola Art & Cultural Commission [1010-60/110-10]**

City Clerk Greeninger summarized the written agenda report and informed the Council that the Art & Cultural Commission met Tuesday night to interview two additional applicants for an At Large Member seat. The commission is recommending reappointment of 3 current members and appointment of James Wallace to fill the seat vacated by Bob Anderson.

Mayor Termini said he would reappoint current members Roy Johnson, Karen Nevis and Debbie Hale, and appoint James Wallace to fill the Art Large Member seat, as recommended by the Art & Cultural Commission.

ACTION: Council Member Nicol moved, seconded by Council Member Begun, to ratify the Mayor's reappointments of Roy Johnson, Arts Professional Member, Karen Nevis, Artist Member, and Debbie Hale, At Large Member, and the appointment of James Wallace as a new At Large Member to the Capitola Art & Cultural Commission for two-year terms ending December 31, 2009. The motion carried unanimously.

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

Mayor Termini asked if there were any questions on the check register report. There were none.

ACTION: Council Member Storey moved, seconded by Council Member Begun, to approve the Check Register Reports dated November 2, November 9, November 16, November 21, and November 30, 2007, including checks numbered 53650 through 53712 in the amount of \$209,187.24, checks numbered 53713 through 53754 in the amount of \$48,363.39, checks numbered 53755 through 53856 in the amount of \$96,184.09, checks numbered 53857 through 53899 in the amount of \$67,946.66, and checks numbered 53900 through 53977 in the amount of \$115,543.32, respectively, and payroll disbursements for the November 9, 2007, payroll in the amount of \$181,709.00 and for the November 21, 2007, payroll in the amount of \$182,913.00, for a Grand Total of \$901,846.70, 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.

3. CONSENT CALENDAR (Continued)

Council Member Graves asked for clarification on Items 3.D. and 3.I. Council Member Storey said he has several questions on Item 3.D. and asked to pull that item for separate discussion. He also had a quick question on Item 3.H. pertaining to the plans for the Esplanade Restroom Remodel. *(See comments under those items below.)*

Mayor Termini advised that Item 3.D. would be discussed at the end of the meeting following Other Business Item 5.D. *(See discussion and action on Page 8.)*

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, 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. Approve City Council Minutes – Regular Meeting of October 25, 2007, Special Meeting of October 30, 2007, and Regular/Joint Meeting with the Redevelopment Agency of November 8, 2007.

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to approve the Minutes of the Regular Meeting of October 25, 2007, Special Meeting of October 30, 2007, and Regular/Joint Meeting with the Redevelopment Agency of November 8, 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. Receive Planning Commission Action Minutes for the Regular Meetings of November 15 and December 6, 2007. [740-50]

ACTION: The City Council unanimously received the Planning Commission Action Minutes for the Regular Meetings of November 15, 2007, and December 6, 2007, as submitted.

D. Ratify Linhart Petersen Powers Associates (LP2A)/Bureau Veritas Contract for Building Department Plan Check Services. [720-10]

Council Member Graves asked for clarification on Item 3.D. regarding whether staff was requesting an additional \$10,000 over the \$25,000 allocated in the budget. Building Official Kostelec said this matter was an administrative item since expenditures of \$10,000 or more require Council approval. Council Member Storey said he also has some questions on that item and asked to pull Item 3.D. for separate discussion.

This item was pulled for separate discussion. (See page 8 for action.)

E. Adopt Resolution Setting Interest Rate for Tenant Security Deposits for 2008 Consistent with the County of Santa Cruz. [750-10]

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to adopt **Resolution No. 3671, Resolution Setting Interest Rate for Tenant Security Deposits for 2008 at .31 Percent in the City of Capitola**, as submitted in the Supplemental Agenda Report and revised resolution. 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)

F. Approve Request for Proposal for Voter Satisfaction Survey. [160-50]

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to approve the Voter Survey Request for Proposal, 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.

