

March 12, 2009
 Capitola, California

CAPITOLA CITY COUNCIL

MINUTES OF A REGULAR MEETING

5:00 P.M. - CLOSED SESSION - CITY MANAGER'S OFFICE CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL

At 5:00 p.m. in the City Hall Council Chambers, Mayor/Chairperson Begun noted that City Council Members/Redevelopment Agency Directors Graves and Storey were absent. He made an announcement regarding the items to be discussed in Closed Session, as follows:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Govt. Code §54956.8)

Property:	Rispin Mansion Property, 2000 & 2005 Wharf Road APN 035-371-01 & 02
Agency/City Negotiator:	Rich Hill, City Manager/RDA Executive Director
Negotiating parties:	Rispin Partners LLC, City of Capitola, and City of Capitola Redevelopment Agency
Under Negotiation:	Lease and Development Agreement

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (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)

Surf and Sand, LLC v. City of Capitola
 Soquel Union Elementary School District vs. City of Capitola
 Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Govt. Code §54957)

Title: City Manager

Mayor/Chairperson Begun asked if anyone wished to address items on the Closed Session agenda. Seeing no one, the council/agency recessed at 5:01 p.m. to the Closed Session.

CAPITOLA REDEVELOPMENT AGENCY *(See Redevelopment Agency Minutes)*

REGULAR MEETING OF THE CITY COUNCIL

Mayor Begun called the Regular Meeting of the City Council to order at 7:05 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

PRESENT: Council Members Sam Storey, Kirby Nicol, Dennis Norton, and Mayor Robert "Bob" Begun

ABSENT: Council Member Ron Graves

OTHERS: City Treasurer Jacques Bertrand

STAFF: City Manager Rich Hill, City Attorney John G. Barisone, Community Development Director Jamie Goldstein, Public Works Director Steve Jesberg, Chief of Police Rick Ehle, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

PRESENTATIONS

**Certificate of Appreciation to Sean Saldavia
for his Service as the Redevelopment Agency Treasurer [120-40/760-10 RDA Treasurer]**

Mayor Begun presented a Certificate of Appreciation to Sean Saldavia for his service as the Redevelopment Agency Treasurer. Mr. Saldavia thanked the Mayor and City Council for this recognition. He also wished to acknowledge and give special thanks to Lonnie Wagner in the Finance Department who has been very helpful to him.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney/Agency Counsel Barisone said the City Council Members/Redevelopment Agency Directors met in Closed Session from approximately 5:00 p.m. to 6:45 p.m. in the City Manager's Office and that all City Council Members/Redevelopment Agency Directors were present with the exception of Council Member/Director Graves. He noted that Council Member/Director Nicol recused himself from discussion of the Existing Litigation item pertaining to Soquel Union Elementary School District and was not present for that discussion. City Attorney/Agency Counsel Barisone then reported on the items discussed in closed session as follows:

Conference with Real Property Negotiator - Rispin Mansion Property: The City Council/Agency Directors received an update regarding negotiations with the Rispin Partners LLC and provided direction to staff regarding ongoing negotiations. No reportable action was taken.

Conference with Real Property Negotiator – 504 Beulah Drive: The Council reviewed an offer for the 504 Beulah Drive property and provided direction to staff regarding the offer. No reportable action was taken.

Conference with Legal Counsel – Existing Litigation:

Surf and Sand, LLC v. City of Capitola – There was discussion with the City Attorney regarding ongoing litigation. No reportable action was taken in Closed Session.

Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates) - The Council received a brief update from the City Attorney on this matter. No reportable action was taken.

Soquel Union Elementary School District vs. City of Capitola – The Council received a report from the City Attorney and took no reportable action in Closed Session. (Note: Council Member Nicol was not present for these discussions due to a conflict of interest.)

Public Employee Performance Evaluation; Title: City Manager: The City Council conducted a very brief evaluation of the city manager. No reportable action was taken.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Lin Banks commented on the outstanding community participation at the various fundraisers for the City's 60th Birthday Party events. She announced that on Tuesday, March 24, the Shadowbrook Restaurant would be sponsoring a Community Tuesday event where one third of a customer's dining bill will be a direct donation to the City's 60th Birthday fundraiser. Mrs. Banks urged Capitola residents to make their reservations and join their neighbors at Shadowbrook Restaurant for this dinner.

