

July 24, 2008
 Capitola, California

CAPITOLA CITY COUNCIL

MINUTES OF A REGULAR MEETING

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

At 6:02 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 the items to be discussed in Closed Session, as follows:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Govt. Code §54956.9a)

Save the Habitat vs. City of Capitola (Rispin Mansion Project)
 Surf & Sand LLC vs. City of Capitola (Surf & Sand Mobile Home Park)

CONFERENCE WITH LABOR NEGOTIATORS (Govt. Code §54957.6)

Bargaining Units: Police Captains
 Negotiator: Rich Hill, City Manager

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: John C. Kinstler Jr.

Mayor/Chairperson Nicol asked if anyone wished to address items on the Closed Session agenda. Seeing no one, the council/agency recessed at 6:03 p.m. to the Closed Session.

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

REGULAR MEETING OF THE CITY COUNCIL

Mayor Nicol called the Regular Meeting of the City Council to order at 7:44 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

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

ABSENT: None

STAFF: City Manager Rich Hill, Deputy City Attorney Anthony Condotti, Acting Community Development Director Carney, Finance Director Lauren Lai, Chief of Police Rick Ehle, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

* * * PRESENTATIONS * * *

Capitola Police Department Awards for the Year 2007 [630-20]

Chief of Police Ehle announced the recipients of the Police Department Awards for 2007, Andy Dally, Police Officer of the Year, and Lorrie Wilson, Civilian Employee of the Year. He said Lorrie was unable to attend the meeting to accept her award.

Lorrie Wilson, Police Department Civilian Employee of the Year

Chief of Police Ehle discussed the various tasks Lorrie Wilson is responsible for in the Police Department and said she has done an excellent job. In addition, Ms. Wilson was enrolled in a Crime and Intelligence Analysis Certificate Program at Sacramento State, and Chief of Police Ehle discussed the courses included in the program. The knowledge she gains will enable her to expand her duties within the police department.

PRESENTATIONS (Continued)

Andrew Dally, Police Officer of the Year

Chief of Police Ehle called Officer Andrew Dally forward and presented him with his award as Police Officer of the Year for 2007. He discussed the many leadership abilities demonstrated by Officer Dally, as well as his dedication to the City. He also discussed Officer Dally's involvement in the off-site outreach center at New Brighton Middle School, the city's Safety Committee, the taxicab permit program, development of school lockdown protocol and lockdown/active shooter training, and his leadership role as Vice President of the Capitola Police Officers' Association.

Officer Dally thanked the City Council for the award and expressed his appreciation for the recognition.

1. REPORT ON CLOSED SESSION [520-25]

Assistant City Attorney Condotti reported on the four items on the Closed Session agenda as follows:

Two items of pending litigation were discussed, Surf & Sand LLC vs. City of Capitola (Surf & Sand Mobile Home Park) and Save the Habitat vs. City of Capitola (Rispin Mansion Project). Council Member/Director Termini recused himself from the Save the Habitat matter due to a previously declared conflict of interest, and he was not present for discussion on that matter. No reportable action was taken.

The City Council received a report from its negotiator regarding labor negotiations with the Police Captains' bargaining unit. No reportable action was taken.

There was limited discussion regarding the one liability claim of John C. Kinstler, Jr., which is on the City Council's consent agenda (Item 3.J.) for denial.

2. ORAL COMMUNICATIONS**A. Additions and Deletions to Agenda**

Mayor Nicol announced that the City Council received a revised Quarterly Report from Assistant to the City Manager Murphy for Item 3.M. due to a printing error, and the Council received an email from Steve Graves regarding Agenda Item 4.A. pertaining to the Longs Drug Store application urging the council not to allow the drive-through proposal.

City Manager Hill noted that Item 5.A. pertaining to the Police Captains' MOU has been removed from the agenda. After a brief discussion, the following action was taken:

ACTION: Council Member Graves moved, seconded by Council Member Storey, to remove Item 5.A. from the agenda. The motion carried unanimously.