G. Adopt Resolution Approving a Rate Schedule for Residential and Commercial Garbage and Recycling Collection in Capitola Effective January 1, 2008. [930-45]

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to adopt **Resolution No. 3672, Resolution Approving a Rate Schedule for Residential and Commercial Garbage Collection and Recycling in Capitola Effective January 1, 2008, Superceding Resolution No. 3616.** 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 Plans, Specifications, and Estimate of Costs for the Esplanade Restroom Remodel Project and Authorize Public Works Department to Advertise for Bids. [270-10]

Prior to taking action on the Consent Calendar, Council Member Storey said in looking at plans he couldn't tell if room was provided for surfers or beach goers to change in the proposed facility. Public Works Director Jesberg said the changing areas would be much smaller than they are now, but there would be stalls for changing.

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to approve the plans, specifications, and estimate of costs for the Esplanade Restroom Remodel Project and authorized the Public Works Department to advertise for bids, setting the bid opening for 11:00 a.m. on Wednesday, January 9, 2008. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

I. Adopt Resolution Approving the Submission of an Application to the Santa Cruz County Regional Transportation Commission for Funding under the 2008 State Transportation Improvement Program. [770-05]

Prior to taking action on the Consent Calendar, Council Member Graves questioned Item 3.I. regarding submission of an application to the Santa Cruz County Regional Transportation Commission for funding with respect to eligible projects. He asked what the difference between maintenance and rehabilitation was to the Transportation Commission. Public Works Director Jesberg responded that if more than two inches of asphalt is replaced, it is considered reconstruction.

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to adopt **Resolution No. 3673, Resolution Approving the Submission of Applications to the SCCRTC for Transportation Funding,** 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.

J. Adopt Resolution Approving a Final Map for the Turner Lane Mobile Home Park Tract No. 1546, Turner Lane Homeowners Association Application No. 06-056. [730-75]

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to adopt **Resolution No. 3674, Resolution Approving the Final Map for the Turner Lane Mobile Home Park Subdivision, Tract No. 1546, at 920 Capitola Avenue, Capitola, CA.** 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. Receive Treasurer's Report for the Month Ended October 31, 2007 (Unaudited). [380-30]

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to accept the Treasurer's Report for the month ended October 31, 2007 (Unaudited), 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 - None

5. OTHER BUSINESS

A. City Council Consideration of Reorganization - Selection of a New Mayor and Vice Mayor. Staff recommendation: City Council determination. [120-37]

Mayor Termini said this was the time for the council to consider reorganization and selection of a new mayor and vice mayor.

ACTION: Council Member Begun moved to nominate Council Member Kirby Nicol as the new Mayor for the City of Capitola. The motion was seconded by Council Member Storey, and carried unanimously. Mayor Termini then turned the gavel over to the new selected mayor, Kirby Nicol, who presided over the rest of the agenda.

Mayor Nicol thanked the Council for their vote of confidence, saying he looks forward to working with everyone.

Mayor Nicol then entertained nominations for Vice Mayor.

Council Member Termini nominated Council Member Bob Begun for Vice Mayor. Council Member Graves seconded the motion. The motion carried unanimously. Council Member Begun thanked the council.

B. Presentation of Gavel to Outgoing Mayor Michael Termini

Mayor Nicol commented on the things many new mayors want to do during their term of office, one being to leave the city in better condition than the way they found it. Much to his dismay, Mayor Nicol said Mike Termini has done those things and has left him an impossible road to travel. He commented on the past year working along side Mayor Termini, and he said he was particularly appreciative of the compassion and consideration he has for others in the Council Chambers and in performing his duties as Mayor. On behalf of the city council, the capable staff, and all the citizens of the City of Capitola, Mayor Nicol presented outgoing Mayor Termini with the Mayor's Gavel Plaque in Appreciation for his service as Mayor from December 14, 2006, until December 13, 2007.

C. Comments from Outgoing Mayor Termini

Mayor Termini thanked Mayor Nicol for his comments, and he said he enjoyed the past year immensely. He commented on the good work that has been done this year, including the Rispin Mansion Project, POB's, Styrofoam, leaf blowers, skateboarders, etc. He feels great honor having his name spoken along with Stephanie Harlan, Dennis Norton, Ron Graves, and other former mayors of Capitola. Mayor Termini said Capitola is a great spirit and that the people of Capitola are responsible for maintaining that spirit. He has recognized that the people who work here do so because they love this city. In closing, outgoing Mayor Termini said if he could pass one concept on to future mayors, it is the fact that as Mayor you get to say less, and you have to care more. As Mayor, you hold the feelings of our citizens in your hands.

