

April 9, 2009
 Capitola, California

CAPITOLA CITY COUNCIL

MINUTES OF A REGULAR MEETING

5:30 P.M. - CLOSED SESSION - CITY MANAGER'S OFFICE CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL

At 5:30 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
 Sequel Union Elementary School District vs. City of Capitola

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Jake Ingram

PERFORMANCE EVALUATION (Govt. Code §54957)

Title: City Attorney

Mayor/Chairperson Begun asked if anyone wished to address items on the Closed Session agenda. Seeing no one, the council/agency recessed at 5:35 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 7:25 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 Deputy City Clerk Liz Nichols

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone gave a report on two closed sessions. He said the City Council/Redevelopment Agency had a Special Closed Session Meeting last Friday afternoon, April 3, 2009, that commenced at 4:30 p.m. and ended at approximately 5:45 p.m. The purpose of the meeting was to meet with the negotiator regarding the ongoing negotiations of the Lease and Development Agreement for the Rispin Mansion Development Project. Present at the meeting

were all Agency and City Council Members, except for Council Member/Director Graves who had another commitment. Council/RDA met with the City Manager and the City Attorney and received a report on ongoing negotiations. The Council gave instructions with regard to those negotiations and took no reportable action in closed session.

City Attorney Barisone then reported on the items the City Council/Redevelopment Agency discussed in Closed Session tonight, which were those items listed in the posted agenda. Another item of discussion concerned ongoing Rispin Lease and Development negotiations, and the Council gave instructions. No reportable action was taken with regard to that matter in closed session. The Council also had a discussion concerning the ongoing judgment in the Soquel Union Elementary School District v. the City of Capitola litigation. All council members except for Council Member Nicol were present. Council Member Nicol recused himself because of a conflict of interest.

The Council also had a discussion with the City Attorney and the City Manager concerning the ongoing litigation between Surf & Sand, LLC vs. the City of Capitola. A status report with regard to that matter was provided and the Council took no reportable action in closed session.

The Council had a brief discussion concerning the tort claim of Jake Ingram. That matter is on the Consent Agenda for tonight's meeting. The Council took no action in closed session; however, the recommended action is to deny the tort claim on the regular agenda.

The Council spent some time with the City Attorney providing a performance evaluation. There was no reportable action taken.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Sean Miller, President of the Pacific Cove Mobile Home Owners' Association, spoke in defense of Mark and Kathleen Sullivan regarding their opportunity to acquire the Beulah House. He expressed concern about the 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. Mayor Begun asked Mr. Miller to write to the City Manager with his concerns.

C. Staff Comments

1) City Manager Hill extended his compliments to Chief of Police Richard Ehle and his work with the City for the past 8 years. Chief Ehle's impact on the Police Department has been tremendous and beneficial and has set a standard of professionalism that is an example to all.

D. City Council/Treasurer Comments/Committee Reports

1) Council Member Graves apologized to Council Member Sam Storey and the other Council Members for his demeanor at the last meeting regarding the City's Birthday Celebration and the fireworks. He has been a resident for over 40 years and believes the 60th Birthday Celebration should go on.

2) Council Member Graves said the community is aware of the budget amendments and shortfall for our revenues. He requested a report on a timetable for replacement of contract employees such as the Chief of Police. The Council needs to give the public a timeframe. Regarding the Finance Director position, the Council has asked City Manager Hill to defer that process until a budget comes before the Council, which will be late April or early May. The new Police Chief will hopefully be in place by December.

2. D. 2) ORAL COMMUNICATIONS (Continued)

He said there is no plan to recruit for frozen positions. Council Member Graves requested a hiring procedure for the position so the community will be notified. City Manager Hill said it was a closed session direction, and therefore, it would not be appropriate to release to the public at this time. Council Member Nicol reminded Council Member Graves he missed that meeting. Council Member Graves said the process seems to be taking a different approach this time, and he stated it should be an open process when it comes down to the few months before December.