B. Public Comments

1) Sandy Erickson, Cabrillo Street, wished to voice her support of Council Member Begun's efforts to Save Jade Street Park and said she agrees that the school board members need to be replaced. She commented that school board members are elected and are responsible to the citizens as well. Ms. Erickson said there is a new auditorium and new administrative offices at New Brighton Middle School, but she has seen no improvements to student facilities at the school. She does not believe a new preschool is necessary on Jade Street Park. Ms. Erickson also commented on the 16% pay increase for Capitola Police Officers and wonders just what crimes the Police Department deters.

2) Ann Schroedel, Pacific Cove Mobile Home Park, thanked the council for postponing the public hearing regarding the park residents' request to purchase the mobile home park until after the Village parking study is completed.

2. B. ORAL COMMUNICATIONS (Continued)

3) Elizabeth Stephens asked if she could address the item relating to the Morning Village Parking Permit Program. Mayor Nicol said that item would be discussed under other business Item 5.B. Ms. Stephens said she and Mark Nelson wished to thank the mayor and council for considering this program, but they would not be able to stay for the item. They would be happy to pay the money up front for the permit and said they hope the city council approves the program. **[470-40/390-40]**

4) Mike Roberto, Jewel box resident, discussed the condition of the Community Gardens at Jade Street Park and his concerns that it is a fire hazard. He requested that the city rototill the gardens and inform the gardeners of the status of the gardens. Mayor Nicol asked about the current status of the gardens. City Manager Hill said he would check with Recreation Department staff and get back to the council. **[1050-20]**

C. Staff Comments

City Manager Hill reported that the mediation of the Rispin Mansion Project is going forward between city staff, attorneys for all parties, the Rispin LLC Partnership, and the petitioners for the stipulation agreement. There has been discussion of over 10 matters, and the parties are close to reaching a compromise.

D. City Council/Treasurer Comments/Committee Reports

1) City Treasurer Gualtieri reported that the city's last quarter sales tax revenues have fallen. Finance Director Lai confirmed that there has been a 12% decline. She said the net effect is 8%; therefore, this is about a \$100,000 decline. City Treasurer Gualtieri said the Finance Advisory Committee has been reviewing this matter and may provide some recommendations to the council in the future.

2) Council Member Termini stated there was another successful Twilight Concert on Wednesday night. He also commented on the second Capitola–Soquel radio program on KNRY from 3 to 4 p.m.

3) Mayor Nicol announced that this Sunday will be the 36th Annual Wharf to Wharf Race from Santa Cruz Wharf to Capitola Wharf.

E. Committee Appointments – NoneF. Approval of Check Register Report **[300-10]**

Mayor Nicol asked for clarification pertaining to check #56054, short-term loan from the City to the RDA of \$332,900. Finance Director Lai said this was an annual loan that funds RDA professional/contract services for one year and is paid back to the city. Mayor Nicol also questioned check #56151 for bronze plaques in the amount of \$9,797. Assistant to the City Manager Murphy stated that the amount paid is for about 5 years worth of bills. She explained that the vendor had not billed the city for the memorial program plaques for approximately 5 years.

Council Member Begun questioned checks numbered 56123, 56124, and 56125 to Thor Audio Solutions. Assistant to the City Manager Murphy said these were payments pursuant to the contract for the sound technician for the twilight concerts.

Council discussion was followed by this action:

ACTION: Council Member Begun moved, seconded by Council Member Storey, to approve the Check Register Reports dated July 3 and July 11, 2008, including checks numbered 56042 through 56138 in the amount of \$990,999.45, and checks numbered 56139 through 56214 in the amount of \$89,075.11, respectively, and payroll disbursements for the 07/03/08 payroll in the amount of \$221,028.79, for a Grand Total of \$1,301,103.35, 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 read the titles of items on the Consent Calendar for the public's information. He then asked if there were any items members of the public or the council wished to pull for separate discussion. Council Member Graves stated he would be abstaining on Item 3.B., Minutes of the May 22, 2008, meeting, since he was absent. He then said he had some minor questions on a number of items. He then discussed Items 3.C., 3.D., 3.F., and 3.G. Council Member Begun questioned Item 3.M., and Council Member Termini questioned 3.L. (*See comments under those items.*)

