

October 9, 2008
 Capitola, California

CAPITOLA CITY COUNCIL

MINUTES OF A REGULAR/JOINT PUBLIC HEARING WITH THE CAPITOLA REDEVELOPMENT AGENCY

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

At 6:00 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 REAL PROPERTY NEGOTIATORS (Govt. Code §54956.8)

Property: 504 Beulah Drive [APN 035-141-33]
 City Negotiator: Public Works Director
 Under Negotiation: Sale of City Property

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

Save the Habitat vs. City of Capitola (Rispin Mansion Project)
 Soquel Union Elementary School District vs. City of Capitola
 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 6:02 p.m. to the closed session.

At 6:55 p.m. Mayor/Chairperson Nicol welcomed everyone to the Regular Meetings of the Capitola Redevelopment Agency and the City Council of October 9, 2008.

CAPITOLA REDEVELOPMENT AGENCY – (See *Redevelopment Agency Minutes*)

CITY COUNCIL REGULAR MEETING

Mayor Nicol called the Regular Meeting of the City Council to order at 7:27 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, City Attorney John G. Barisone, Finance Director Lauren Lai, Interim Community Development Director Anthony “Bud” Carney, Public Works Director Steve Jesberg, Chief of Police Rick Ehle, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

*** PRESENTATIONS ***

Presentations to the following Capitola Businesses receiving the “Responsible Alcohol Merchant Awards” from the Santa Cruz County Alcohol and Drug Program – Friday Night Live Partnership and Proclamations by Mayor Kirby Nicol: [120-40]

Xaloc Cabanes provided a summary of the Responsible Alcohol Merchant Program and criteria for selecting merchant awards. She explained the partnership between youth and merchants and said their efforts have resulted in a decline in alcohol use by the under aged.

PRESENTATIONS (Continued)

Mayor Nicol then announced the names of the recipients of the Responsible Alcohol Merchant Awards for Capitola and asked representatives to come forward:

AJ's Fuel Market of Capitola, 836 Bay Avenue
Circle K Capitola 76, 2195 41st Avenue
DJ's Capitola (formerly Grady's Market), 509 Bay Avenue
Longs Drug Store, 809 Bay Avenue
Longs Drug Store, 1750 41st Avenue
New Leaf Community Market, 1210 41st Avenue
Rite Aid, 1475 41st Avenue
Trader Joe's, 3555 Clares Street

Rick Garcia, Store Manager of DJ's Capitola (formerly Grady's Market), was in attendance. Mayor Nicol read and presented a Mayor's Proclamation Congratulating DJ's Capitola for receiving a 2008 Responsible Alcohol Merchant Award.

Presentation of Mayor's Proclamation Designating the Month of October 2008
"Who Named America Youth Education Month" [120-40]

Mayor Nicol read and presented the Mayor's Proclamation Designating the Month of October 2008 "Who Named America Youth Education Month" to Mr. Ricardo Gaudino. Mr. Gaudino explained the significance of Youth Education Month and opening the window to worldwide learning. He said he would like to dedicate this proclamation to the Canepa family, especially Edith Canepa Castagnola, and the Italian fishing colony. Mr. Gaudino discussed an early photograph of Capitola that links the Village of Riva Trigoso, Italy, to Capitola. He said people would need to go to www.WhoNamedAmerica.com to get the answer to the question.

Presentation of Mayor's Proclamation to Nate Doss,
2008 National Champion, United States Disc Golf [120-40]

Mayor Nicol asked Nate Doss to come forward. He announced that Nate Doss is a professional disc golf player who lives in Capitola. He has competed in the World Championships, and last Saturday he competed in South Carolina at the United States National Disc Championships where he won. Mayor Nicol said to his knowledge Nate is the only national champion from Capitola, and he wished to acknowledge and congratulate him on his accomplishment by presenting him with a Mayor's Proclamation.