2. B. ORAL COMMUNICATIONS (Continued)

2) Bud Carney, resident of Aptos and former Interim Community Development Director, informed the City Council that the term of Coastal Commissioner Dave Potter expires in May. Appointments to the Coastal Commission are made by the Speaker of the Assembly. Mr. Carney said a large portion of the city's property is located within the Coastal Zone, and he would strongly recommend that the council support Dave Potter for reappointment. He discussed his interaction with Mr. Potter and found him to be very helpful. Mayor Begun questioned staff about Mr. Carney's recommendation. City Manager Hill said it would be up to the council members individually whether they would like to support Mr. Potter. If the council is interested in additional information, staff could provide that to them. City Manager Hill commented that Dave Potter has been very responsive to the city on coastal matters.

3) Central Fire Protection Chief Bruce Clark announced that they were successful in obtaining a grant for \$40,000, which includes 700 smoke detectors and batteries for distribution and installation in the homes/mobile homes of seniors in the Live Oak and Capitola areas. He thanked City Manager Hill and Chief of Police Ehle for their assistance with this grant and the Police Department VIP's who will assist Central Fire in installing the smoke detectors free of charge. Information regarding the Smoke Detector Program can be accessed from the Central Fire Protective District and the City of Capitola's Websites, which have been linked, or by calling Central Fire at 831-479-6843.

4) Toni Castro, Capitola-Soquel Chamber of Commerce CEO, announced that the Chamber would also be having a Community Tuesday night at Shadowbrook Restaurant on Tuesday, March 17, where proceeds will go to the Chamber. In addition, the Capitola-Soquel Chamber of Commerce will be having the Community Awards Luncheon on Friday, March 20, at Seacliff Inn, and she encouraged everyone to attend.

5) Jeanne Roddy congratulated the city on the valet parking program approval by the Coastal Commission; however, she expressed concern about the announcement being made on the local 6 p.m. news tonight. She said many of the residents of Pacific Cove Mobile Home Park were concerned about this and the impact it might have on the mobile home park.

C. Staff Comments

1) Community Development Director Goldstein reported that today the California Coastal Commission heard an amendment to the city's Local Coastal Plan approved by the city council several years ago, pending Coastal Commission approval, to allow a valet parking program to operate in the Village. He said staff will return to the council to certify that final change.

2) City Manager Hill congratulated the Public Works Director and the Community Development Director who were mastering the controls of the television and audio so that folks at home can view tonight's meeting.

D. City Council/Treasurer Comments/Committee Reports

1) Council Member Nicol said there was a hit-and-run incident at the Crossroads Center a few days ago, and the Capitola Police Department was lightening fast in arriving at the scene, actually capturing the perpetrator within a few moments of the accident. Council Member Nicol said he received a call from the owner of the property, which sustained a considerable amount of damage, and the owner praised the Police Department for their quick action. Council Member Nicol congratulated the Police Department on their fine work.

2) Council Member Norton said he met with a group of local people who are interested in bringing back the Capitola Classic Skateboard Race. He said there was discussion about having an event in October after the tourist season.

2. ORAL COMMUNICATIONS (Continued)

E. Committee Appointments1) **Appointment of One At-Large Member to the Commission on the Environment. [430-05]**

Mayor Begun announced there were two applications received for the vacancy on the Commission on the Environment and asked if there was a motion to appoint one of those applicants.

ACTION: Council Member Storey moved, seconded by Mayor Begun, to appoint Elisabeth Bertrand Russell to fill the At-Large Member vacancy on the Commission on the Environment with a term ending December 2010, and directed staff to continue recruitment for the Youth Member vacancy. The motion carried with Council Member Norton abstaining since he is on that commission.

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

Mayor Begun asked if there were any questions on the Check Register Report. There were none.

ACTION: Council Member Nicol moved, seconded by Council Member Storey, to approve the Check Register Reports dated February 20 and 27, 2009, including checks numbered 58366 through 58402 in the amount of \$61,932.40, and checks numbered 58403 through 58489 in the amount of \$134,146.92, respectively; and payroll disbursements for the February 27, 2009, payroll in the amount of \$196,411.56, for a Grand Total of \$392,490.88, as submitted. The motion carried on the following vote: AYES: Council Member Storey, Nicol, Norton and Mayor Begun. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

3. **CONSENT CALENDAR**

Mayor Begun asked if there were any items on the Consent Calendar that members of the council or the public wished to pull for separate discussion. Council members commented on Items 3.E., F. and I. (*See comments under those items.*) No items were pulled for separate discussion.

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

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

ACTION: The City Council unanimously approved the reading by title of all Ordinances and Resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

B. **Approve City Council Minutes – None**C. **Receive Planning Commission Action Minutes for the Regular Meeting of March 5, 2009. [740-50]**

ACTION: The City Council unanimously approved the Planning Commission Action Minutes for the Regular Meeting of March 5, 2009, as submitted.