Mayor Nicol pulled 3.K. based on discussion of Redevelopment Agency Item C.3. He advised Item 3.K. would be discussed at the end of the meeting following Other Business Item 5.D. (*See discussion and action on Page 11189.*)

CONSENT CALENDAR ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve the Consent Calendar as recommended, with additional action concerning Item 3.M. to accept the report and direct staff to no longer produce a 4th Quarter Report. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None. * *Council Member Graves abstained on Item 3.B.*

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 May 22, 2008

ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve the Minutes of the Regular Meeting of May 22, 2008, as submitted. The motion carried on the following vote: AYES: Council Members Storey, Begun, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: Council Member Graves.

C. Award Contract to Chrisp Company in an amount not to exceed \$18,865 for Citywide Bike Lane Striping and Sharrow Painting. [940-18/500-10 AC: Crisp Company]

Prior to action being taken on this item, Council Member Graves said he was concerned that in the bids the linear feet were different in all three bids. Public Works Director Jesberg said staff based their decision on the unit prices included in the bids for striping. Council Member Graves commented on the sharrow painting and said he believes it is unnecessary.

ACTION: Council Member Termini moved, seconded by Council Member Begun, to award a contract to Chrisp Company for citywide bike lane striping services in the amount of \$18,865, 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.

D. Approval of Administrative Policy Pertaining to Anti-Fraud and Whistleblower Protection. [Administrative Policy Binder]

Prior to action being taken on this item, Council Member Graves expressed concern about setting a policy when he believes any employee can go to his/her immediate supervisor and discuss such concerns at their annual review or any other time during the year without any fear of discrimination. City Manager Hill responded that this is a federal law.

3. D. CONSENT CALENDAR (Continued)

ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve the proposed Administrative Policy: Whistleblower & Anti-Fraud Protection Policy, 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 Contract with Endeman, Lincoln, Turek & Heater, LLP, for Professional Legal Services related to the City's Mobile Home Park Rent Control Ordinance for FY 2008-09. [750-25/500-10 AC: Endeman, Lincoln, Turek & Heater, LLP]

ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve the Agreement for Special Counsel Services with Endeman, Lincoln, Turek & Heater, LLP, for legal services related to mobile home park rent control, 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.

F. Approve Purchase of Police Patrol Vehicle from Downtown Ford, Sacramento, with Included Police Equipment Package in the Amount of \$30,771, and Authorize Expenditure of \$4,800 in SLESF (COPS) Grant Funds, and \$26,000 from General Fund Vehicle Replacement Budget to Purchase the Vehicle, and Authorize Public Works to Surplus the Replaced Vehicle (1999 Crown Victoria). [370-40/330-10]

Prior to action being taken on this item, Council Member Graves commented that the fiscal impact for purchasing the police vehicle from a Sacramento dealership did not address returning the vehicle for warranty work, the down time and labor to get the vehicle, etc. Chief of Police Ehle said the vehicle can be taken to any Ford agency for warranty work, and the vehicle will be delivered.

Council Member Begun stated that there was discussion during the Finance Advisory Committee about the city's cash flow and whether funds should be spent on capital equipment such as this at this time. Since procurement of this vehicle was already processed, the committee felt it should be purchased; however, the committee believes the city needs to be careful in the future when considering capital equipment expenditures.

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

1. Awarded a purchase contract to Downtown Ford in the amount of \$30,771.23 for the purchase of one new police patrol vehicle with included police equipment package;
2. Authorized the expenditure of \$4,800 from the Police Department's SLESF (COP) grant funds and \$26,000 from the City's General Fund Vehicle Acquisition and Replacement Fund to purchase the vehicle; and
3. Authorized the Public Works Department to surplus the replaced vehicle (1999 Crown Victoria) that is scheduled to come off line in FY 2008/2009.

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 Donation from the El Dorado County Sheriff's Department of K-9 Equipment for a Patrol Vehicle. [480-53]

Prior to action being taken on this item, Council Member Graves asked if the donated K-9 equipment was going to be delivered or if the city would need to pick it up. Chief of Police Ehle said it would be delivered.

