

March 26, 2009
 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 6:01 p.m. in the City Hall Council Chambers, Mayor/Chairperson Begun noted that all City Council Members/Redevelopment Agency Directors were present. 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 LEGAL COUNSEL – EXISTING LITIGATION (Govt. Code §54956.9a)

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

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Robert Madruga

PERFORMANCE EVALUATION (Govt. Code §54957)

Title: City Attorney

Mayor/Chairperson Begun asked if anyone wished to address items on the Closed Session agenda.

Michael Termini commented on the direction he was given as facilitator between the Capitola City Council/Redevelopment Agency and Rispin, LLC, on Tuesday evening following the City's Special Joint Closed Session pertaining to Real Property Negotiations on the Lease and Development Agreement. He provided an update on directions he was given regarding the rent schedule and the conservatory. He informed council members/directors that he has tried to meet with Barry Swenson; however, Mr. Swenson's mother has died, and he has not been available. Mr. Termini said he has communicated with Mr. Majors of Barry Swenson Builder pertaining to the idea of a flat rent and 6% rent under certain conditions. Mr. Termini responded to questions of council members/agency directors pertaining to this matter.

On another matter, Michael Termini said he would not be able to attend the City Council meeting at 7:00 p.m., and he wanted to inform the Council that, as Chair of 60th Birthday Celebration Committee, he has spoken to both contributors about their contributions for the fireworks display, and they informed him their donations are for the fireworks display only.

The City Council/RDA Directors recessed at 6:11 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 7:00 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

PRESENT: Council Members Ron Graves, Sam Storey, Kirby Nicol, Dennis Norton, and Mayor Robert "Bob" Begun
ABSENT: None
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*****

**Certificates of Commendation to
 Capitola Police Officer Kai Drechsler
 and Sergeant Cliff Sloma [120-40]**

Chief of Police Ehle explained the circumstances surrounding the lifesaving efforts of Police Officer Kai Drechsler and Sergeant Cliff Sloma for Mr. James Higgins that occurred at the City Hall parking lot on January 26, 2009. He said their swift actions in trying to save the victim's life, along with their compassionate response in dealing with the grieving granddaughter and children, exemplify the qualities that make exceptional police officers. Chief of Police Ehle presented Certificates of Commendation of behalf of the Capitola Police Department to Police Officer Kai Drechsler and to Sergeant Cliff Sloma, who tried valiantly to save a person's life.

**Presentation by the Association of Monterey Bay
 Area Governments (AMBAG)**

regarding the Monterey Bay Region Blueprint Program [150-10]

Community Development Director Goldstein provided a brief introduction regarding the Monterey Bay Region Blueprint Program, and he introduced John Doughty, Executive Director of AMBAG, and Katie Axt, Associate Planner for AMBAG.

John Doughty introduced himself as the newly-appointed executive director for AMBAG, stating he was the Community Development Director for the City of Watsonville for many years.

Katie Axt thanked Council Member Graves and Council Member Norton for their participation in the Blueprint Program. Utilizing a PowerPoint Presentation, Ms. Axt summarized the reasons for the study and the importance of the Blueprint Program. (A copy of the PowerPoint Presentation is on file). Ms. Axt responded to questions of council members following her presentation.

**Certificates of Appreciation to Ken and Jessica Nemire
 for Service on the Commission on the Environment [120-40]**

At 7:22 p.m., Mayor Begun noted that Ken & Jessica Nemire were in the audience and asked them to come forward. On behalf of the City Council, Mayor Begun presented a Certificate of Appreciation to Ken Nemire for his service on the Commission on the Environment from October 2006 to January 2009, and to Jessica Nemire for her participation as the Youth Member on the Capitola Commission on the Environment from June 2007 to January 2009. Mayor Begun thanked them both for their notable successes while serving on the commission, including the polystyrene ordinance. He said he was sorry they were leaving and asked if they would like to say a few words.