Nate thanked the Mayor and informed everyone that he is also a two-time Disc Golf World Champion in 2005 and 2007, and said Capitola actually has a World Champion.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone noted that all members of the City Council/Redevelopment Agency were present; however, Council Member Termini recused himself from discussion of the Save the Habitat matter due to a conflict of interest. He reported on the following items discussed in closed session:

- 1) The council received a brief update on negotiations for the ongoing potential sale of the city's 504 Beulah Drive property. No reportable action was taken.
- 2) Council Members Storey and Termini provided an update on discussions with the Soquel Union Elementary School District relating to implementation of the court judgment.
- 3) The council received a status report from City Attorney Barisone regarding the Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates) matter, which is pending before Appellate Court.
- 4) There was discussion concerning the implementation of the settlement in the Save the Habitat vs. City of Capitola litigation, which was settled on September 15, 2008. The council took no reportable action in closed session. (Council Member Termini was not present.)

1. REPORT ON CLOSED SESSION (Continued)

Following the city attorney's report, Council Member Graves commented on the matter pertaining to the Soquel Union Elementary School District vs. City of Capitola on the Closed Session Agenda. He said Council Members Storey and Termini are the city's negotiating team working toward a long-term agreement with the School District relative to the use of the Jade Street Park and other facilities outside of what was settled in the court order. He asked if since the court case has been settled there was any reason why this could not be removed from the Closed Session and be included on the regular agenda as an informational item when the council member representatives have something to report. City Attorney Barisone said that could be done.

Council Member Graves then moved to place updates pertaining to the Soquel Union Elementary School District negotiations on the Consent Calendar as an informational item when the two representatives deem they have new information to report on the negotiations. Mayor Nicol said this matter is not on the agenda. Council Member Graves suggested placing this matter on the next agenda as a consent item. [1150-05]

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – NoneB. Public Comments

1) Marilyn Garrett, Aptos resident, discussed the effects of wireless technology and WiFi microwave radiation and submitted written information for the council's information.

2) Dennis Norton announced that he is the representative from the Capitola Village Residents Association. He discussed a stressful situation that is occurring at the Surf & Sand Mobile Home Park that he learned of while visiting the park as a candidate for City Council. Mr. Norton said the park residents are in distress, and he believes the city council needs to take some type of action immediately.

3) Toni Castro, Chief Executive Officer of the Capitola-Soquel Chamber of Commerce, announced that the date of the Capitola Candidate Forum has been changed due to the Presidential Debate. It will be held on Tuesday, October 14, between 7 and 9 pm, in the City Hall Council Chambers. Everyone is invited to participate in the Forum and may call 475-6522 or send an email to toni@capitolachamber.com with questions for the candidates.

4) Glenn Hanna continued with the comments he began under Joint Public Hearing Item D.1. during the Redevelopment Agency's meeting regarding the Rispin Mansion. Mr. Hanna said the city would be receiving a request for more money for the public improvements. He commented on the information about the Rispin Project available on the city's website, and said the most important point he wished to make is that the amount of money that will appear in the general fund as a result of the Rispin Project contained on the city's website is incorrect. He explained that the only money the city will receive as a result of this project is Transient Occupancy Tax (TOT).

Council Member Termini said he was uncomfortable about the line of discussion since the item is on the agenda and "Oral Communications" is for items not on the agenda. Mayor Nicol said the actual subject matter of the speaker, financial feasibility of the Rispin Project, is not on the agenda.

Glenn Hanna continued with his prepared comments by discussing the current economic crisis and the importance of the City Council's leadership during these difficult times. He thanked the Council for the opportunity to express his feelings about this project. [730-10/275-35]

5) Capitola resident Linda Smith thanked the council for providing live Internet web cast of the City Council meetings. She then said, with all due respect to Mr. Hanna, that the City of Capitola is very much interested in continuing with the Rispin Mansion Project, and she just wanted to voice the other side tonight.

2. ORAL COMMUNICATIONS (Continued)

C. Staff Comments

City Clerk Greeninger also commented on the new date for the Capitola Candidate's Forum on Tuesday, October 14, at 7 p.m. She said the forum would be televised live and rebroadcast on Charter and Comcast Cable. She announced that voters who are voting absentee ballots may drop off their completed absentee ballots at Capitola City Hall during regular business hours rather than sending them in the mail.

