

March 27, 2008
 Capitola, California

CAPITOLA CITY COUNCIL

MINUTES OF A REGULAR MEETING

Mayor Nicol called the Regular Meeting of the City Council to order at 7:21 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

PRESENT: Council Members Sam Storey, Bob Begun, Ron Graves, Michael Termini, and Mayor Kirby Nicol; City Treasurer Tony Gualtieri

ABSENT: None

STAFF: Acting City Manager/Finance Director Lauren Lai, City Attorney John G. Barisone, 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 ***

Presentation on California Grey Bears by Executive Director Lynda Francis [330-30]

Lynda Francis, Executive Director, commented on the services of the California Grey Bears and shared a DVD that was donated by volunteer Jeri Skipper, which demonstrates many of the services performed by the Grey Bears. She discussed their Brown Bag Program which serves nearly 200 Capitola residents and shared the products typically included in a Brown Bag.

Volunteer Ciro Milazzo spoke of his participation in the program. Bud Winslow said he has been involved in the organization for many years and praised the work of Lynda Francis and the Grey Bears. Paul Pelkey thanked the Grey Bears for the work they do to help others. He especially wanted to thank Jack who delivers a brown bag to his home.

Ed Martinez, Outreach Director for the Grey Bears, commented on the community that is created by the volunteers in the various sectors of the organization. He said his challenge in marketing this organization is defining the wealth of opportunity that is underneath the service of "feeding seniors."

Mayor Nicol thanked them for their presentation and the fine work they do.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone said that the items discussed in Closed Session were those items listed on the posted agenda. All members were present; however, Council Member/Director Termini excused himself from participating with regard to the Save the Habitat/Rispin Mansion matter for conflict of interest reasons. Also present was Acting City Manager/Finance Director Lauren Lai and Community Development Director Juliana Rebagliati. Public Works Director Steve Jesberg was present for the Real Property Negotiations matter regarding 504 Beulah Drive.

City Attorney Barisone stated that brief status reports on the following matters were made and that no reportable action was taken on any of those items:

- Save the Habitat vs. City of Capitola (Rispin Mansion Project)
- Soquel Union Elementary School District vs. City of Capitola
- Surf & Sand LLC vs. City of Capitola (Surf & Sand Mobile Home Park)
- Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates)
- Los Altos El Granada Investors vs. City of Capitola (Castle Mobile Estates)

1. REPORT ON CLOSED SESSION (Continued)

The City Council received a report from City Attorney Barisone relative to the threatened lawsuit by Mr. Bob Yount pertaining to outdoor smoking in Capitola Village, which was made at the last Council meeting under oral communications. No reportable action was taken in closed session.

The City Council received a report from staff on property negotiations pertaining to the city's property located at 504 Beulah Drive. Staff was given direction with regard to further negotiations and potential disposition of the property but took no reportable action in closed session.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

1) Council Member Termini asked if the Council would consider re-ordering Item 5.A. regarding the Art & Cultural Commission's Sea Wall Tile Art project prior to the Public Hearing, as there were a number of people at the meeting who wished to address that item.

2) Council Member Storey commented that in view of the staff report for the Public Hearing item coming out late, which was received by the council members on Tuesday, and in the interest of preserving the integrity of the public hearing process and of making sure that there is a full and complete discussion and presentations by all parties, he asked that the Public Hearing on the Rispin Mansion Project be continued for two weeks. Council Member Graves asked if that was a motion. Council Member Storey said he would make that a motion.

ACTION: Council Member Storey then moved to continue the Rispin Public Hearing to the next meeting of the City Council to be held in two weeks on April 10, 2008. Council Member Graves seconded the motion.

Community Development Director Rebagliati said the council should check with the applicant to make sure they would be available to attend a meeting on April 10. Ric de la Cruz, representing Barry Swenson Builder, said they would prefer Wednesday, April 9, as their attorney would be in Southern California on April 10.