Jessica thanked the Mayor and said she has been very busy with school work and is not able to continue her service on the commission at this time. Ken said he has started an organization called "Capitola Grassroots Environmental Action Network" in an effort to get more grassroots support of environmental issues.

PRESENTATIONS (Continued)

Council Member Norton noted that Ken Nemire was the lead advocate from the Commission on the Environment in bringing the polystyrene ordinance to the city. Now every jurisdiction in the county has such an ordinance.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone advised that the items discussed in closed session are those items listed on the first page of the posted agenda. The City Council/Redevelopment Agency Directors went into closed session shortly after 6 p.m. and ended at approximately 6:55 p.m. Prior to going into Closed Session, Michael Termini reported on continued negotiations pertaining to the Rispin Mansion Real Property Negotiations. Following Mr. Termini's report, the City Council/RDA Directors adjourned to the Closed Session where there was continued discussion with the Agency/City Negotiator Rich Hill pertaining to negotiating amendments to the Lease and Development Agreement between Rispin, LLC, the City of Capitola, and the Capitola Redevelopment Agency. The Council/Directors received an update from Mr. Hill and provided instructions for further negotiations. No reportable action was taken in closed session.

The council heard briefly from the City Attorney regarding the Surf & Sand, LLC, litigation. No reportable action was taken.

In the Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates) matter pending before the 6th District Court of Appeal, the City Council was informed that the final brief has been filed, and the city will wait for the Appellate Court to either provide oral argument at the request of the parties or to simply issue its written decision. City Attorney Barisone said that process can take anywhere from 4 to 12 months, depending upon whether or not oral arguments are requested by either of the parties.

The Council heard briefly from the City Manager regarding the tort Claim of Robert Madruga, which is on the City Council's Regular Meeting Agenda. No reportable action was taken in Closed Session on that matter.

With regard to the Soquel Union Elementary School District vs. City of Capitola matter, Council Member Nicol recused himself due to conflict of interest purposes prior to the City Council discussion relating to that matter. The Council took no action reportable under the Brown Act in Closed Session; but they directed him to report that, as part of its ongoing administration of the judgment, the Soquel Union Elementary School District has prepared what is known as the "Opal Cliffs Public Works Plan," which the school district plans to submit to the California Coastal Commission for approval. City Attorney Barisone said that plan calls for the eventual development of the Jade Street Park property with a Kindergarten and 1st grade in phase 1 of the development, and a K-5 in the second phase of development, as called for by the plan. In accordance with judgment, the city has been monitoring that process, and the Council directed the attorney's office to provide the school district with an analysis of why that plan requires environmental review under CEQA before it can be approved by either the school district or the Coastal Commission.

In providing this direction, the council asked the City Attorney to emphasize that the City is not taking a position pro or con with regard to the development called for by the Opal Cliffs Public Works Plan; it is simply requesting that the school district provide the information under CEQA. The City and members of the public must understand the environmental ramifications of development of the site as a school so that the city council can make an informed decision, if and when the time comes for it to take a position, with regard to the development of that site.

Finally, City Attorney Barisone said he was scheduled to receive a performance evaluation; however, due to time constraints that did not take place.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

2. ORAL COMMUNICATIONS (Continued)

B. Public Comments

1) Jeanne Roddy, Pacific Cove Mobile Home Park resident, commented on the City's webpage, saying it is difficult to find parking information for the city. She explained that one takes a link on the City's home page that takes one to the Chamber of Commerce website, where, at the bottom of the page, is information about parking. She suggested that if the city wants the beach shuttle to be successful and increase parking in the Pacific Cove lot this summer, perhaps staff should take a look at the City's website and provide more detailed information about the beach shuttle and parking opportunities in Capitola.

2) Ann Schroedel, Pacific Cove Mobile Home Park resident, reported that the Capitola Branch Library does not have the DVD of the council's last meeting. She also stated that although the Library has Internet access available to the public, they have no audio for listening to meetings from the city's website. *(Note: Due to the technician arriving late at the last meeting of the RDA/City Council held March 12, 2009, there was no video recording or web-streaming of the meeting.)*

City Clerk Greeninger reported that she spoke to the librarian regarding this matter today. She commented that now that the Council meetings are video-streamed and archived on the city's website, there have not been many requests to watch the DVD's at the library.