D. City Council/Treasurer Comments/Committee Reports

1) City Treasurer Gualtieri said the Finance Advisory Committee is interested in reviewing the financial feasibility of the Rispin Project. He understands the figures are not yet available. He hopes that a thorough evaluation of the financial feasibility will be carried out. City Treasurer Gualtieri stated he is not sure he will be on the committee as his last meeting on the Finance Advisory Committee is in November. **[275-35/330-40]**

City Manager Hill thanked City Treasurer Gualtieri for bringing this up. He said it was not his intention to take the financial feasibility report to the Finance Advisory Committee. Mr. Ric de la Cruz explained the situation and said the bank needs a new appraisal due to the time that has elapsed. Mr. de la Cruz said Bank of the West is still their bank, and they are working with them.

2) Council Member Begun reported on his attendance at the League of California Cities Annual Conference and passed out copies of the Resolutions Voting Packet to council members and City Manager Hill. He said the Revenue & Taxation Policy Committee had a visit from Governor Schwarzenegger. Council Member Begun also commented that he spoke to a councilmember from the City of Lafayette regarding a 401K Retirement Program for their miscellaneous employees. He said the City of San Diego is also considering getting away from PERS for their employees' retirement benefit. **[150-50]**

3) Council Member Graves reported that he attended the AMBAG meeting last night and that the board hopes to announce their decision regarding a new Executive Director soon.

4) Council Member Storey commented on emails he has received from residents on Hill Street regarding traffic, pedestrian and bicycle safety. They are interested in the possibility of having a bike lane and parking on only one side of the street. He would like to ask staff to look into the situation on Hill Street and determine if it would be feasible to have parking on one side of the street.

5) Council Member Termini reported on the Library Joint Powers Board and said they would be recruiting for a new library director since Anne Turner will be retiring.

6) Council Member Termini commented on a Candidate Forum at Tradewinds Mobile Home Park where the manager of Surf and Sand Mobile Home Park walked into the meeting and made a statement to the owners that they would all need to move; they are closing the park. He expressed his concerns for the residents of the mobile home park and is interested in knowing if there is anything the city can do in this regard.

7) Council Member Termini invited everyone to the Grand Dedication of the Sea Wall Tile Art Project on Sunday, October 12, at 10 a.m. at the Bandstand in Esplanade Park. There will be refreshments, music by the Ukulele Band, and a group picture of the tiles.

8) Council Member Termini commented on the City Hall deck walkway project and the need to close City Hall one afternoon last week.

9) Council Member Termini reported that he was informed by a resident at a Capitola mobile home park that there was a break-in at their office. The concern relates to the records that were stolen, which include social security numbers of the park's residents.

2. D. ORAL COMMUNICATIONS (Continued)

10) Council Member Termini informed the council that the Commission on the Environment has had discussions regarding the possibility of directing staff to propose regulations for new construction in Capitola which would require certain water-saving aspects of a home, i.e., drip system irrigation. Council Member Termini said perhaps the building official or planning staff could report to the council on what other cities' requirements are in this regard. Council Member Graves said he wasn't sure what Council Member Termini is requesting. He believes the proper agencies the Commission on the Environment should be addressing are Soquel Creek Water District and Santa Cruz Water for that section of 41st Avenue serving citizens of Capitola. He said they are the entities that issue meters on new construction, and they could build into their guidelines meter use, a prohibition, or giving incentives for using drip irrigation. He felt the water agency was the best place for those types of regulations. He expressed concerns about city staff doing enforcement for a water agency. Council Member Termini thanked Council Member Graves for his comments and said he is interested in seeing what other cities do, getting input from the water districts, and opening the matter for discussion. Council Member Begun agreed. Mayor Nicol asked the city manager to include this on a future agenda.

11) Council Member Termini said he wanted to thank the admirer who stole his picture from the City Hall lobby. In the spirit of enjoyment, he has replaced the picture with one in a slightly lighter tone.

12) Mayor Nicol reported that the Santa Cruz County Regional Transportation Commission Merge Lanes Project at the fishhook and Highway 17 is virtually complete. He reported that the commission also has a project on 41st Avenue southbound on the Highway 1 overpass. He said the project has been held up due to technical issues with removal of the concrete berm. He said they hope to have the project completed before the holiday season. Council Member Graves asked about when the landscaping phase would begin and the duration of time it would take to complete. Mayor Nicol said landscaping will begin next year and will take about a year for all the trees to be installed.

13) Council Member Begun commented on the amount of time the public will have to review the Rail Trail Project. He said there should be a minimum of 60 days for the public to review and comment on the project, and he asked Mayor Nicol to pass his comments on to the Santa Cruz County Regional Transportation Commission Board.