After further discussion, Council Member Storey amended his motion to continue Public Hearing Item 4.A. on the Rispin Mansion Restoration and Hotel Project to a Special Meeting of the City Council to be held on Wednesday, April 9, 2008, at 6:00 p.m. Council Member Graves accepted the amendment and suggested that this be a single item special meeting for the Rispin Project only. The motion carried with Council Member Termini abstaining. [730-10]

B. Public Comments

During Oral Communications at the Capitola Redevelopment Agency Meeting on this date, Capitola resident Paul Pelkey (Pelletier) commented on the high-speed vehicle chase that occurred on Hill Street. He expressed his concerns about safety on Hill Street and Capitola Avenue, as well as at the intersection of Hill Street and Bay Avenue near the Nob Hill Center. [Note: Chairperson Nicol recommended that the Clerk include Mr. Pelkey's comments in the Council's minutes.]

2. B. ORAL COMMUNICATIONS – Public Comments (Continued)

At this time the following people addressed the Council regarding the Rispin Mansion Project, since it was continued to a special meeting: [730-10]

- 1) Ric de la Cruz, Barry Swenson Builder
- 2) Jesse Nickell, Vice President of Barry Swenson Builder
- 3) Jennifer Bragar, law clerk at Wittwer & Parkin, submitted letter from William Parkin that was faxed to the City today. She thanked the Council for its action to continue the hearing.
- 4) Gary Wetsel, Owner of Paradise Beach Grille and President of the Capitola Village and Wharf Business Improvement Area, spoke in support of the Rispin Project
- 5) Jacques Bertrand, Capitola resident, spoke in support of the Rispin Project
- 6) Marilyn Garrett, Aptos, read a letter from Glenn Hanna published in the Santa Cruz Sentinel newspaper.
- 7) Cathy Bentley, member of the Village Master Plan Advisory Committee and Capitola Village and Wharf Business Improvement Area, spoke in support of the Rispin Project
- 8) Dave Fox, Capitola resident for 32 years, said he wants to be sure that the developers are not going to be able to come back to the City for more money.
- 9) Paul Pelkey (Pelletier), Capitola resident
- 10) Lynn Jackson, Capitola resident
- 11) Charlie Thomas, Capitola resident for 35 years and former member of the Rispin Committee and Finance Advisory Committee for the City, said there was a question he would like to have answered about the project. He asked if Barry Swenson, as the builder, was going to be a proactive partner who will also sustain the liability if the Rispin Mansion doesn't work out. Mayor Nicol said this was not the time for the council to respond to questions. Mr. Thomas commented that for the public to be able to take a position on this matter, he believes that question needs to be answered, and he expressed concerns about the financial feasibility of the project. If Barry Swenson were going to be a proactive/liable participant in the Rispin Mansion, then he would be very much for the project. In closing, Mr. Thomas said he hoped that prior to the April 9 hearing an answer to his question could be made.
- 12) Wayne Fontes, Capitola resident, spoke in support of the Rispin Project
- 13) Barbara Reding, Capitola resident and member of the original Rispin Steering Committee, spoke in support of the Rispin Project
- 14) City Attorney Barisone clarified that the Public Hearing item on the Rispin Mansion Project that has been continued to April 9 strictly addresses land use aspects of the application, modifications to the land use permit that the City of Capitola issued in its land use regulatory capacity. He said the fiscal issues are separate from the land use matter and would be brought back at a future meeting of the Capitola Redevelopment Agency.
- 15) Glenn Hanna suggested there be a forum of the city council, the developer, and citizens to discuss all information about the Rispin Mansion Project and provide an opportunity for questions and answers about the project.

Carin Hanna commented on the possible removal of the eucalyptus trees on Park Avenue and recent information in the newspapers about a possible assessment district to remove the trees. She wondered if there would be a public hearing on this matter. Mayor Nicol said the council is sensitive to the issue and thanked her for her comments. [1030-60]

At 8:18 p.m. Mayor Nicol called for a break. The Council reconvened at 8:28 p.m.

2. ORAL COMMUNICATIONS (Continued)

C. Staff Comments

Assistant to the City Manager Murphy commented on the city's recycling diversion efforts and thanked the council for its support of the Citywide Garage Sale, E-waste Day, etc.