Council Member Graves said he would prefer a tape/DVD and would suggest copies be available at City Hall to view or check out.

Council Member Storey commented that the DVD's should be available at the library, as well as the printed minutes. City Manager Hill asked if the printed minutes were available at the library. City Clerk Greeninger said the minutes for approval are included in the agenda packet that is available for view at the Library; however, final printed copies of approved meetings are not kept there. Council Member Storey suggested there be something posted at the library referring inquiries about past minutes to call a specific number or person.

Ms. Schroedel said she has dial-up Internet service and cannot view the streamed video from the City's website.

3) Sean Miller, President of the Pacific Cove Mobile Home Owners' Association, also commented on the March 12 City Council meeting, stating that there were a number of things he wanted to listen to. Mr. Miller then announced that he stood before the Council to speak in opposition to the decision to demolish the Beulah House. More importantly, he spoke in defense of Mark and Kathryn Sullivan (Sullivans), who were negotiating with the City to purchase the Beulah House. He expressed concern about treatment of the Sullivans by the City Manager's office and the City Council. Mr. Miller went on to discuss background information pertaining to the sale of the Beulah House to the Sullivans and expressed his concerns regarding stalled negotiations on the process of selling the property to the Sullivans.

In closing he said the Sullivans have been excellent stewards of their property, and now they will have to look at whatever the city places there. He thinks what occurred is a tragedy, and he would hope the council would reconsider what they did.

4) Molly Ording announced that she is a member of a group of city residents, employees, and council members meeting every Wednesday at the Flag Pole at City Hall at 12 Noon for 45 minutes of exercise and conversation. She said the group calls itself "Capitola Walks," and everyone is invited to join the group. Ms. Ording said it is a wonderful time for community building and learning new things about different parts of our Capitola community.

Ms. Ording also commented that she would like to discuss Consent Items 3.F. & G. pertaining to the fireworks. City Attorney Barisone said she could ask to pull that item for discussion when the Consent Calendar is discussed.

2. ORAL COMMUNICATIONS (Continued)

C. Staff Comments

1) City Clerk Greeninger announced that the deadline for applications for the newly-formed Traffic & Parking Commission was yesterday. She reported that there are not enough applications to fill all of the public member seats on the commission. In light of the fact that the first meeting of the commission will not be held until the first part of May, staff would like to know if the council is interested in extending the application deadline to mid-April in order to receive additional applications. The Council could then reschedule appointments to April 23 rather than on April 9, as was previously directed.

Council Member Graves said he was concerned with the process, specifically that staff sent out an extended deadline without obtaining Council approval. He would be interested in knowing which categories have/have not been applied for.

After council discussion, the following action was taken:

ACTION: Council Member Graves moved, seconded by Council Member Norton, to add an item to tonight's agenda to "Consider Extending the Deadline for Applications for the Traffic & Parking Commission," with the finding that the matter arose after the posting of the agenda and needs to be acted upon prior to the Council's next regular meeting scheduled for April 9, 2009. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

City Manager Hill suggested placing this matter as Item 2.E., Committee Appointments.

2) Chief Ehle thanked the council for its action regarding the Interim Police Chief Agreement at the last meeting and for their comments. He also announced that he, along with over 100 law enforcement officers from Santa Cruz County, would be attending the memorial service in Oakland for the police officers who were recently killed there.

D. City Council/Treasurer Comments/Committee Reports

1) Council Member Storey responded to the comments made by Sean Miller during Public Comments regarding transactions pertaining to the sale of the Beulah House. He said in October of 2007 the City Council made a motion to sell the house to Mr. & Mrs. Sullivan, and it was not until the last meeting in Closed Session that an offer was made by the Sullivans. The City Council, within their responsibility to respond with the interest of the city as a whole, rejected that offer. There was no foot-dragging on behalf of the city. He said the Sullivans could have made an offer any time during that 18-month process. The offer was not in the interest of the residents of the city. Council Member Storey said he wanted to respond to Mr. Miller's comments because the way it was characterized by Mr. Miller was not accurate.