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

Council Member Graves commented on the check register dates and expressed concerns about the amount of time between when the checks were issued and are now being approved by the City Council (5 weeks). He said it appears that all those checks have been issued, and, if the council objected to any of the checks, it would be too late to do anything about it. Finance Director Lai responded to his concerns and explained the process that is followed pursuant to the council's policy adopted in March 2002. Council Member Graves asked what recourse the council would have on checks already issued. Finance Director Lai explained the three levels of review including the City Treasurer, City Manager (or his designee) and the department head. City Manager Hill also commented on the process and how staff would handle such situations.

Council Member Begun questioned check #56990 to Anthony Carney relating to charges for the Rispin Project. Staff responded that work for the Rispin is charged to the RDA. Finance Director Lai said the check in question relates to Acting Community Development Director services, which are paid for by the city's general fund.

2. F. Approval of Check Register Report (Continued)

Council Member Storey commented on the cash position of the city and asked if this is a trend. Council Member Termini expressed concern about the contingency reserve. City Treasurer Gualtieri discussed the cash position shown on page 3 of the report.

Considerable Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Termini, to approve the Check Register Reports dated September 19, September 26, and October 3, 2008, including checks numbered 56926 through 56972 in the amount of \$39,847.74, checks numbered 56973 through 57070 in the amount of \$234,575.81, and checks numbered 57071 through 57124 in the amount of \$48,098.07, respectively; and payroll disbursements for the September 26, 2008, payroll in the amount of \$189,398.32, for a Grand Total of \$511,919.94, as submitted. The motion carried on the following vote: AYES: Council Member 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 Begun commented on the minutes of September 25, 2008. (See comments under Item 3.B.) Council Member Storey pulled Item 3.D. regarding the City's 60th Birthday, and City Manager Hill pulled Item 3.E. regarding the new Community Development Director's employment agreement.

Mayor Nicol advised Items 3.D. and 3.E. would be discussed at the end of the meeting following Other Business Item 5.B. (*See discussion and action on Page 11232.*)

CONSENT CALENDAR ACTION: Council Member Termini moved, seconded by Council Member Storey, to approve the Consent Calendar, with the exception of Items 3.D. and E., and with correction to the Minutes of September 25, 2008. 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 Meetings of September 11 and September 25, 2008.

Prior to action being taken on the Consent Calendar, Council Member Begun commented on the minutes of September 25, 2005, regarding the first item on the Report on Closed Session (Page 11213). He said the introductory sentence, "Public Employee Evaluation of the City Manager" was confusing and should be deleted. The Council Members concurred.

ACTION: Council Member Termini moved, seconded by Council Member Storey, to approve the Minutes of the Regular Meetings of September 11 and 25, 2008, with correction to Page 11213 of the Minutes of September 25, 2008, to delete the phrase "Public Employee Evaluation of the City Manager." The motion carried on the following vote: AYES: Council Members Storey, *Begun, *Graves, Termini and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None. (*Note: Council Members Begun and Graves abstained from the Minutes of September 25, 2008, since they were absent.*)

C. Receive Planning Commission Action Minutes - None

3. CONSENT CALENDAR (Continued)

- D. **Approve Work Plan for the City's 60th Birthday Celebration. [160-10]**
This item was pulled for separate discussion. (See action on Page 11232.)
- E. **Approve Employment Agreement with Benjamin "Jamie" Goldstein for the Position of Community Development Director. [500-10 A/C: Goldstein, Benjamin "Jamie"]**
This item was pulled for separate discussion. (See action on Page 11232.)
- F. **Accept Report on the Art & Cultural Commission "Sea Wall Tile" Public Art Project. [1010-10]**

ACTION: Council Member Termini moved, seconded by Council Member Storey, to accept the report on the Art & Cultural Commission "Sea Wall Tile" 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.

4. PUBLIC HEARINGS

- A. **Public Hearing on Changes to the Conditions of Approval Required by the Superior Court of the State of California for the County of Santa Cruz on 9/15/08 (Case #CV 149983), for the Rispin Mansion Restoration and Hotel: Project Application #08-014, for a 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 AR/VS/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 Department. [730-10].**
 Mayor Nicol introduced the agenda item.