5. C. OTHER BUSINESS (Continued)

Comments from New Mayor

Mayor Nicol took this opportunity to remind everyone just how lucky we really are to live in Capitola. He said he chose this community on purpose after living and working in various places during his life, and that no people on earth have enjoyed the quality of life we accept every day in Capitola. He looks forward to the year ahead and the challenges it will bring. As your mayor, Kirby Nicol said he would dedicate himself to preserving, protecting and enhancing all those features of our community that make it special. In the year ahead, he will work to protect natural environment, maintain law and order, provide clean, safe streets, work toward closing the gap in maintenance of the city's infrastructure, and continue to have a balanced budget. As your elected representative, Mayor Nicol said he wants to be accessible. He will circulate among the many coffee shops, can be reached at his place of business, Capitola Realty, 4510 Capitola Road, phone number 475-5729, or by email at Kirby@wharftowharf.com. He said he would be relieving the former mayor of the Mayor's Blog, and he can also be reached there on the city's website www.ci.capitola.ca.us.

Mayor Nicol commented on the highly competent city staff that is dedicated to making Capitola the best that it can be. In closing he said a leader can only be as good as his team, and he feels very fortunate to have such a great team to work with during the coming year as Mayor.

D. Review of City Council Representation on City and County/Multi-County Boards, Commissions, and Committees. Staff recommendation: Council determination/ direction regarding representation on the Finance Advisory Committee and the Commission on the Environment. [110-10/330-40/430-05]

Mayor Nicol introduced this item and asked what the Council's pleasure would be for representation on the Finance Advisory Committee and Commission on the Environment.

Council Member Termini said he has served on the Commission on the Environment for the past year, and he would be willing to continue to serve as the Council's representative on that Commission.

Council Member Termini then said he has served on the Finance Advisory Committee in various capacities and that it is generally the Mayor and Vice Mayor who serve on that committee. Vice Mayor Begun said he would like to serve on the Finance Advisory Committee.

ACTION: Council Member Termini will continue to serve as the Council Representative on the Commission on the Environment. Mayor Nicol and Vice Mayor Begun will serve on the Finance Advisory Committee.

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

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

D. Ratify Linhart Petersen Powers Associates (LP2A)/Bureau Veritas Contract for Building Department Plan Check Services. [720-10/500-10 A/C: Bureau Veritas]

Considerable Council discussion was followed by this action:

ACTION: Council Member Graves moved to continue this item with direction to staff to bring this item back with modification to Article 15 of the agreement pertaining to Indemnity and Liability for further Council consideration. Council Member Termini seconded the motion. The motion carried on the following vote: AYES: Council Members Begun, Graves, Storey, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

6. ORAL COMMUNICATIONS

1) Public Works Director Jesberg announced that a Grand Opening/Ribbon Cutting Ceremony for Library Tot Lot Park would be held this Saturday, December 15, at 10 am. and that everyone is invited to attend.

2) Council Member Graves commented on the oral communications earlier in the meeting about Jade Street Park. He suggested scheduling a joint meeting with the school district.

3) Council Member Begun asked if one of the questions for Voter Satisfaction Survey could include a question about Jade Street Park.

4) Mike Roberto thanked the council for the opportunity to speak. He discussed the school district's proposal for a Preschool at Jade Street Park and provided additional historical information pertaining previous endeavors by the school district with respect to Jade Street Park.

5) Debbie Johnson, manager of the Capitola Mercantile, announced that the annual "Uncle Nathan's Day" event for Children in Need would be held this Saturday, December 15, from 10 am to 4 pm at the Capitola Mercantile. She said there would be entertainment, the Fire Department and Capitola Police Department would be there, and a visit from Santa Claus with presents for the children.

7. ADJOURNMENT

The newly selected Mayor, Kirby Nicol, adjourned the Capitola City Council meeting at 8:31 p.m. to its next Regular Meeting to be held on Thursday, January 10, 2008, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California. Until then, he wished everyone a Merry Christmas.