Council Member Graves said he was absent at the last closed session and regular meeting and was interested in knowing whether a decision on the property was arrived at during closed session, and if the city had a responsibility to announce that decision at the meeting. He believes the public needs to know what happens with real property and asked for an explanation.

City Manager Hill said he cannot disclose precisely what was discussed in closed session; however, he did provide a synopsis of events relating to the sale of the Beulah House property to the Sullivans.

Council Member Storey added that at that meeting, during the council's discussion of the Beulah House as it related to the modular office building, he made the point that the negotiations for selling that house had collapsed.

2. D. ORAL COMMUNICATIONS (Continued)

2) Mayor Begun announced that he has issued a Mayor's Proclamation designating April 2009 "DMV/Donate Life California Month" in recognition of National Donate Life Month and in doing so encourage all Californians to check "Yes" when applying for or renewing their driver's license or I.D. card.

3) City Treasurer Bertrand announced that the Finance Advisory Committee met on March 17 and had adjourned to a Special Meeting on March 25, which was cancelled. He also said a special meeting may be called for the Finance Advisory Committee to discuss the Rispin Lease and Development Agreement.

E. Committee Appointments1) ***ADDED ITEM* - Consider Extending the Deadline for Applications for the Traffic and Parking Commission.**

City Clerk Greeninger said in order for the council to review applications prior to the April 23 meeting, a deadline of mid-April, April 15 or 18, would be recommended.

ACTION: Council Member Graves moved, seconded by Council Member Norton, to extend the deadline for applications for the Traffic & Parking Commission to approximately April 18, 2009, for appointment at the City Council's meeting on April 23, 2009. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

Council Member Graves commented on the process of selecting members and asked the city attorney if, when the council receives the final number of applicants, council members could give their first pick to the clerk. He discussed the reasons for his request as he is interested in facilitating the process, particularly with respect to the individual council appointments. City Attorney John Barisone said the council could not do that.

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

Council Member Storey questioned check #58577 to the Santa Cruz County Elections Department for over \$11,000. City Clerk Greeninger said that was the total cost for consolidating the city's municipal election held in November of last year. She clarified that the County Clerk has to conduct a thorough review of expenses for all jurisdictions consolidating with the county before finalizing the invoice.

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to approve the Check Register Reports dated March 6 and 13, 2009, including checks numbered 58490 through 58543 in the amount of \$79,601.49, and checks numbered 58544 through 58590 in the amount of \$142,020.64, respectively; and payroll disbursements for the March 6 and 13, 2009, payrolls in the amount of \$100,994.53 and \$92,846.30, respectively, for a Grand Total of \$415,462.96, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

3. **CONSENT CALENDAR**

Mayor Begun summarized the items listed on the Consent Calendar and asked if there were any items that members of the council or the public wished to pull for separate discussion.

Molly Ording asked to pull Items 3.F. & G. regarding fireworks for the City's 60th Birthday Celebration.

Jeanne Roddy pulled Item 3.B. regarding the Minutes of March 12, 2009.

Council Member Graves pulled Items 3.E., H. and K. for minor discussion.

3. CONSENT CALENDAR (Continued)

Council Members Norton and Nicol commented on Item 3.C. pertaining to the Appeal of Application #08-058 at 107 Stockton Avenue. (*See comments under that item.*)

Council Member Graves had a question on Item 3.J. pertaining to the Master Agreements with Caltrans. (*See comments under that item.*)

Mayor Begun advised Items 3.B., E., F., G., H. and K. would be discussed at the end of the meeting following Other Business Item 5.A. (*See discussion and action on beginning on Page 11353.*)

CONSENT CALENDAR ACTION: Council Member Storey moved, seconded by Council Member Nicol, to approve Consent Calendar Items 3.A., C., D., I., J., L., and M. as recommended. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None. (*NOTE: Council Member Norton recused himself from voting on Item 3.C. only, pertaining to setting Appeal Hearing for Application #08-058, due to a conflict of interest.*)

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 February 26 and March 12, 2009.