3. G. CONSENT CALENDAR (Continued)

ACTION: Council Member Termini moved, seconded by Council Member Begun, to accept the donation of aluminum K9 insert donated by the El Dorado County Sheriff's Office. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

H. Adopt Resolution Repealing Resolution No. 3705, and Adopting a New Resolution Ordering an Election, Requesting County Elections to Conduct the Election, and Requesting Consolidation of the General Municipal Election in the City of Capitola on November 4, 2008, in order to Change the Date Contained in the Ballot Measure Question and Text to December 31, 2017, and receive revised Timeline for Filing Arguments, Rebuttals, and Impartial Analysis for the City Measure. [560-10]

ACTION: Council Member Termini moved, seconded by Council Member Storey, to adopt **Resolution No. 3713, Resolution Repealing Resolution No. 3705, and Adopting a New Resolution Ordering an Election, Requesting County Elections to Conduct the Election, and Requesting Consolidation of the General Municipal Election in the City of Capitola on November 4, 2008,** in order to Change the Date Contained in the Ballot Measure Question and Text to December 31, 2017, 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.

I. Adopt Ordinance Amending Section 16 of Ordinance No. 880 by Extending the Termination Date of an Existing Transactions and Use Tax of the City of Capitola to be Administered by the State Board of Equalization to December 31, 2017. [2nd Reading] [390-70/560-10]

ACTION: Council Member Termini moved, seconded by Council Member Begun, to adopt **Ordinance No. 932, Ordinance Amending Section 16 of Ordinance No. 880 by Extending the Termination Date (to December 31, 2017) of an Existing Transactions and Use Tax of the City of Capitola to be Administered by the State Board of Equalization,** 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.

J. Deny Claim of John C. Kinstler, Jr., for an Unspecified Amount and Forward to the City's Liability Insurance Carrier. [Liability Claims Binder]

ACTION: Council Member Termini moved, seconded by Council Member Begun, to deny the claim of John C. Kinstler, Jr., for an undetermined amount and forward it to the city's liability insurance carrier. The motion carried unanimously.

K. Approve Contract with Carolyn Flynn for Professional Services Related to CDBG Program Administration and Technical Assistance with Implementation of the City's Economic Development Grants.

This item was pulled for separate discussion. (See Page 11189 for action.)

L. Adopt Resolution Amending the 2007/2008 Budget by Authorizing the Public Art Fund Expenditure of \$15,000 for the Esplanade Plaza Public Art Project. [1010-50/330-10]

Prior to action being taken on this item, Council Member Termini said he believes the amount that came out of the Public Art Fund for the Esplanade Plaza project was \$10,000, not \$15,000, as the project received \$5,000 in grant funds. Assistant to the City Manager Murphy said at the time the project was approved a budget resolution was not adopted recognizing project funds and identifying a line item project, and the proposed resolution addresses that.

3. L. CONSENT CALENDAR (Continued)

ACTION: Council Member Termini moved, seconded by Council Member Begun, to adopt **Resolution No. 3714, Resolution Amending the 2007/2008 Budget by Authorizing the Public Art Fund Expenditure of \$15,000 for the Esplanade Plaza Public Art Project**, 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.

M. Receive Departmental Quarterly Financial Report – 4th Quarter. [380-05]

Prior to action being taken on this item, Council Member Begun said he understands the need for the first three Quarterly Reports; however, he questioned the need for a 4th Quarterly Report. He asked if this was a duplicate of the usual annual report. Finance Director Lai said she prepares a year-end report in September, which captures most of the activity in the fourth quarter. It was suggested that staff not prepare a 4th quarter report.