3) Council Member Norton stated he was concerned about cell phone service, the Internet, and landlines being down today because of vandalism. He feels the City needs to find out why this happened and what we can do to remedy the problem. The City needs to correspond with the appropriate agency so communications do not get cut off with the loss of one line. There could have been a real disaster.

Police Chief Ehle said he received emails from Scotty Douglass, General Manager of Netcom, explaining the process. At least four lines were sabotaged and were cut on purpose at about 2:30 a.m. today. AT&T has offered a \$100,000 reward for the arrest of the individuals responsible. The Capitola mall had no communications, and they were given a radio so they could contact the Police Department directly if they needed help. The Police Department provided extra security to all the banks and controlled the doors. Chief Ehle said the analysis Council Member Norton asked for has already begun, and there will be more information coming relative to this matter. It was a well thought out case of sabotage and very well planned. Chief Ehle will continue to forward information to the City Manager and the Council.

Central Fire Chief, Bruce Clark, stated it will happen again. Cities have experienced this when earthquakes and heavy rains occur. When something like this happens, agencies go back to 1960 using handy talkies to communicate. Central Fire has contingency plans called annexes, and they fall back to basic level service providers.

Council Member Norton said losing all three systems at once is not acceptable, and something has got to be done to correct it.

Chief Clark agreed. This brought up a heightened awareness. Staff should know Central Fire has failsafe plans in place.

City Manager Hill will pursue this. He tried to contact emergency services, but they were unavailable today.

4) Council Member Storey said Council Member Graves' apology was unnecessary, but he appreciated and accepted his apology.

5) Council Member Nicol said people did not lose Internet service if they had Comcast.

6) Mayor Begun read a Proclamation for the 2010 Census.

7) Mayor Begun asked for a short period of silence in memory of Dale Skillicorn who passed away recently. Dale was a member of the Watsonville City Council and devoted his life to the community.

E. Committee AppointmentsF. Approval of Check Register Report [300-10]

Council Member Norton asked about check #58648 for the financial system upgrade and asked if this was one of our payments, or if we were paying for staff time. City Manager Hill said it was one of our payments that was budgeted for. Council Member Norton asked how much more we owed. City Manager Hill said he would find out and bring the information back to the next Council meeting.

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

ACTION: Council Member Graves moved, seconded by Council Member Storey, to approve the Check Register Reports dated March 20 and 27, 2009, including checks numbered 58591 through 58674 in the amount of \$97,210.98, and checks numbered 58675 through 58798 in the amount of \$210,094.90, respectively; and payroll disbursements for the March 27, 2009, payroll in the amount of \$190,058.19, for a Grand Total of \$497,364.07, 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 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 Member Nicol pulled Items 3.F. and 3.H.

Mayor Begun advised Items 3.F. and 3.H. would be discussed at the end of the meeting following Other Business Item 5.C. (*See discussion and action beginning on Page 11366.*)

CONSENT CALENDAR ACTION: Council Member Storey moved, seconded by Council Member Graves, to approve the Consent Calendar 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.

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 – Minutes of the Special Joint Closed Session Meeting of the Capitola City Council/Redevelopment Agency of March 24, 2009.

ACTION: Council Member Storey moved, seconded by Council Member Graves, to approve the Minutes of the Special Joint Closed Session Meeting of March 24, 2009, 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.

C. Receive Planning Commission Action Minutes for the Regular Meeting of April 2, 2009. [740-50]

ACTION: The City Council unanimously approved the Planning Commission Action Minutes for the Regular Meeting of April 2, 2009, as submitted.

D. Adopt Resolution Authorizing Submittal of Local Coastal Program Amendments to the City's Local Coastal Program for Parking Meter Zones/Rates (Capitola Municipal Code Section 10.36.055) to the California Coastal Commission for Certification. [740-30 Local Coastal Plan/470-30 Parking Meter Regulations]

ACTION: Council Member Storey moved, seconded by Council Member Graves, to adopt Resolution No. 3745, Resolution Authorizing Submittal of Amendments to the Local Coastal Program to Split Parking Meter Zone A into Two Areas (Zone A(1) Village Area and Zone A(2) Cliff Drive Area), and to Raise Parking Meter Rates in the Village Area, 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 (Continued)

- E. **Deny Claim of Jake Ingram in the amount of \$5,000 and Forward the Claim to the City's Liability Insurance Carrier. [Liability Binder]**

ACTION: Council Member Storey moved, seconded by Council Member Graves, to deny the Claim of Jake Ingram in the amount of \$5,000 and to 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.