This item was pulled for separate discussion. (See discussion and action on Pages 11353 and 11354.)

C. Set Public Hearing for April 23, 2009, on the Appeal of Application #08-058, 107 Stockton Avenue, Coastal Permit and Architectural and Site Review for a Remodel and Second Story Addition to an Existing Commercial Building. [730-10]

Prior to action being taken on the Consent Calendar, Council Member Norton announced that he would need to recuse himself from voting on the Appeal of Application #08-058 at 107 Stockton Avenue due to a conflict of interest.

Council Member Nicol also commented on Item 3.C. stating he would like to see the installation of true and complete story poles for the project prior to the appeal hearing.

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to approve the recommended action to set a Public Hearing on the appeal of Application #08-058, 107 Stockton Avenue, Coastal Permit and Architectural and Site Review for a Remodel and Second Story Addition to an Existing Commercial building, for the City Council meeting of April 23, 2009. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None. DISQUALIFIED: Council Member Norton.

D. Receive City Treasurer's Report for the Month Ended February 28, 2009 (Unaudited). [380-30]

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to accept the February 2009 Treasurer's Report (unaudited) for the City of Capitola. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

3. CONSENT CALENDAR (Continued)

- E. **Adopt Resolution Repealing Resolution No's. 3697 and 3737 and Revising the City's Parking Penalties to Reflect State Mandated Surcharges for Certain Parking Violations.**

This item was pulled for separate discussion. (See discussion and action on Page 11354.)

- F. **Approve Special Event Permit for Fireworks Display off Capitola Wharf on Wednesday, September 2, 2009, in Celebration of the City of Capitola's 60th Birthday.**

This item was pulled for separate discussion. (See discussion and action on Pages 11355 and 11356.)

- G. **Approve Contract with Fireworks & Stage FX America for a Fireworks Show on September 2, 2009, in Celebration of the City of Capitola's 60th Birthday.**

This item was pulled for separate discussion. (See discussion and action on Pages 11355 and 11356.)

- H. **Approve Art & Cultural Commission recommendation to Advertise and Accept Artists' Submissions for the Graphic Traffic Utility Boxes Public Art Project, which includes hiring an artist to paint City-owned Traffic Signal Boxes.**

This item was pulled for separate discussion. (See discussion and action on Page 11356.)

- I. **Adopt Resolution Amending the FY2008-2009 Budget to Close Out Completed Capital Improvement Project Funds. [330-10]**

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to approve a **Resolution No. 3741, Resolution Amending the 2008-09 Fiscal Year Budget Regarding Capital Projects**, transferring funds among eight completed capital improvement project funds for the purposes of closing out the fund. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

- J. **Adopt a Resolution Authorizing the City Manager to Sign Master Agreements with State of California Transportation Department (Caltrans) for State and Federal Aid Projects. [770-05/500-10 A/C: State of California Transportation Department (Caltrans)]**

Prior to action being taken on the Consent Calendar, Council Member Graves questioned staff pertaining to the language in the Master Agreement and questioned if the agreement is cost neutral. He expressed concern that the contract does not state what it will cost the city to receive the federal grant funds.

Public Works Director Jesberg advised the city is committing to fulfilling the project pursuant to their process/guidelines and for maintaining the project.

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to adopt the proposed **Resolution No. 3742, Resolution Approving Master Agreements between the State of California Transportation Department and the City of Capitola for Funding of all Non-Infrastructure Federal-Aid Projects under Agreement No. 05-5304R** and authorizing the City Manager to execute the Master Agreement and any other documents relating to Administering the Agency-State Agreement for Federal-Aid Project on behalf of the City.

- K. **Approve the 4th Amendment to the Wharf Lease and Mooring Concession Agreement with JFS, Inc.**

This item was pulled for separate discussion. (See discussion and action on Page 11356 and 11357.)