ACTION: Council Member Termini moved, seconded by Council Member Begun, to receive the Departmental Quarterly Financial Report for the 4th Quarter, July 2007 through June 2008, as submitted, and with additional direction to staff to no longer produce a fourth quarter report. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

N. Approve Special Event Permit, Encroachment Permit, Sign Permit and Entertainment Permit to the Capitola Begonia Festival Committee for the 56th Annual Begonia Festival Activities to be held in Capitola Village from August 29 through September 1, 2008; and Approval of a City Grant of all Costs Associated with Permits and Police and Public Works Fees in the amount of \$9,202. [1050-70]

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

1. Approved the Special Event Permit, including Encroachment Permit, Entertainment Permit, and Sign Permit to hang banner, for the 56th Annual Capitola Begonia Festival to be held from Friday, August 29, through Monday, September 1, 2008, as submitted and authorized the Capitola Police Department to issue the permits; and
2. Approved a City Grant to the Capitola Begonia Festival Committee in the amount of \$9,202 to cover city costs and for permit fees.

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 Project Application #07-032 - 1750 41st Avenue: Appeal of a Planning Commission Denial of an Architectural and Site Review for an Exterior Remodel to an Existing Retail Store (Longs Drugs), a Sign Permit, and Amendment of a Conditional Use Permit to Add a Drive-Thru Pharmacy in the CC (Community Commercial) Zoning District. (APN 034-131-16) Property Owner: Longs Drugs, Inc.; Applicant: Laile Giansetto, PSM Architects, Inc. Presentation: Community Development Department. [730-10]
Mayor Nicol introduced this item and asked for a report from staff.

Senior Planner Bane summarized the written agenda report. There were no questions of staff at this time.

4. A. PUBLIC HEARINGS (Continued)

Mayor Nicol opened the public hearing at 8:25 p.m.

The City Council heard from Steve Mills, Ifland Engineering, Gary Veasy, Longs Drugs, and Laile Giansetto, PSM Architects, Inc., representing Longs Drugs.

The following members of the public addressed the city council regarding the proposed project:

Ed Davidson, Santa Cruz resident, said he was neutral on this matter. He said it seems pharmacies put the Rx counter at the furthestmost point in the store, and he thinks it would be better for customers if they would relocate the pharmacy at the front of the building.

Dennis Norton, Capitola resident and member of the Planning Commission, discussed the reasons he does not believe the drive-through window is workable. He asked the council to send the project back to the Planning Commission for review at the time Whole Foods' application is considered in order to review the center as a whole, not piece-meal.

Sandy Erickson, Cabrillo Street resident and a registered nurse, offered her support of the project and encouraged the council to approve the project. She really thinks Longs should be allowed to have a drive-up window, as there are people who need that service.

Steve Mills said he would like to address some of the points made by Mr. Norton. Council Member Graves said he didn't think it was proper for him to rebut members of the public until after the council has had an opportunity to discuss the item.

Council Member Graves said he appreciated Ifland Engineering for going out to the site with him to discuss this project. He said the corridor is already heavily used by vehicles, delivery trucks and people going to McDonald's. He expressed concerns regarding the proposed route to get to the drive-up and does not see the need for this drive-up service. Council Member Graves also recommended that the 41st Avenue Guidelines be implemented at this center. He would like to see more trees in the parking lot. In closing he said he does not support a drive-up window at this location.

Council Member Storey said he can see the benefits of a drive-up window for prescriptions; however, he would have to agree with Council Member Graves that this is not a good location for one as it is too close to a restaurant, pedestrian area, etc. He expressed concerns about the physical layout and traffic in this location. He also commented on the emissions report and said he does not feel the council has good data on the emissions issue. Council Member Storey believes this is the wrong location and said he would suggest the Bay Avenue Longs Drugs location.

Council Member Begun said he would love to see a drive-through in Capitola, and he supports the application.

Council Member Termini commented on the proposed application from a business prospective and said it was not his job as a council member to tell a business what to do with its retail establishment. He said he could support the application with conditions. He would also like the applicant to work with McDonald's to address pedestrian issues.

Mayor Nicol commented on the aging population in Capitola and said there are Capitola residents who could benefit from this service. He respects the consideration Ed Newman, his appointment to the Planning Commission, gave to this application, and he would support Commissioner Newman's approval of this project. Mayor Nicol said he would like to see the outer berm wider and landscaped to the buffer in order to soften the area.