At 8:43 p.m. Council Member Termini recused himself from discussion of this item due to a conflict of interest, and he left the Council Chambers.

Interim Community Development Director Carney summarized the written agenda report and responded to questions from Council Members pertaining to the parking, vehicles allowed on the site during Mode B as it relates to ADA compliance, use of ZEV vehicles, monarch butterflies, the 4-foot fence that may be built (page 3 of the staff report), etc. He discussed the revisions to the conditions of approval as identified in Resolution No. 3393 and went over each such revision contained in the draft resolution. Interim Community Development Director Carney informed the Council that this permit amends the Coastal Development Permit and can be appealed to the California Coastal Commission.

Following council member comments and response from staff, the applicant was given an opportunity to address the City Council.

Ric de la Cruz, Barry Swenson Builder, responded to a question about the size and location of a proposed wall and explained where the wall will be. He also said at this time they would like to request that they not install the 4-foot wall that "may" be built. Mr. de la Cruz then discussed parking and possible shuttle services. He said they would be looking into additional parking at DMV and AAA on Capitola Road.

Council Member Storey asked if adequate parking would be available if the City were to build a larger library on the site. City Manager Hill responded that at this time he does not know the answer to that question.

4. A. PUBLIC HEARINGS (Continued)

Mr. de la Cruz noted that the Staff Report uses the phrase Rispin Partners LLC, and the Resolution uses the correct phrase, "The Rispin LLC." For the record, Mr. de la Cruz clarified that Rispin Partners LLC is the partnership of Ron Beardslee and Dan Floyd, and The Rispin LLC is the partnership with Green Valley Corporation and Rispin Partners LLC.

Mayor Nicol opened the public hearing at 10:08 p.m., and the following people spoke:

Dennis Norton, Capitola resident and former City Council Member, spoke in support of the project. He also discussed the history of this project and the Stipulated Judgment.

Peter Pethoe, Vice President of the Santa Cruz Hostel Society, commented on a hotel project in Santa Barbara and the Coastal Commission's requirement for the developer to open a hostel. Mr. Pethoe went on to say he was not going to bring this up; however, Santa Cruz County needs another hostel, and it would be nice to work with the Capitola Redevelopment Agency to come up with something. In closing, he offered his support for the Rispin project and said he hopes Mr. Swenson is able to build the project.

Limited Council discussion was followed by this action:

ACTION: Council Member Storey moved, seconded by Council Member Begun, to approve the recommended action to adopt the proposed resolution and to approve the Revised Plan Set for "The Rispin."

Under discussion, Council Member Graves said he would hope the motion would include direction to have the Finance Advisory Committee review of the financial plan as suggested by City Treasurer Gualtieri. Council Member Graves then asked about Lease Operating Agreement and asked if that document would be part of the financial package. He expressed concern about the timing of the financial package, the date the project is finally approved, and the list of items required by developer.

Council Member Storey said he does not want to include Council Member Graves' amendment regarding the Finance Plan to the motion.

After discussion, Mayor Nicol called for a vote on the motion taking the following action:

1) **Adopted Resolution No: 3723, Resolution Rescinding Resolution No. 3686 and Approving Amendments to Conditional Use Permit and Architectural and Site Review Permit #97-95, and to Coastal Permit #05-005, In Accordance with the September 15, 2008, Amendment to Stipulation for Entry of Final Judgment (Superior Court of the State of California for the County of Santa Cruz; Case No. CV 149983) for the Rispin Development Project; and**

2) **Approved the Revised Plan Set for "The Rispin" dated October 9, 2008, and date stamped "Received Sep 20 2008 City of Capitola," as submitted.**

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.

4. PUBLIC HEARINGS (Continued)

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

The Capitola Redevelopment Agency and City Council convened jointly during the Regular Redevelopment Agency Meeting, under Item D.1., for the following item: (There was no discussion on this item at this time. The discussion and action taken jointly are recorded here for minute recordation purposes.)

Chairperson Nicol announced that the Redevelopment Agency and the City Council would meet jointly for the next item. City Clerk Greeninger then called the roll of Council Members. All council members were present, as was City Treasurer Tony Gualtieri.

Council Member/Director Termini respectfully recused himself from this part of the proceedings due to a conflict of interest on the Joint Public Hearing item.