3. CONSENT CALENDAR (Continued)

L. **Adopt Resolution Amending the FY2008-2009 Operating Budget to Fund the “Capitola 1st...Buy Local” Media Campaign. [330-10]**

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to adopt **Resolution No. 3743, Resolution Amending the FY2008-09 Operating Budget to Transfer \$3,000 from the City Manager’s Unanticipated Events Fund to the City Manager’s Contract Services, and to Increase the City Manager’s Contract Services Expenditures for the “Capitola 1st ... Buy Local” Media Campaign.** The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

M. **Deny Claim of Robert Madruga for an Undetermined Amount and Forward the Claim to the City’s Liability Insurance Carrier. [Claims Binder]**

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to deny the claim of Robert Madruga for an undetermined amount and forward the claim to the City’s Liability Insurance Carrier. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

4. PUBLIC HEARINGS - None

5. OTHER BUSINESS

A. **Support of Assembly Bill No. 566 Pertaining to Mobilehome Parks Conversion. [730-85]**

City Clerk Greeninger summarized the written agenda report and advised Rick Halterman was available to discuss this item and answer questions of council members.

Rick Halterman said the council had an excellent staff report that explains this item very well. He informed the council that the County of Santa Cruz has already supported this bill, and because there have been some setbacks in state law regarding sham conversions, this legislation is important. If the Council decides to support AB 566, he said it was important to send the letter of support to the Assembly’s Committee on Housing & Community Development.

ACTION: Council Member Norton moved, seconded by Council Member Storey, to direct staff to prepare a letter in support of Assembly Bill No. 566 pertaining to mobile home park conversions for the Mayor’s signature, to be sent to the Assembly’s Committee on Housing & Community Development, with copies to Assembly Members Bill Monning and Anna Caballero. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

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

3. CONSENT CALENDAR (*Items pulled for separate discussion.*)B. **Approve City Council Minutes – Regular Meetings of February 26 and March 12, 2009. [170-10]**

Jeanne Roddy said the minutes were difficult to review prior to the meeting. She stated that she sent an email to the City Council requesting corrections to the minutes of the City Council Meeting of March 12 (*copy on file*). She is concerned that the minutes relating to her oral comments were incomplete, and she had requested that her comments in the minutes include her entire comment regarding valet parking being approved in the Village. She said her comment was spurred by a TV piece aired on KSBW before the Council meeting on that day. Ms. Roddy said she did congratulate the Council on achieving Coastal Commission approval for valet parking in the Village as it was a good addition to the parking solution.

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

Ms. Roddy said her comment regarding the KSBW piece not being included in the minutes was important, because the public should know that our Council was portrayed as stating that valet parking was approved for public lots or public-owned property. The report inferred the possible future use of Pacific Cove Mobile Home Park or a second level at Pacific Cove parking lot for valet parking. She had expressed concern about discussions of the use of their mobile home park for other than housing use as it was insensitive to the residents. She said this was her actual objection to the report. The actual decision of the Coastal Commission was to approve valet parking use in private lots not normally used by businesses during peak times needed for beach and village visitors. Ms. Roddy said this approval in no way mentioned use of Pacific Cove Park or any other public property for valet parking.

In closing, Ms. Roddy said she would appreciate the minutes being corrected to reflect her comment regarding the inaccuracy of the KSBW report which aired on the 12th of March.

Community Development Director Goldstein explained whether the valet parking could be used in public or private parking lots. He said the Coastal Commission made several changes to the original ordinance the City submitted for consideration. One specific change made by the Coastal Commission was to remove the ability to operate the valet parking program out of a public lot. The Coastal Commission's intent was to preserve the amount of public parking available. Community Development Director Goldstein said he discussed with Coastal Commission staff the possibility of valet parking on public lots should the city have additional public parking in the future. Coastal staff informed him that if that did occur the City could come back to the Coastal Commission and request an amendment to the approved valet parking program.