4. A. PUBLIC HEARINGS (Continued)

At 9:29 p.m., Mayor Nicol entertained additional comments from the public.

Ron Burke, Planning Commissioner, speaking as a member of the public, discussed the deliberations at the Planning Commission regarding this application. He commented on the need to “turn your engine off while in line for the drive-up window.” Mr. Burke also commented on former Planning Commissioner Eric Marlatt’s observation that parents with sick children would not have to take them out of the car and walk through the store infecting other customers. In closing, Ron Burke suggested that the city may wish to review its regulations on drive-throughs and whether or not they should be allowed in the city.

Mayor Nicol closed the public hearing at 9:31 pm

ACTION: Council Member Termini moved to uphold the appeal and to approve Project Application #07-032 subject to the Conditions and Findings included on Attachment 1 of the Agenda Report and with the following additional conditions: 1) that the median between McDonald’s and the outer Longs drive-through be landscaped with low shrubs; 2) that the street between McDonald’s and Longs be one way out only; and 3) that the applicant participate in the removal of the planter and completion of the sidewalk in front of McDonald’s and connecting to the BevMo sidewalk.

Under discussion, Mayor Nicol commented that changing the corridor between McDonald’s and Longs to one-way out, in the westerly direction, would negatively impact McDonald’s use of its parking lot behind the restaurant. Council Member Termini said he would be willing to remove that condition from his motion.

Council Member Termini then said the fourth additional condition would be to use twenty-four inch (24”) box trees in place of the fifteen (15) gallon trees in the landscaping plan.

Mayor Nicol asked if there was a second to the motion. Council Member Termini clarified that he has removed the proposed condition that the street between McDonald’s and Longs be one-way out only from the motion. Council Member Begun seconded the motion.

Senior Planner Bane received clarification from the council regarding the motion. He expressed concern regarding the condition pertaining to installation of a sidewalk in front of McDonald’s since McDonald’s is a completely separate parcel from Longs. He questioned the city attorney as to whether the city can tie the sidewalk requirement for another parcel on this project approval.

Assistant City Attorney Condotti commented that it would need to be acceptable to the other business.

After further council discussion, Council Member Termini summarized the additional conditions of approval for clarification, stating that the median between Longs and McDonald’s will be made wide enough for planting, the sidewalk in front of McDonald’s will be extended if acceptable to McDonald’s, and that all the trees in the project will go from 15 gallon containers to 24 inch containers. Council Member Begun agreed.

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

4. PUBLIC HEARINGS (Continued)

**JOINT PUBLIC HEARINGS OF THE
CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY**

The Capitola Redevelopment Agency and City Council convened jointly during the Regular Redevelopment Agency Meeting, under Items D.1. and D.2., for the following items: (There will be no discussion on these items at this time.) **NOTE: Below is discussion and action taken during the Joint Public Hearings held during the Redevelopment Agency Meeting. Also see the Capitola Redevelopment Agency Minutes beginning on Page 1159.**

B. Joint Public Hearing on Amendment to the FY 08-09 Agency Housing Fund Budget for Housing Rehabilitation Grant and Loan Expenditures, Amending a Predevelopment and Acquisition Loan Agreement to Increase the Loan Amount from \$765,000 to \$1,365,000 in Agency Housing Funds with First Community Housing for the Bay Avenue Senior Apartments Project, and Making Findings Of Benefit To The Project Area. Presentation: Community Development Department. [760-25]

Housing and Redevelopment Project Manager Foster summarized the written agenda report and responded to questions of Directors/Council Members.

Jeff Oberdorfer, CEO and Executive Director of Bay Avenue Senior Housing, L.P., responded to questions concerning the 9% tax credit.

Director/Mayor Nicol opened the public hearing at 7:27 p.m. Seeing no one, the public portion of the hearing was closed.

Council Member/Director Termini said this is probably the most significant housing development in our city. This entire project, all of the apartments, are for special needs, including low income, very low income, disabled, etc.