B. Joint Public Hearing on Amendment to the Public Access and Conservation Easement for the Rispin Mansion Property located at 2000 Wharf Road (APNs 035-371-01 and -02). Presentation: Community Development Department [830-10/730-10]

Interim Community Development Director/Interim Deputy Executive Director Carney summarized the written agenda report and explained the differences between the original easement and the proposed amendment.

Mayor/Chairperson Nicol opened the public hearing at 7:09 p.m. The following individuals spoke:

Glenn Hanna commented on the state of the economy and concerns regarding Redevelopment Agency funds proposed to be given to Barry Swenson Builder for the project.

Peter Pethoe, Vice President of the Santa Cruz Hostel Society, submitted a letter and commented on the need for additional low-cost accommodations in Capitola.

Mayor/Chairperson Nicol closed the public hearing at 7:21 p.m.

Council Member/Director discussion was followed by this action:

Redevelopment Agency

ACTION: Director Graves moved, seconded by Director Storey, to adopt **Agency Resolution No. 2008-9, Resolution of the Redevelopment Agency of the City of Capitola Authorizing and Directing the Executive Director to Execute the "Conservation/Public Access Easement Deed" and the Offer of Dedication to the City of Capitola of an amended Conservation Easement and Public Access Easement over the Rispin Mansion Property, Assessor's Parcel Nos. 035-371-01 & -02, on behalf of the Agency, as submitted.** The motion carried on the following vote: AYES: Directors Storey, Begun, Graves, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None. DISQUALIFIED: Director Termini.

City Council

ACTION: Council Member Graves moved, seconded by Council Member Storey, to adopt **Resolution No. 3722, Resolution of the City Council of the City of Capitola Accepting an Offer of Dedication of an Amended Conservation and Public Access Easement from the Redevelopment Agency of the City of Capitola over the Rispin Mansion Property, Assessor's Parcel Nos. 035-371-01 & -02** on behalf of the City, as submitted. 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.

Council Member Termini returned to the meeting at 10:30 p.m.

5. OTHER BUSINESS

A. Report on Grants for Staff Time in Connection with Special Event Applications. *(Continued from the City Council Meeting of September 25, 2008).* [1050-70]

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 Termini moved, seconded by Council Member Graves, to accept the Report on Grants for Staff Time in Connection with Special Event Applications, as submitted. The motion carried unanimously.

Chief of Police Ehle stated that he would like to add one thing for the record; the city departments, including the Police Department, have historically included overtime projections in the budget for major events. In the Police Department the projections are part of their overtime budget.

B. Donation of a Wooden Tiki Statute by Capitola Residents. [1010-10/1040-20]

Assistant to the City Manager Murphy summarized the written agenda report and responded to questions of council members.

Council Member Graves expressed concern with the process, not with the Tiki Statue, and said what this does is to encourage others to do things without following procedures.

Council Member Storey said he is sympathetic to Matt Arthur's concerns, and he asked what the discussion was regarding the Tiki at the Art & Cultural Commission meeting. He asked if the Tiki was evaluated on the merits of the donation, the suitability of the site, and the desirability of the Tiki being representative of the City of Capitola. Council Member Storey said if the commission did that, then shouldn't the City Council reaffirm that decision. He also said if Commissioner Termini's vote were taken out, would it have passed.

Art & Cultural Commission Member Dennis Norton discussed the commission's consideration of the Tiki donation. The commissioners discussed the process and agreed to approve it for one year. They did not believe the Tiki was something that would last. Council Member Storey then asked if the Tiki had not already been placed there, would the commission have accepted and approved the donation. Commissioner Norton said no, they would not have approved it.

There was further discussion about whether acceptance of the donation makes it city property, the one-year placement of the Tiki approved by the Art & Cultural Commission and staff's recommendation for five years, additional concerns about the process, and lack of historical significance for Capitola.