Mayor Begun asked if the city clerk could correct the minutes as requested by Ms. Roddy. City Clerk Greeninger said she would need to listen to the recording to confirm those were her comments. She also stated that the complete agenda packet, including minutes for approval, is available at City Hall, the Capitola Branch Library and on the city's website. In addition, the City Clerk's office is here to serve the public and can provide copies minutes upon request.

City Manager Hill suggested that if this is a matter of concern to the council, that the council provide direction to the city clerk to record the discussion tonight in tonight's minutes, in which case it will reflect the errors identified by the television report and will reflect the Community Development Director's discussion.

ACTION: Council Member Graves moved, seconded by Council Member Norton, to approve the Minutes of the Regular Meetings of February 26 and March 12, 2009, as submitted, and to direct the City Clerk to record the discussion tonight regarding Ms. Roddy's comments and the comments of Community Development Director Goldstein. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

E. Adopt Resolution Repealing Resolution No's. 3697 and 3737 and Revising the City's Parking Penalties to Reflect State Mandated Surcharges for Certain Parking Violations. [470-40]

Chief of Police Ehle responded to questions of Council Member Graves pertaining to the proposed fine increases.

Council Member Norton expressed concern about raising these fines because the state cannot manage itself financially and puts the burden on local jurisdictions.

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

Mayor Begun asked what would happen if the council does not support this. Chief of Police Ehle said the city would get less money.

Council Member Norton said he would like this accompanied by a letter to the State saying we are not in favor of raising parking penalties in our town.

Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to adopt the proposed **Resolution No. 3744, Resolution Repealing Resolution Nos. 3697 and 3737 and Revising the City's Parking Penalties to Reflect State Mandated Surcharges for Certain Parking Violations.** The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

The City Council then discussed Items 3.F. and 3.G.

F. Approve Special Event Permit for Fireworks Display off Capitola Wharf on Wednesday, September 2, 2009, in Celebration of the City of Capitola's 60th Birthday. [160-10]

G. Approve Contract with Fireworks & Stage FX America for a Fireworks Show on September 2, 2009, in Celebration of the City of Capitola's 60th Birthday. [160-10/ 500-10 A/C: Fireworks & Stage FX America]

Molly Ording, Monterey Avenue, expressed her concerns about shooting off fireworks at a cost of \$25,000, particularly during these dire economic times, and she asked the council to thoughtfully consider the appropriateness of such a display. Mrs. Ording suggested the council gratefully acknowledge their donations and encourage the sponsors to consider donating the funds for something positive and permanent for our community in recognition of the City's 60th Birthday.

Linda Smith, member of the 60th Birthday Committee, said there are many Capitola residents who feel there are a lot of reasons to celebrate, particularly in bad times. She discussed the efforts of the committee to bring the city's families, residents, and visitors closer together in celebration with free and fun activities to celebrate the City's birthday. She commented on the fundraisers and the sponsors for the fireworks, stating the events do not cost the taxpayers a dime. In closing, she said the sponsors offered money for the fireworks, and she hopes the council will accept their generosity and approve the fireworks.

Council Member Storey asked staff about previous fireworks displays in the city and expressed concerns about public safety issues. Assistant to the City Manager Murphy said staff is working with Central Fire and the Police Dept to make sure those concerns are addressed. Council Member Storey expressed concern that extra staff time for the event was not included in the report.

Council Member Graves said for a number of years the city had fireworks on July 3. He also said he and his wife were principal fundraisers for the fireworks at the 50th Birthday Celebration. He expressed his support of the fireworks display for the 60th Birthday and is pleased there are generous sponsors.

A motion was made by Council Member Nicol moved, seconded by Council Member Graves, to approve Items 3.F. and 3.G. as submitted. After discussion of the motion, the motion failed on the following vote: AYES: Council Members Graves and Nicol. NOES: Council Member Storey, Norton, and Mayor Begun. ABSENT: None. ABSTAIN: None.