D. **Receive City Treasurer's Report for the Month ended January 31, 2009. [380-30]**

ACTION: The City Council unanimously accepted the City Treasurer's Report (Unaudited) for the Month ended January 31, 2009, as submitted.

3. CONSENT CALENDAR (Continued)

E. Accept the Soquel Creek Lagoon Wetland Filtration Bio-Swale Improvement Project as complete at a final cost of \$338,550 and approve Recordation of the Notice of Completion. [430-50/500-10 A/C: Earthworks Paving Contractors, Inc.]

Prior to action on the Consent Calendar, Council Member Nicol commented on the final cost of the project and the fact that there was money left over. He questioned how the city might use that money. Public Works Director Jesberg advised some of the extra money went toward permitting and design costs.

Council Member Storey said the council is being asked to approve filing the project Notice of Completion. He expressed concern about the suitability of fencing for the Village area. Public Works Director Jesberg said the fence was built according to the specifications; however, since there is some grant money left over he could talk to the contractor about making changes to the fence. Council Member Storey does not think the fence is particularly effective, and in his opinion it is unsightly. He asked if other council members would be interested in directing staff to look into this. Council members discussed Council Member Storey's concerns.

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to accept the Soquel Creek Lagoon Wetland Filtration Bio-Swale Improvement Project as complete at a final cost of \$338,550 and authorized the release of the contract retention of \$33,855 in 35 days following the recordation of the Notice of Completion. Staff was further directed to look into modifying the fence and to report back to council. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

F. Approve Contract with MV Transportation in the amount of \$19,230 for the 2009 Capitola Beach Shuttle Service. [770-20/500-10 A/C: MV Transportation]

Prior to action being taken on the Consent Calendar, Council Member Norton asked if it would be possible to have an audio tape in the shuttle bus with an introduction to the Village. Public Works Director Jesberg said staff could check into that. He also commented that city maps could be provided in the bus.

Council Member Storey asked about the size/capacity of the vehicle. He asked if staff would be including that information in the contract. Public Works Director Jesberg said his understanding was it would be a minimum 24-passenger vehicle with an option for a 36-person vehicle. Council Member Storey said the RFP includes that language; however, the response does not.

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to award a contract to MV Transportation for operation of the 2009 Beach Shuttle Service at an hourly rate of \$50.61 per hour for an estimated annual cost of \$19,230, with an option to renew the contract annually for up to a total of five years upon mutual consent of both parties with annual adjustments in the hourly rate. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

G. Approve Annual Contract with Hope Services in an Amount not to exceed \$13,500 for Beach and Esplanade Cleaning. [1020-60/500-10 A/C: Hope Services]

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to approve an agreement with Hope Services in an amount not to exceed \$13,500 for cleaning of the beach and Esplanade sidewalk from May 26, 2009, through September 11, 2009, and authorized the Director of Public Works to sign the agreement on behalf of the City. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

3. CONSENT CALENDAR (Continued)

H. Approve Special Event Permit for the City of Capitola's 60th Birthday Celebration to be held May 16-17, 2009, in the Capitola Esplanade. [160-10]

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to approve the proposed Special Event Permit and all related permits for Capitola's 60th Birthday Celebration to be held Saturday and Sunday, May 16 and May 17, 2009, in the Capitola Esplanade and beach area. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

I. Accept Work Plans to Achieve the Seven City Goals for 2009. [120-10]

Prior to action being taken on the Consent Calendar, Council Member Norton commented on the work plans that were developed for the City Goals. He expressed the importance of the "Buy Local" goal and encouraged the community to spend their money within the city limits of Capitola. City Manager Hill thanked the Capitola-Soquel Chamber of Commerce for helping out with this program.

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to accept the seven Work Plans developed to achieve the City Goals for 2009, as submitted. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

J. Approve Budget Calendar for the 2009/2010 Fiscal Year. [330-05/520-40]

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to approve the proposed Budget Calendar for the 2009/2010 Fiscal Year, as submitted. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

4. PUBLIC HEARINGS - None

5. OTHER BUSINESS

A. Cost Analysis for the Installation of a Modular Office Building at 504 Beulah Drive. [260-10]

Building Official Kostelec summarized the written agenda report and responded to questions of council members. Of the three options, Building Official Kostelec said he would recommend Option 3. He also reported that after submitting the agenda report, he learned that the cypress tree in question is diseased.

