

February 14, 2008 ♥
 Capitola, California

CAPITOLA CITY COUNCIL

MINUTES OF A REGULAR MEETING AND A SPECIAL JOINT MEETING WITH THE PLANNING COMMISSION

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, Mayor/Chairperson Nicol noted that all City Council Members/Redevelopment Agency Directors were present, and he made an announcement regarding three matters to be discussed in Closed Session as follows:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to Litigation Pursuant to Subdivision (b) of Govt. Code §54956.9
 Number of Potential Cases: One (Save the Habitat claim re: Rispin Mansion Project)

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

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

Mayor/Chairperson Nicol asked if anyone wished to address items on the Closed Session agenda. Seeing no one, the council/agency recessed at 6:05 p.m. to the closed session.

At 7:01 p.m. Mayor/Chairperson Nicol announced that tonight’s meeting would begin with a Regular Meeting of the Capitola Redevelopment Agency, then a Joint Special Meeting of the City Council and the Planning Commission, and then a Regular Meeting of the City Council.

REGULAR MEETING OF THE REDEVELOPMENT AGENCY (See Redevelopment Agency Minutes)

SPECIAL JOINT MEETING OF THE CAPITOLA CITY COUNCIL & PLANNING COMMISSION

Mayor Nicol called the Joint Meeting of the Capitola City Council and the Planning Commission to order at 7:06 p.m. City Clerk Greeninger called the roll as follows:

ROLL CALL

PRESENT: Council Members Storey, Begun, Graves, Termini, and Mayor Nicol
 Planning Commissioners Burke, Marlatt, Newman, and Norton

ABSENT: Planning Commission Chairperson Harlan

PRESENTATION

Presentation by the Santa Cruz County Regional Transportation Commission Regarding the Highway 1 High Occupancy Vehicle (HOV) Lane Widening Project [920-30]

The City Council and Planning Commissioners received a presentation on the Highway 1 HOV Land Widening Project from George Dondero, the Executive Director of the Santa Cruz County Regional Transportation Commission, and representatives from the engineering firm working on the project.

The Joint Special Meeting was adjourned at 8:40 p.m. The City Council took a short break from 8:40 p.m. until 8:49 p.m.

REGULAR MEETING OF THE CITY COUNCIL

Mayor Nicol called the Regular Meeting of the City Council to order at 8:49 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

Council Member Begun led the Pledge of Alliance to the flag.

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

**Introduction of New Employee Danielle Uharriet,
Development Services Technician**

Community Development Director Rebagliati introduced the city's Development Services Technician, Danielle Uharriet. She discussed the work she performs for the Planning Department and said Danielle has been with the department since October. Community Development Director Rebagliati also commented on Danielle's varied background, extensive community involvement, and prior consultant work for the city. The department is delighted to have her working here.

**Introduction of Newly Promoted Police Captain Tom Held,
Newly Promoted Police Sergeant Mark Gonzalez, and
Newly Appointed Police Officer Christian Thompson**

Chief of Police Ehle introduced recently promoted Police Captain Tom Held and Sergeant Mark Gonzalez. He said Tom Held has worked for the city for 19 years and was promoted to replace retiring Captain Brian Martin. Chief of Police Ehle said Mark Gonzalez has worked for the city for 8 years and was promoted from detective to sergeant.

**Mayor's Proclamation in Recognition and Appreciation to
Community Services Officer Bruce Ink
for 30 Years of Service to the Citizens of Capitola
from March 6, 1978, through January 31, 2008**

Mayor Nicol called Bruce Ink forward, saying it was a privilege to present a Mayor's Proclamation to Bruce for his 30 years of service to the Capitola Police Department. Mayor Nicol read and presented the proclamation to Bruce Ink.

Bruce Ink thanked the Mayor for this special recognition. He said it has been a long journey, and he has enjoyed working for the city and with his fellow employees. In parting, he said Capitola has taken good care of him over the years, during good times and bad; and he is very grateful.

**Mayor's Proclamation in Recognition and Appreciation to
Police Captain Brian Martin
for 29 Years of Service to the Citizens of Capitola
from January 1, 1979 through February 9, 2008**

Mayor Nicol read the Proclamation recognizing Captain Brian Martin on occasion of his retirement after 29 years with the Capitola Police Department. He presented the proclamation to him and congratulated Brian on his retirement.