- F. **Authorize the City to Apply for and Receive COPS Hiring Grant Funds in the Amount of \$200,000 over 3 Years.**

This item was pulled for separate discussion. (See discussion and action on Page 11366.)

- G. **Authorize the City to Submit Funding Request Application for the Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) in the Amount of \$34,233. [390-25]**

ACTION: Council Member Storey moved, seconded by Council Member Graves, to authorize the Chief of Police to submit an application to the U.S. Department of Justice for the Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$34,233. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

- H. **Adopt Resolution Supporting California Assembly Joint Resolution 51 and Opposing Lifting of the Offshore Oil Drilling Moratorium on the California Outer Continental Shelf.**

This item was pulled for separate discussion. (See discussion and action on Page 11366.)

4. PUBLIC HEARINGS

- A. **Public Hearing to Consider Amendments to Capitola Municipal Code Title 17 and Title 18 and to the Local Coastal Program: 1) Amend Chapter 17.27 to Allow Mixed-Use Residential Development as a Conditional Use in the Community Commercial (CC) Zoning District; and 2) Add Chapter 18.03 Pertaining to Residential Density Bonus to Allow for a Range of Greater Residential Densities in Exchange for Levels of Affordability. [1st Readings] Presentation: Community Development Department. [730-85/740-40]**

Housing & Redevelopment Project Manager Foster and Community Development Director Goldstein summarized the written agenda report regarding mixed-use residential development in the Community Commercial zoning district and the residential density bonus.

Mayor Begun opened the public hearing at 8:40 p.m.

An unidentified resident stated he lived next to one of the proposed multiple zoned mobile home parks. He urged the Council to try to protect the multiple unit developments surrounding his.

The public portion of the hearing was closed at 8:41 p.m. The Mayor then opened up the discussion to the Council.

Council Member Nicol said the Council did not have a say in this matter. He feels this is the best solution, and he moved the staff recommendation. There was further discussion and a suggestion by Council Member Storey to vote separately on the items.

4. A. PUBLIC HEARINGS (Continued)

ACTION: Council Member Storey moved to sever the two items and to vote on them separately.

Council Member Nicol asked for staff comment on dealing with the items individually. Community Development Director Goldstein said voting on the items separately makes a lot of sense. The Council should tackle the issues it can and then focus on the points where more discussion and debate is needed.

Council Member Storey then moved to pass the proposed Ordinance Amending Section 17.27.060 of the Municipal Code Pertaining to Conditional Uses in the CC Community Commercial Zoning District by Adding Paragraph V to Allow Mixed-use Residential Development to a second reading, as submitted. Council Member Graves seconded the motion. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

Following action on the first proposed ordinance, Community Development Director Goldstein, Housing and Redevelopment Project Manager Foster, and City Attorney Barisone responded to questions of council members pertaining to the city's Housing Element and the proposed density bonus ordinance.

After considerable council discussion and deliberation, the following action was taken:

ACTION: Council Member Nicol then moved, seconded by Council Member Norton, to pass the proposed Ordinance Adding Chapter 18.03 to the Capitola Municipal Code Pertaining to Residential Density Bonus, to a second reading as submitted, thereby implementing the State-mandated incentives for affordable housing. The motion carried on the following vote: AYES: Council Members Nicol, Norton, and Mayor Begun. NOES: Council Members Graves and Storey. ABSENT: None. ABSTAIN: None.

5. OTHER BUSINESS

A. **Annual Report of the Capitola Art & Cultural Commission. [1010-60]**

Mike Termini, Chairperson of the Art & Cultural Commission, summarized the written agenda report and introduced Kelly Barreto, who is the staff member on this commission.