D. City Council/Treasurer Comments/Committee Reports

1) Council Member Termini reported that he attended the Building Livable Communities: Livable Communities Meet the Global Warming Challenge which was held at the Ahwahnee Hotel at Yosemite March 14-16. He will be sharing a PowerPoint Presentation with the Council regarding this conference at a future meeting.

2) Council Member Begun said he attended the Senior Summit, which was attended by over 100 seniors. He said Captain Todd Mayer was in attendance at the Summit and that Captain Mayer, as well as the City of Capitola, received many commendations. Council Member Begun requested that Captain Mayer be asked to report to the Council on his support of senior services.

3) Council Member Begun commented on the issue raised by Carin Hanna regarding the eucalyptus trees on Park Avenue. He said a group of Capitola citizens who live on Park Avenue and on Balboa Avenue met on this issue and invited him to attend their meeting. He listened to what they had to say, and he is acting as their facilitator.

4) Council Member Storey commended the Capitola Police Department on the great teamwork between the Sheriff's Department and their department in catching the perpetrator of a robbery of computer equipment from one of the programs at Community Bridges. He wished to thank them for recovering the equipment.

5) Mayor Nicol wished to recognize and commend Council Members Mike Termini and Ron Graves for being honored by the Capitola-Soquel Chamber of Commerce. Mike Termini received the Community Spirit Award, and Ron Graves received a Lifetime Achievement Award.

6) Council Member Graves said he was not at the last meeting when the council discussed council member protocol when serving on other county/multi-county boards, commissions and committees; however, he read the minutes of the council's discussion. He said several months ago he reported under Committee Reports that AMBAG was going to raise dues. The executive committee of AMBAG is recommending two raise schedules; one being a 5% raise and one being a 7% raise. Council Member Graves said he wanted to inform the council that he plans to vote for the 5% raise.

7) City Treasurer Gualtieri commented on the sales tax figures received by the City at the end of March for the last 6 months of 2007. He reported there is sad news, as the City is seeing a decrease in sales tax from this time last year. City Treasurer Gualtieri said the Finance Director would be providing a detailed report at the next meeting. He sees a 5 to 6% decrease in revenues and said we need to pay attention to these decreases in sales tax revenues. Council Member Begun asked for the period of time it covered. City Treasurer Gualtieri said it was for the 6-month period from July 1 through December 31, 2007.

E. Committee Appointments – None

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

Mayor Nicol asked if there were any questions regarding the Check Register Report. Seeing none, the following action was taken:

ACTION: Council Member Termini moved, seconded by Council Member Storey, to approve the Check Register Reports dated March 7 and March 14, 2008, including checks numbered 54800 through 54870, in the amount of \$96,777.61, checks numbered 54871 through 54925 in the amount of \$43,757.48, and payroll disbursements for the March 14, 2008, payroll in the amount of \$173,659.57, for a total amount of \$314,194.66, 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. Council Member Storey had a question on Item 3.I., the Ordinance Regulating Surf Schools, and Council Member Graves wished to comment on Item 3.G. regarding the Special Event Permit for the Rod & Custom Car Show. (See comments under those items.)

CONSENT CALENDAR ACTION: Council Member Termini moved, seconded by Council Member Begun, 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 –Regular Meeting of March 13, 2008.**

ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve the Minutes of the Regular Meeting of March 13, 2008, as submitted. The motion carried with Council Member Graves abstaining.

C. **Receive Planning Commission Action Minutes for the Regular Meeting of March 20, 2008. [740-50]**

ACTION: The City Council unanimously received the Planning Commission Action Minutes for March 20, 2008, as submitted.

D. **Receive Treasurer's Report for Month Ended February 29, 2008 (Unaudited). [380-30]**

ACTION: Council Member Termini moved, seconded by Council Member Begun, to receive the Treasurer's Report for the Month Ended February 29, 2008 (Unaudited), 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.