PRESENTATIONS (Continued)

Brian Martin said it hardly seems as though it has been 29 years since he started working for the city. He has seen a lot of changes in the Police Department during that time, and he would like to think he has had a positive impact on both over the years. He thanked his wife for putting up with him all these years and said his coworkers were a great group of people. He also said during the past 6½ years, Chief Ehle has made the department the best it has been since he has worked for the city. Brian felt it was time to step aside and let a new set of professionals take the reigns.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone reported that the City Council/Redevelopment Agency met in Closed Session on the items listed on the posted Agenda. He informed the Council that the court dismissed the Surf and Sand Mobile Home Park lawsuit. City Attorney Barisone said Council Member Termini recused himself from Rispin Mansion discussion. No reportable action was taken.

2. ORAL COMMUNICATIONS

- A. Additions and Deletions to Agenda - None
- B. Public Comments – None
- C. Staff Comments – None

D. City Council/Treasurer Comments/Committee Reports

1) Council Member Graves informed the council and the community regarding a major sewer project that will occur this spring in Capitola Village. He said the first day of work would be March 24, with a completion date of June 1. There was discussion regarding outreach to the community about the project. Council Member Graves provided plans on the project which will be available for staff and the public's review.

2) Council Member Termini announced that the Capitola-Soquel Chamber of Commerce has named Joyce Murphy, a member of the city's Art & Cultural Commission, Woman of the Year.

3) Council Member Begun commented on a meeting held by a group of residents who are concerned about the hazards posed by the eucalyptus trees along Park Avenue. Mr. Begun provided each council member with a handout containing notes from the Capitola Euc Group's meeting of February 9, names of members, photos and other documents relating to the eucalyptus trees.

4) City Treasurer Gualtieri announced that the Finance Advisory Committee would be meeting on Monday, February 25, 2008, to discuss the mid-year budget review and report regarding impacts to the City if Measure P is not renewed.

- E. Committee Appointments – None

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

Council Member Graves questioned the number of checks issued for overpayment of business license fees. Finance Director Lai said it relates to the retailers and that staff intends to modify the form next year. Staff also responded to questions of Council Member Begun regarding checks numbered 54369 and 54373 to the BIA, as well as check #54401, which was voided due to duplication of invoices for the Palm parking meters.

ACTION: Council Member Graves moved, seconded by Council Member Begun, to approve the Check Register Reports dated January 18, January 25, and February 1, 2008, including checks numbered 54347 through 54430, in the amount of \$198,863.62, checks numbered 54431 through 54479 in the amount of \$163,262.38, and checks numbered 54480 through 54541 in the amount of \$71,813.32, respectively; and payroll disbursements for the January 18, 2008, payroll in the amount of \$186,111.00 and for the February 1, 2008, payroll in the amount of \$199,211.27, for a total amount of \$819,261.59, as submitted. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

3. CONSENT CALENDAR

Mayor Nicol asked if there were any items members of the council or public wished to pull for separate discussion. None were pulled.

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

- A. Approve Reading by Title of all Ordinances and Resolutions and declare that said Titles which appear on the Public Agenda shall be determined to have been read by Title and Further Reading Waived.**

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 – None**

- C. Receive Planning Commission Action Minutes for the Regular Meeting of February 7, 2008. [740-50]**

ACTION: The City Council unanimously received the Planning Commission Action Minutes for February 7, 2008, as submitted.

- D. Receive Departmental Quarterly Financial Status Report. [380-05]**

ACTION: The City Council unanimously received the City Department's Financial Status Report for the period July through December 2007, as submitted.

- E. Ordinance Amending Section 8.04.070 D of the Capitola Municipal Code Pertaining to Garbage Container Specifications and Locations (2nd Reading). [930-30]**

ACTION: Council Member Termini moved, seconded by Council Member Storey, to adopt Ordinance No. 928, Ordinance Amending Section 8.04.070 D of the Capitola Municipal Code Pertaining to Garbage Container Specifications and Locations, as submitted. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

4. PUBLIC HEARINGS - None

5. OTHER BUSINESS

- A. Consideration of a Special Joint Meeting with the Soquel Union Elementary School District to Consider Mutual Interests in the Jade Street Park/Opal Cliffs Site. Staff recommendation: determine date, time and place to conduct a special joint meeting with the SUESD Board and whether to have the meeting facilitated. If facilitated, approve the Center for Strategic Facilitation as the facilitator and select a two-person "Design Team." [1150-05]**
City Manager Hill summarized the written agenda report and recommended action.

Ted Donnelly, representing the Soquel Union Elementary School District board, encouraged the council to consider a facilitated meeting. Mayor Nicol asked if Mr. Donnelly had a range of dates that would work well with the district. He said he did not.

Council Member Termini expressed his support of a facilitated meeting. He feels it would be well worth the cost. Council Member Termini commented on discussions he has had with board members and the need for neutrality.