Considerable Council discussion was followed by this action:

ACTION: Council Member Termini moved, seconded by Council Member Graves, to approve the Art & Cultural Commission recommendation to accept the donation of a Wooden Tiki Statue located in Esplanade Park and authorized execution of the proposed Sculpture Donation Agreement between the City and the donor, Steve Krull. The motion **failed** by the following vote: AYES: Council Members Graves and Termini. NOES: Council Members Storey, Begun, 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.*)

D. Approve Work Plan for the City's 60th Birthday Celebration. [160-10]

Assistant to the City Manager Murphy summarized the written agenda report and responded to questions from council members. There was discussion regarding funding for the event, and Assistant to the City Manager Murphy said the committee plans to have fundraisers to cover the costs. Council Member Storey expressed concern about having enough funds for fireworks. Council Member Graves said he raised money for the fireworks at the City's 50th Birthday which cost \$45,000, not \$25,000 as identified in the report. Council Member Graves also commented on having a bounce house and said a lady broke her neck in one recently.

Council discussion was followed by this action:

ACTION: Council Member Storey moved, seconded by Council Member Termini, to approve the Work Plan for the City's 60th Birthday Celebration, 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 Employment Agreement with Benjamin "Jamie" Goldstein for the Position of Community Development Director. [500-10 A/C: Goldstein, Benjamin "Jamie"]

City Manager Hill said when he prepared the agreement he used an old format and there were a few items that were left off that he need to bring to the council's attention and have inserted prior to approval. The first item relates to the PERS cap, and he read the language to be inserted in paragraph 14. The other item relates to vacation time. City Manager Hill said instead of the 240 hours maximum accumulation of vacation hours as provided in the agreement, paragraph 12 (b), it should be 504 hours consistent with the other department heads. City Manager Hill clarified that it relates to the number of vacation hours that can be accrued before cashing out.

Finance Director Lai advised that there are actually three paragraphs relating to the PERS cap, and that the same language used for the employee groups should also be used in the agreement with Mr. Goldstein. City Manager Hill agreed.

Following staff's clarification regarding amendments to the proposed employment agreement with Jamie Goldstein, the council took this action:

ACTION: Council Member Begun moved, seconded by Council Member Graves, to approve the Employment Agreement with Benjamin "Jamie" Goldstein for the Position of Community Development Director, as amended by City Manager Hill. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, Termini and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None.

6. **COUNCIL/STAFF COMMUNICATIONS**

A) Council Member Graves offered a motion to direct staff to forward the Rispin Financial Package, when it is received and has been approved by the City Manager, to the Finance Advisory Committee for review. Council Member Begun asked if the motion maker would consider a friendly amendment that it be done in such a way that it does not hold up council action. City Manager Hill then discussed the process that will be followed and the various documents to be reviewed by staff relating to the financial feasibility. He said it would be his recommendation to take this information to a special meeting of the Finance Advisory Committee. Council Member Storey seconded the motion. [275-35/330-40]

6. A) COUNCIL/STAFF COMMUNICATIONS (Continued)

Mayor Nicol asked if the council could take this action since it was not on the agenda. City Attorney Barisone said that as long as the council is providing direction and not taking specific action, it is appropriate.

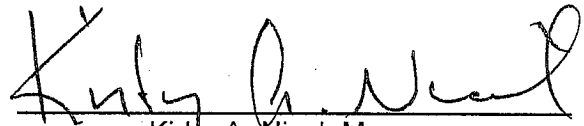
ACTION: The motion carried on the following vote: AYES: Council Members Storey, Graves, and Mayor Nicol. NOES: Council Member Begun. ABSENT: None. ABSTAIN: Council Member Termini.

B) Mayor Nicol said the residents of Pacific Cove Mobile Home Park and Burlingame are concerned about the ivy growing on the trees overhanging Pacific Cove Mobile Home Park.

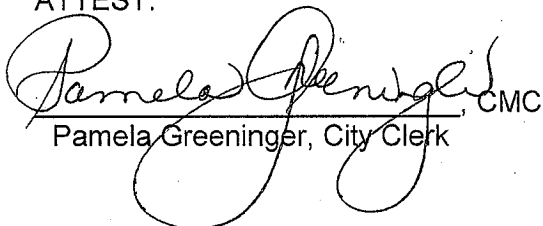
C) Mayor Nicol encouraged everyone to support their local high school and announced that there would be a football game at Soquel High on Friday night between Soquel High and San Lorenzo Valley (SLV) High School.

7. **ADJOURNMENT**

The Capitola City Council adjourned at 11:28 p.m. to its next Regular Meeting to be held on Thursday, October 23, 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 11/13/08