E. **Approve the Plans and Specifications for the 2007/08 Street Resurfacing Project on McCormick Court, Center Street, and Opal Street (49th Avenue to Prospect Avenue), and Authorize the Public Works Department to Advertise for Bids with Bid Opening on 4/30/08. [940-40]**

3. E. CONSENT CALENDAR (Continued)

ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve the plans and specifications for the 2007/08 Street Resurfacing Project on McCormick Court, Center Street, and Opal Street (49th Avenue to Prospect Avenue), and authorized the Public Works Department to advertise for bids, setting the bid opening date for Wednesday, April 30, 2008. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

F. Approve Expenditure of \$10,880 to Earthworks Paving Contractor for Emergency Repairs to the Eastbound Approach to Stockton Avenue Bridge. [940-40]

ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve the expenditure of \$10,880 to Earthworks Paving Contractors, Inc., for emergency repairs to the eastbound approach to Stockton Avenue Bridge, 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.

G. Approve Request from the Capitola Public Safety and Community Service Foundation for a Special Event Permit for the 3rd Annual Capitola Rod & Custom Classic Car Show to be held in Capitola Village on Saturday and Sunday, June 7 and 8, 2008, and Approve Grant in the Amount of \$196. [1050-70]

Prior to action on the Consent Calendar, Council Member Graves commented on concerns expressed to him after last year's event with respect to street closures on Sunday. Chief of Police Ehle discussed their plans for this year's event to address those concerns.

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

- 1) Approved the Special Event Permit for the 3rd Annual Capitola Rod and Custom Classic Car Show to be held in Capitola Village on Saturday and Sunday, June 7 and 8, 2008; including approval of an Encroachment Permit, an Entertainment Permit, and authorization to serve beer and wine to select guests and sponsors (VIP's) on the city property located in Esplanade Park behind the Bandstand during the event, and to Hang Banners prior to the event; and
- 2) Approved a grant in the amount of \$196.

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

H. Approve Art & Cultural Commission Public Art Historic Sign Project. [1010-60]

ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve the Art & Cultural Commission's Public Art Historic Sign Project, including proposed photographs and locations, and authorized an additional \$2,600 from the Public Art Fund to purchase the signs. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

I. Adopt Ordinance Adding Chapter 9.30 to the Capitola Municipal Code Pertaining to Regulation of Surf Schools (2nd Reading), and Direct Staff to Prepare an Administrative Policy for Implementation of the Regulations and to Return with a Resolution Amending the City's Fee Schedule to Add an Annual Surf School Permit Fee. [1020-20]

3. I. CONSENT CALENDAR (Continued)

Prior to action on the Consent Calendar, Council Member Storey said the ordinance refers to a map of the surf breaks, which was not attached to the ordinance in the packet. He asked if the map referred to in the ordinance was the aerial map provided at the last meeting and if it would be included in the ordinance. City Attorney Barisone said the aerial map could be made a part of the original ordinance. City Clerk Greeninger commented that maps are generally not codified in the Municipal Code. Council Member Graves asked if the Chief could give him an idea of staff time for processing such permits. Chief of Police Ehle said he anticipates the permit fee would be \$50 to \$100. He also discussed several other fees surf schools would incur in addition to the permit fee, including business license, Live Scan fingerprint clearance fee, etc.

ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve the recommended action, with inclusion of the aerial surf break map as part of the ordinance on file, as follows:

1. Adopted **Ordinance No. 929, Ordinance Adding Chapter 9.30 to the Capitola Municipal Code Pertaining to Regulation of Surf Schools**, with inclusion of the map;
2. Directed staff to prepare an administrative policy for carrying out the provisions of Chapter 9.30; and
3. Directed staff to return with a resolution amending the City's Fee Schedule to add an annual Surf School Permit Fee for Council consideration.