Redevelopment Agency Action:

ACTION: Director Begun moved, seconded by Director Termini, to adopt **Agency Resolution No. 2008-6, Resolution of the Redevelopment Agency of the City of Capitola Amending the Housing Fund Budget by \$200,000 and Approving Amendment of Loan Documents with Bay Avenue Senior Housing, L.P., to Increase Loan by \$600,000, and Making Findings and Approvals in Connection Therewith**, as submitted. The motion carried on the following vote: AYES: Directors Storey, Begun, Termini, and Chairperson Nicol. NOES: Director Graves. ABSENT: None. ABSTAIN: None.

City Council Action:

ACTION: Council Member Termini moved, seconded by Council Member Begun, to adopt **Resolution No. 3711, Resolution of the City Council of the City of Capitola Approving a Six Hundred Thousand Dollar (\$600,000) Loan by the Redevelopment Agency of the City of Capitola to First Community Housing to Finance Property Acquisition Costs in Connection with an Affordable Housing Development, and Making Findings and Approvals Pursuant to the California Redevelopment Law in Connection with the Utilization of Agency Low and Moderate Income Housing Funds Outside of the Capitola Redevelopment Project Area for the Bay Avenue Senior Apartments Project**, as submitted. The motion carried on the following vote: AYES: Council Members Storey, Begun, Termini, and Mayor Nicol. NOES: Council Member Graves. ABSENT: None. ABSTAIN: None.

4. PUBLIC HEARINGS (Continued)

C. Joint Public Hearing on Adoption of a Historic Facade Easement for the Rispin Mansion Property located at 2000 Wharf Road (APNs 035-371-01 & -02). Presentation: Community Development Dept. [730-10]

Director/Council Member Termini recused himself from discussion of this item due to a conflict of interest and left the Council Chambers.

Acting Community Development Director/Interim Deputy Executive Director Carney summarized the written agenda report and responded to questions of directors/council members. Mr. Ric de la Cruz, representing Barry Swenson Builder, also responded to questions of directors/council members.

Assistant City Attorney/Assistant Agency Counsel Condotti responded to questions pertaining to the permanency of the easement and the city's ability to give up the right to enforce this easement.

Chairperson/Mayor Nicol opened the public hearing at 7:41 p.m. Seeing no one, the public hearing was closed.

There was no further discussion prior to the following actions being taken:

Redevelopment Agency Action:

ACTION: Director Begun moved to approve the staff recommendation to adopt **Agency Resolution No. 2008-7, Resolution of the Redevelopment Agency of the City of Capitola Authorizing and Directing the Executive Director to Execute an Offer of Dedication to the City of Capitola of an Historic Facade Conservation Easement over the Rispin Mansion Property.** Director Storey seconded the motion on the representation by our Agency Counsel/City Attorney and Executive Director/City Manager that the easement could be quitclaimed back to the Redevelopment Agency by the City Council. Director Begun accepted Director Storey's amendment to the motion and directed it be reflected in the minutes. The motion carried on the following vote: AYES: Directors Storey, Begun, Graves, and Chairperson Nicol. NOES: None. ABSENT: None. ABSTAIN: None. DISQUALIFIED: Director Termini.

City Council Action:

ACTION: Council Member Begun moved, seconded by Council Member Storey, to adopt **Resolution No. 3712, Resolution of the City Council of the City of Capitola Accepting Offer of Dedication of an Historic Facade Conservation Easement from the Redevelopment Agency of the City of Capitola over the Rispin Mansion Property,** on the same terms as approved by the Redevelopment Agency Directors; i.e., on the representation by our Agency Counsel/City Attorney that the easement could be quitclaimed back to the Redevelopment Agency by the City Council. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None. DISQUALIFIED: Council Member Termini.

5. OTHER BUSINESS

A. Resolution Approving a Memorandum of Understanding with the Captains of the Capitola Police Department for the Period of July 1, 2008, to June 30, 2011. [600-10]

Under Oral Communication Item 2.A., Additions and Deletions to Agenda, the following action was taken to remove this item from the agenda.

ACTION: Council Member Graves moved, seconded by Council Member Storey, to remove Item 5.A. from the agenda. The motion carried unanimously.