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

Following the vote, Council Member Norton said he would like to reconsider the vote on this item. Council Member Norton then moved to reconsider the vote on Items 3. F. and G. Council Member Nicol seconded the motion. The motion carried on the following vote: AYES: Council Members Graves, Nicol, and Norton. NOES: Council Member Storey and Mayor Begun. ABSENT: None. ABSTAIN: None.

ACTION: Council Member Nicol moved approval of Items 3.F. and 3.G. as recommended. Council Member Graves seconded the motion. The following actions were taken:

3.F. Approved the proposed Special Event Permit and all related permits for Capitola's 60th Birthday Fireworks Celebration to be held on Wednesday, September 2, 2009, off the Capitola Wharf; and

3.G. Approved an Agreement with Fireworks & Stage FX America for a Fireworks Show on September 2, 2009.

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

H. Approve Art & Cultural Commission recommendation to Advertise and Accept Artists' Submissions for the Graphic Traffic Utility Boxes Public Art Project, which includes hiring an artist to paint City-owned Traffic Signal Boxes. [1010-10]

Council Member Graves said he is having difficulty voting for art projects when the city has a budget crisis. City Manager Hill explained that funding comes from nondiscretionary funds.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Storey, to approve the Art & Cultural Commission recommendation to advertise and accept artists' submissions for a new Public Art project titled, "Graphic Traffic Utility Boxes," which includes the hiring of an artist to paint City-owned traffic signal boxes. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: Council Member Graves. ABSENT: None. ABSTAIN: None.

K. Approve the 4th Amendment to the Wharf Lease and Mooring Concession Agreement with JFS, Inc. [280-25/500-10 A/C: JFS, Inc.]

Council Member Graves commented that he received everything but an inventory list that is called for in the building section of the lease, and he wondered if the city has one. Assistant to the City Manager Murphy said the City does not. Council Member Graves commented that a list should have been created pursuant to the lease. He expressed concern that the provisions of the lease be adhered to, or that they be removed from the lease.

Mayor Begun said he has a number of questions regarding the lease agreement, and he would like to continue this item to the next meeting in order for staff to respond to his questions.

City Manager Hill said the council could approve the proposed amendment with direction to staff to work with the lessee on the lease agreement itself.

Assistant to the City Manager Murphy said that if the council has comments or concerns about the lease, it may take longer than continuing this item to the next meeting.

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

A motion to approve the 4th Amendment and return with the entire lease for further discussion was made by Council Member Graves, but died for lack of a second.

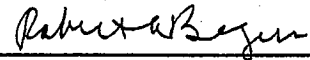
ACTION: Council Member Graves then moved to honor Mayor Begun's request to bring the entire Wharf Lease and Mooring Concession Agreement back to the City Council at a future meeting. Council Member Norton seconded the motion. The motion carried on the following vote: AYES: Council Members Graves, Storey, Norton, and Mayor Begun. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.

6. COUNCIL/STAFF COMMUNICATIONS

Public Works Director Jesberg announced that Ann Schroedel and Jeanne Roddy were looking for a DVD or video tape of the City Council meeting held on March 12; however, a DVD does not exist because the technician did not arrive until near the end of that meeting, so it was not recorded. Public Works Director Jesberg said he wanted to clarify that point for the record.

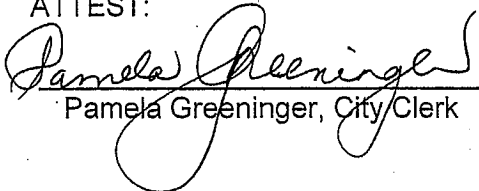
7. ADJOURNMENT

The City Council adjourned at 8:59 p.m. to its next Regular Meeting to be held on Thursday, April 9, 2009, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California. Mayor Begun urged everyone to "Buy Capitola 1st".



Robert A. Begun, Mayor

ATTEST:



Pamela Greeninger, City Clerk CMC

MINUTES WERE APPROVED BY THE CITY COUNCIL ON 4/23/09, WITH COUNCIL MEMBER GRAVES ABSTAINING