ACTION: The City Council unanimously received the report.

B. **Ordinance Amending Sections 8.36.020, 8.36.030, 8.36.040, 8.36.050, and 8.36.070 of the Capitola Municipal Code pertaining to the Use of Polystyrene Foam and Biodegradable and Compostable Disposable Food Service Ware [1st Reading]. [930-30]**

Assistant to the City Manager Murphy summarized the written agenda report and stated the proposed ordinance is to ban polystyrene completely.

Council Member Norton said polystyrene foam ice chests should be a banned substance because they end up in the ocean. Council Member Nicol agreed.

Council discussion was followed by this action:

ACTION: Council Member Storey moved to pass the proposed Ordinance Amending Sections 8.36.020, 8.36.030, 8.36.040, 8.36.050, and 8.36.070 of the Capitola Municipal Code pertaining to the Use of Polystyrene Foam and Biodegradable and Compostable Disposable Food Service Ware, to a second reading, with removal of new paragraph D. of Section 8.36.050, pertaining to the exception for polystyrene foam coolers and ice chests.

5. B. OTHER BUSINESS (Continued)

Council Member Norton suggested the motion be amended to include foam coolers as banned substances, thereby stating they are not exempt from the provisions of the ordinance, but they are banned. Council Member Storey agreed to the amendment, and the motion was seconded by Council Member Norton. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

C. Coast Guard Ship Visit to Capitola during the City's 60th Birthday Celebration Year. [160-10]

Mayor Begun asked the Council if anyone objected to the Coast Guard Ship visit. No one objected. Council Member Norton suggested calling the commander of the ship in Monterey.

ACTION: Council Members unanimously agreed to pursue requesting a Coast Guard ship visit to Capitola during the year of the City's 60th Birthday.

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

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

F. Authorize the City to Apply for and Receive COPS Hiring Grant Funds in the Amount of \$200,000 over 3 Years. [390-25]

Chief of Police Ehle summarized the written agenda report and asked the Council for approval to submit an application for the \$582,434 in grant funds. He said the grant would come back for Council approval around September of this year.

ACTION: Council Member Norton moved, seconded by Council Member Graves, to authorize the Chief of Police to submit an application to the U.S. Department of Justice for the C.O.P.S. Hiring Recovery Program (CHRP) Grant in the amount of \$582,434. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

H. Adopt Resolution Supporting California Assembly Joint Resolution 51 and Opposing Lifting of the Offshore Oil Drilling Moratorium on the California Outer Continental Shelf. [580-30]

City Manager Hill summarized the written agenda report.

Council Member Norton suggested adding "California" to the second "Whereas" to read, "...the states of California, Oregon and Washington." Council Member Nicol said he would support the resolution with "Whereas" paragraphs 3, 4 and 7 removed.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to adopt **Resolution No. 3746, Resolution Supporting California Assembly Joint Resolution 51 and Opposing Lifting of the Offshore Oil Drilling Moratorium on the California Outer Continental Shelf**, with removal of "Whereas" paragraphs 3, 4 and 7, and with the addition of "California" in the second "Whereas" paragraph. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

6. COUNCIL/STAFF COMMUNICATIONS

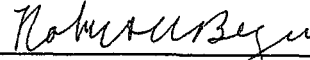
Mayor Begun announced the deadline for applications for the Traffic & Parking Commission is on April 15, 2009.

Council Member Nicol mentioned the Wharf to Wharf race is coming up, and registrations have been coming in at a faster rate than ever before.

Mayor Begun reminded the public to shop Capitola and Santa Cruz County.

7. **ADJOURNMENT**

The City Council adjourned at 9:45 p.m. to its next Regular Meeting to be held on Thursday, April 23, 2009, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Robert A. Begun, Mayor

ATTEST:



Liz Nichols, Deputy City Clerk

MINUTES WERE UNANIMOUSLY APPROVED BY THE CITY COUNCIL ON MAY 14, 2009