5. OTHER BUSINESS (Continued)

B. Morning Village Parking Permit Program. [470-40/390-40]

Chief of Police Ehle summarized the written agenda report and responded to questions of council members.

Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Termini to adopt **Resolution No. 3715, Resolution Approving a Year-Round Morning Village Parking Permit Program, and Amending the City's Fee Schedule Resolution No. 3703 by Adding a Morning Village Parking Permit Fee of \$50 Per Year**, as submitted. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, and Termini. NOES: Mayor Nicol. ABSENT: None. ABSTAIN: None.

Council Member Graves asked when the permits would be available. Chief of Police Ehle said they would be ready immediately.

C. Designation of Voting Delegate and Alternate for the League of California Cities Annual Conference to be held in Long Beach September 24 to 27, 2008. [150-50]

Mayor Nicol asked who would be attending this conference. Council Member Begun said he planned to attend.

ACTION: Council Member Termini moved, seconded by Council Member Storey, to designate Council Member Begun as the city's voting delegate. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

D. Contract with Julianne Ward for Consulting Services Related to the Housing Element Update During FY 2008-2009. [740-40/500-10 AC: Ward, Julianne]

City Manager Hill provided additional information regarding the proposed contract with Julianne Ward. He advised staff has spoken to Ms. Ward regarding the scope of work and have reduced the maximum not to exceed amount by \$3,000 to \$35,500. Staff will work with the consultant to determine what portions of the contract staff will assume to accommodate that reduction. In addition, City Manager Hill said staff checked with its prior consultant for the Housing Element, Joann Lombardi, who submitted a proposal which is higher than Ms. Ward's proposal.

City Manager Hill emphasized the urgency to move forward with the city's Housing Element update.

Council discussion was followed by this action:

ACTION: Council Member Termini moved, seconded by Council Member Begun, to approve a contract between the City of Capitola and Julianne Ward for consulting services related to the Housing Element Update in the revised amount not to exceed \$35,500. The motion carried on the following vote: AYES: Council Members Storey, Begun, and Termini. NOES: Council Member Graves and Mayor Nicol. ABSENT: None. ABSTAIN: None.

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

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

K. Approve Contract with Carolyn Flynn for Professional Services Related to CDBG Program Administration and Technical Assistance with Implementation of the City's Economic Development Grants. [700-10/500-10 AC: Flynn, Carolyn]

Acting Community Development Director Carney provided an explanation regarding use of CDBG payback funds to match the grant and responded to questions of council members.

Council Member Graves expressed concern about spending funds on the City Hall Site Re-Use Study when he is not sure the residents want the study.

Council discussion was followed by this action:

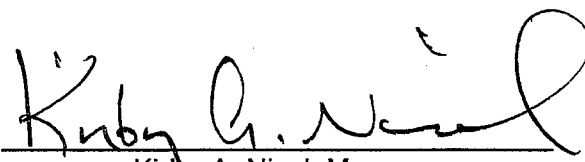
ACTION: Council Member Termini moved, seconded by Council Member Storey, to approve a sole source contract with Carolyn Flynn for an amount not to exceed \$17,075 for FY 2008-09 for assistance with the City's three open Economic Development CDBG Planning and Technical Assistance grants, and overall administration of the City's Community Development Block Grant (CDBG) Program, with change in the Job Duties listed in Attachment 1 to delete 1.a., 41st Avenue Corridor Mixed-Use Study, which was added to the Redevelopment Agency Contract. The motion carried on the following vote: AYES: Council Members Storey, Begun, Termini, and Mayor Nicol. NOES: Council Member Graves. ABSENT: None. ABSTAIN: None.

6. **ORAL COMMUNICATIONS**

Finance Director Lai announced that she called the County Assessor's Office today, and they informed her that the Capitola assessed value increased from the prior year by 3.6%. She said we had budgeted for 3.4%.

7. **ADJOURNMENT**

The Capitola City Council adjourned at 10:05 p.m. to its next Regular Meeting to be held on Thursday, August 14, 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 9/11/08