5. A. OTHER BUSINESS

Council Member Graves said the joint meeting is long overdue; however, he finds it hard to believe that with the expertise of City Manager Hill and Superintendent Howard we need to expend funds for a facilitator. He said having a facilitator makes him believe we are in an adversarial position. Council Member Graves also said there are other matters, besides Jade Street Park, that the council and the school district should discuss.

Council Member Begun said it has taken a long time to get to this point, and he believes a facilitator is needed in this case.

Council Member Storey commented that it has been a goal of the council for the past two years to meet with the school district. He said it seems the hot button item is Jade Street Park and that the parties should go into the meeting knowing what the city's principal interest is; i.e. Jade Street Park.

Council discussion was followed by this action:

ACTION: Council Member Termini moved, seconded by Council Member Storey, to approve conducting a facilitated special joint meeting with the Soquel Union Elementary School District Board of Trustees to discuss Jade Street Park with the Center for Strategic Facilitation as facilitator. The motion carried on the following vote: AYES: Council Members Storey, Begun, Termini, and Mayor Nicol. NOES: Council Member Graves. ABSENT: None. ABSTAIN: None.

City Manager Hill said it would be helpful if the council could select a month to meet and two members of the council to serve on the design team. Mayor Nicol said he would like to have the meeting sooner than later. City Manager Hill said he would see if late March or April would work for the school district board. Council Members Termini and Storey were then selected as the city's "Design Team."

B. Mobile Home Park Administrative Service Fee. [750-25]

Assistant to the City Manager Murphy summarized the written agenda report and discussed various options the council could consider. She informed the council that she has received several requests to waive fees and that those requests are included in the agenda report.

Council Member Termini asked how difficult it would be to determine low-income residents. City Manager Hill commented on qualifications for PG&E's CARE program, which provides a discount for qualified low-income households.

At 9:36 p.m. Mayor Nicol asked for comments from the public.

Rick Halterman, President of the Capitola Mobile Home Owners' Association and resident at Castle Mobiles Estates, discussed the importance of the mobile home park administrative fee and expressed concern about the potential litigation with the Surf and Sand Mobile Home Park. He said that the bottom line is that the lawsuits are not going to go away. With respect to the comments about low-income mobile home owners, Mr. Halterman said there might be about 100 spaces in Capitola that are low income. He said the only thing he would recommend the council do is to consider waiving monies owed that are in collection now if the people can demonstrate they have low income.

Mayor Nicol said that the council has great respect for Mr. Halterman's knowledge in this area and thanked him for his comments.

Considerable Council discussion was followed by this action:

5. B. OTHER BUSINESS

ACTION: Council Member Storey moved, seconded by Council Member Termini, that for those persons who are currently in collection with regard to the Mobile Home Park Administrative Service Fee who can prove that they are on SSI (Supplemental Social Security Income), there would be a one-time fee waiver of the amount of the fee in collection, and that from this point on they would be expected to pay the annual fee of \$240.

After discussion of the motion, the motion makers approved an amendment proposed by Council Member Begun to include an outreach component where meetings with park residents would be held to educate them on the importance of this fee in order to maintain mobile home park rent control in Capitola.

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

C. Approval of Contract to Conduct a Voter Survey. [160-50]

Assistant to the City Manager Murphy summarized the written agenda report and recommended action. She said staff hopes to do this survey in March.

Council Member Storey asked about the need for two council members to serve on a committee and what roll the council members would play. City Manager Hill explained that this is the same process used previously, and it worked well. Council Member Graves said this is an excellent idea, and he discussed the importance of working with the consultant regarding development of the questions.

Council discussion was followed by this action:

ACTION: Council Member Termini moved, seconded by Council Member Storey, to authorize an Agreement with Fairbank, Maslin, Maullin & Associates to Conduct a Voter Survey in an amount not to exceed \$24,000, and designated Council Members Graves and Begun to Serve on an Ad Hoc Committee to develop the survey questions. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

D. Esplanade Restroom Remodel Project. [270-10]

Public Works Director Jesberg summarized the written Additional Material Agenda Report dated February 14, 2008. He announced that staff opened seven bids for the project ranging from \$186,000 to \$287,591. He said several of the bids omitted the specification packet as part of their submittal, and he recommended that the City Council waive that requirement. Public Works Director Jesberg said he has spoken with JMA Construction and recommends that the council award the contract to JMA Construction, waiving the specification packet submittal pursuant to Section III A of the specifications.

Mayor Nicol thanked the Public Works Director for an excellent report.