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

- A. Public Hearing on the Rispin Mansion Restoration & Hotel: Project Application #08-014 to Amend Applications #97-95 and #05-005: Conditional Use Permit, Architectural and Site Review, and Coastal Permit for the Proposed 25-Room Hotel at Rispin Mansion Project located at 2000 and 2005 Wharf Road in the ARVS/PD "Automatic Review/Visitor Serving/Planned Development" Zoning District. [APNs 035-371-01 and -02 (Rispin) and APN 034-541-34 (Clares Street/Wharf Road)] Presentation: Community Development Dept. [730-10]**

Mayor Nicol announced that this item was continued to a Special Meeting of the City Council to be held on Wednesday, April 9, 2008, at 6 p.m. [See Action taken under Item 2.A., Additions and Deletions to the Agenda, on Page 11043. Also see Item 2.B., Public Comments, for comments pertaining to the Rispin Mansion Project on Page 11044.]

5. OTHER BUSINESS

- A. Art & Cultural Commission Public Art Project: Sea Wall Tile Art. [1010-60]**

Assistant to the City Manager Murphy summarized the written agenda report.

Dennis Norton, Planning Commissioner/Planning Commission Representative on the Art & Cultural Commission, commented on the proposed Sea Wall Tile Art Project. He said it would be set up similar to the personalized brick program and that the Capitola-Soquel Chamber of Commerce would administer the program. Representatives from the Art & Cultural Commission, Karen Nevis and Joyce Murphy, and subcommittee members Jill Gallo and Linda Lucchesi responded to questions of council members regarding the project.

Council Member Graves commented on juring the tiles and expressed concern about the possibility of many people wanting to do hand prints. Karen Nevis said the staff at Petroglyph would work with people in creating their tile.

Council Member Storey asked how this project would be communicated to the public. Dennis Norton and Joyce Murphy said it would be advertised in Sentinel, Good Times and other local newspapers, as well as on the City Scroll and in the newsletter.

5. A. OTHER BUSINESS (Continued)

Mr. Norton said they hope to have the project completed by late May. Mayor Nicol asked if there would be a limit as to how many tiles a family can have.

Council discussion was followed by this action:

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

- 1) Approved the Art & Cultural Commission's Sea Wall Tile Public Art Project, and
- 2) Authorized the additional expenditure of \$3,000 from the Public Art Fund to purchase the initial tiles.

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

B. **Painting Contract for Capitola City Hall. [200-30]**

Public Works Director Jesberg summarized the written agenda report. Using the overhead project he showed a rendering of the colors selected for the building. He said a color consultant, known to Community Development Director Rebagliati, volunteered her time in coming up with several color schemes.

Council Member Graves commented on the black trim and said he has seen black trim on other buildings and it doesn't seem to hold up well.

Council Member Storey said he isn't qualified to make a decision about the colors and questioned if the Planning Commission or Art & Cultural Commission should review the color scheme since this is a major city building.

Council Member Graves asked what would be done with the surface on the walkways and the stairs. Public Works Director Jesberg said after painting is completed, staff would look into resurfacing the second floor balcony walkway and stairs.

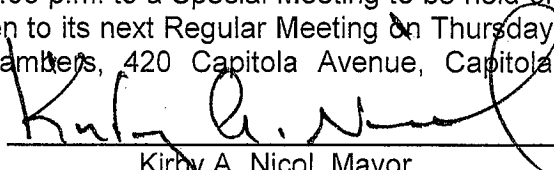
Council discussion was followed by this action:

ACTION: Council Member Termini moved, seconded by Council Member Begun, to award a contract to Performance Painting in the amount of \$20,920 for the painting of Capitola City Hall, and approved the colors as presented by the Public Works Director. The motion carried on the following vote: AYES: Council Members Begun, Graves, Termini, and Mayor Nicol. NOES: Council Member Storey. ABSENT: None. ABSTAIN: None.

6. ORAL COMMUNICATIONS - None

7. ADJOURNMENT

The Capitola City Council adjourned at 9:06 p.m. to a Special Meeting to be held on Wednesday, April 9, 2008, at 6:00 p.m., and then to its next Regular Meeting on Thursday April 10, 2008, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.


Kirby A. Nicol, Mayor

ATTEST:


Pamela Greeninger, City Clerk, CMC

MINUTES WERE UNANIMOUSLY APPROVED BY THE CITY COUNCIL ON 4/10/08