The following members of the public addressed the City Council on this item: Residents of Pacific Cove Mobile Home Park Ann Schroedel, Jeanne Roddy, and Sidney Jackson; and Capitola resident, Kathleen Sullivan, 502 Beulah Drive.

Considerable Council discussion was followed by this action:

ACTION: Council Member Nicol moved approval of Option 3 (demolish house at 504 Beulah Drive and install a 24'x48' modular office, 1152 square feet, on the site.) Council Member Nicol commented that Options 1 and 2 would heavily impact Space 84 and believes the \$30,000 demolition cost is high. Council Member Norton seconded the motion for purposes of discussion. He suggested an amendment to the motion that demolition materials be recycled. Building Official Kostelec said the contractor would be recycling materials as part of the contract. Council Member Norton said he would be interested in seeing a design of the structure. Building Official Kostelec said the project would go to the Architectural and Site Review Committee where design review would take place. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

5. OTHER BUSINESS (Continued)

B. Wharf House Restaurant Rent Reduction Request. [500-10 A/C: Case, Willie/ Wharf House Restaurant Lease]

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

Limited discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Storey, to approve the recommended action to deny the request by Wharf House Restaurant for a rent reduction of ten percent (10%) for the months of November, December and January. The motion carried on the following vote: AYES: Council Members Storey, Nicol, and Mayor Begun. NOES: Council Member Norton. ABSENT: Council Member Graves. ABSTAIN: None.

C. Agreement for Employment with Richard J. Ehle for Acting Chief of Police. [620-10/Personnel File/500-10 A/C: Ehle, Richard J.]

City Manager Hill summarized the written agenda report.

The following members of the public spoke in support of the proposed agreement to retain Chief of Police Ehle as Interim Chief after he retires in order to provide continuity in the Police Department and to assist in the selection of a new chief for the city:

Lin Banks, Capitola resident for almost 30 years
 Andy Dally, President of the Capitola Police Officers' Association
 Toni Castro, Capitola-Soquel Chamber of Commerce
 Lisa Carter, Executive Director of the SPCA
 Don Enos, citizen of Capitola for 30 years

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Storey, to approve the Agreement of Employment for Acting Chief of Police with Richard J. Ehle, as submitted. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

D. Early Retirement Contracts. [620-10/Personnel Files/500-10 A/C: Mayer, Todd; Downey, David; Callahan, Tim; and Arroyo, Barbara]

City Manager Hill summarized the written agenda report pertaining to the four positions that were identified for early retirement and discussed the one-time expense and ongoing cost savings to the city.

ACTION: Council Member Norton moved, seconded by Council Member Storey, to approve the four Early Retirement Agreements, as submitted, and directed the City Manager to execute the agreements on behalf of the City. The motion carried on the following vote: AYES: Council Members Storey, Begun, Termini, and Mayor Nicol. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

E. Wharf Pile Replacement Project. [280-20]

Public Works Director Jesberg said additional information was provided to the council tonight regarding the bids that were received yesterday. He said two bids were received; one from Power Engineering Contractors and one from Associated Pacific, with Power Engineering the low bidder.

Public Works Director Jesberg said it has also come to his attention that the floating dock is in need of repair, and that would be something Power Engineering could do. He would like to bring that work into the project.

5. E. OTHER BUSINESS (Continued)

Public Works Director Jesberg summarized the recommended actions and responded to questions of council members regarding the cost difference of certain items between the two bids.


Considerable Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to accept the report on bids received for the construction of the Wharf Pile Improvement Project as submitted by the Public Works Director, approved award of the contract to Power Engineering Contractors in an amount not to exceed \$150,000 for the completion of the Wharf Pile Improvement Project, and authorized the Public Works Director to negotiate the final scope of work based on the bid prices received to achieve the maximum benefit to the City. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

6. COUNCIL/STAFF COMMUNICATIONS - None

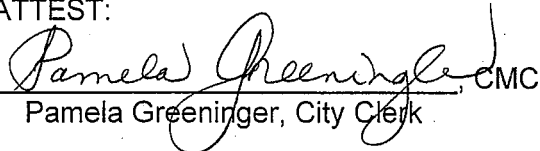
7. ADJOURNMENT

The City Council adjourned at 8:31 p.m. to its next Regular Meeting to be held on Thursday, March 26, 2009, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Robert A. Begun, Mayor

ATTEST:



Pamela Greeninger, City Clerk

MINUTES WERE APPROVED BY THE CITY COUNCIL ON 3/26/09, WITH COUNCIL MEMBER GRAVES ABSTAINING