Council Member Termini asked if anyone had challenged the bids due to the irregularities. Public Works Director Jesberg said there were no challenges.

ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve the recommended action as follows:

5. D. OTHER BUSINESS (Continued)

1) Accepted the report on bids received February 13, 2008, and to approve award of a contract with JMA Construction of San Francisco in the amount of \$186,000, for the construction of the Esplanade Restroom Remodel Project, waiving the requirement for submittal of the complete specification packet as part of the bid submittal; and

2) Adopted **Resolution No. 3678, Resolution Amending the 2007-08 Budgets for the Purpose of the Esplanade Restroom Expansion and Remodel Construction Project.**

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

E. Union Pacific Railroad. [565-50/940-60 Stairway]

Public Works Director Jesberg said this matter has received a lot of press recently. He then commented on an agreement the City has with Union Pacific Railroad that allowed the City to construct, maintain, and use three stairways and a connecting pathway on UPRR property. Public Works Director Jesberg commented on meetings he has had with UPRR maintenance personnel. He also said they are considering leasing the tracks to a third party who plan to have faster trains on the track. He said staff's recommendation at this time would be to wait and see.

Council Member Termini said he remembers there being a maximum speed allotted on the tracts. Public Works Director Jesberg responded, saying the beds have a different rating than the trestle. The speed of a train over the trestle is limited to 10 mph, while other areas could go as fast as 25 mph. Mayor Nicol commented that his understanding, based on information he received at the Santa Cruz County Regional Transportation Commission, is that the speed is limited to 15 mph.

Council Member Storey commented on the three issues pertaining to UPRR: 1) cooperation from our police department in ticketing trespassers, 2) removal of the stairs, and 3) UPRR statements about subletting tracks for more frequent and faster trains on the tracks. Council Member Storey provided information he obtained in researching this matter. He said the speed on the railroad tracks is based on how the track is rated. He also commented on the engineer's study to Santa Cruz County Regional Transportation Commission in 2005, where it states that all service along the branch line is limited to 10 mph FRA accepted track. Council Member Storey said he does not understand how UPRR could run trains faster on the track based on the current rating. In addition, FRA regulations state that if there are multiple ratings on the track, trains must go at the lowest speed throughout the segment. Council Member Storey said he is still interested in hearing from a UPRR representative regarding their plans for subletting, a new operator, and what the speed is anticipated to be and how they justify it.

Council Member Begun commented on the report he and Public Works Director Jesberg worked on which dealt only with the railroad trestle.

Council Member Graves said he believes the best approach is to do nothing at this time. He also commented that there might be a prescriptive easement over those tracks since the public has not been denied access for over 40 years. City Attorney Barisone commented that you cannot get prescriptive rights over public property or railroad property.

ACTION: The City Council received the report pertaining to the Union Pacific Railroad as an informational item only.

5. OTHER BUSINESS (Continued)

F. Report on Sidewalk Maintenance and Improvement Program. [940-60]

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

Council Member Graves suggested that in the mapping of current sidewalks, that those areas that are sidewalk-exempt should be designated, because those areas still have the hazards, such as bushes in the right-of-way, etc. Those areas include Beulah Street and Depot Hill.

Council Member Storey said he likes the plan overall; however, he is concerned about the ongoing maintenance as he doesn't want to see the city become a free landscape crew for certain property owners who do not abate hazards identified by the city. It was suggested that if city crews perform such maintenance on private property, that after the city does it once a notice should be given to property owners informing them it will be their responsibility to maintain.

After Council discussion the following action was taken:

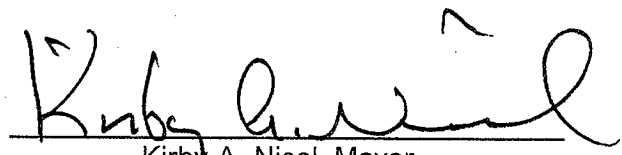
ACTION: Council Member Graves moved, seconded by Council Member Termini, to accept the report on the city's Sidewalk Maintenance and Improvement Program and directed staff to implement the program. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini; and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

6. ORAL COMMUNICATIONS


Mayor Nicol commented there has not been much communication on the Mayor's Blog.

7. ADJOURNMENT

The Capitola City Council adjourned at 10:37 p.m. to its next Regular Meeting to be held on Thursday, February 28, 2008, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.


Kirby A. Nicol, Mayor

ATTEST:


Pamela Greeninger, City Clerk

MINUTES WERE UNANIMOUSLY APPROVED BY THE CITY COUNCIL ON 3/13/08