

April 23, 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 6:05 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

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

City of Capitola vs. County of Santa Cruz (Property tax administration fee litigation)

PERFORMANCE EVALUATION (Govt. Code §54957)

Title: City Attorney

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

Council Member Graves said he would like to add an item to the Closed Session agenda pertaining to Evaluation of the City Manager in reference to the Nicol incident. This would be added as an emergency measure before the City Manager's administrative inquiry is released. City Attorney Barisone discussed the findings that would need to be made.

ACTION: Council Member Graves moved, seconded by Council Member Storey, to add "Performance Evaluation of the City Manager (Pursuant to Government Code Section 54957) to the Closed Session Agenda for discussion, 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 May 14, 2009. 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/Redevelopment Agency recessed at 6:07 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 7:29 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, Interim Chief of Police Rick Ehle, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

***** PRESENTATIONS *****

**2008 Capitola Police Officer of the Year Award
to Officer Jason Grogan**

Interim Chief of Police Ehle announced that these awards are voted on by the supervisors who command the Police Department, and he explained the criteria for selecting the award recipients each year.

Interim Chief of Police Ehle called Officer Jason Grogan forward and read and presented the 2008 Capitola Police Officer of the Year Award to him. Police Officer Grogan said he is honored to be a police officer in the City of Capitola and is honored to receive this award. He thanked all the police officers he works with, as they all take pride in protecting this community.

**2008 Capitola Police Department
Civilian Employee of the Year Award
to Community Service Officer Tony Mendoza [630-20]**

Interim Chief of Police Ehle then read and presented the 2008 Civilian Employee of the Year Award to Community Service Officer Tony Mendoza. He said Tony has put himself through the Police Academy to gain the knowledge and training and has shown a great deal of dedication. Community Service Officer Mendoza thanked Interim Chief of Police Ehle for all his help and support.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone provided a report on the closed session. He stated that prior to going into Closed Session, the City Council unanimously voted to add an item to the Closed Session agenda pertaining to a Performance Evaluation of the City Manager. That discussion was not concluded, and the City Council/Redevelopment Agency plan to adjourn to a Continued Closed Session following the Regular Meeting Agenda. No reportable action was taken in Closed Session.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Peter Hubback brought to the Council's attention the extreme height of hedges located on the Soquel Creek Riverwalk that are located on Dr. Calvert's property adjacent to the City's property near Stockton Avenue bridge. He expressed concern about the extreme height of hedges and shared photographs of the hedge. Mr. Hubback requested that the Council take action on this matter pursuant to provisions in the city's ordinances pertaining to the height of front yard fences and hedges.

2. ORAL COMMUNICATIONS (Continued)

2) Tom Mader, Capitola resident, expressed concern regarding the Sentinel article by Jondi Gumz about Council Member Nicol. He submitted a document entitled, "Results of Public Response to the 4/20 Sentinel Article about Kirby Nicol's Behavior." He said 138 people have taken the time to log their opinion pertaining to the incident, and he read several of those responses. Following his comments, Mr. Mader urged Council Member Nicol to resign immediately or to go on a leave of absence until the results of the City Manager's investigation are made public.

Council Member Storey noted that the appropriate place for the City Council to respond to public comments is under City Council Comments on the agenda.

Sandy Ericson and Kate Arrieta also commented and expressed their concerns pertaining to the incident involving Council Member Nicol.

C. Staff Comments – None

D. City Council/Treasurer Comments/Committee Reports

1) Jacques Bertrand reported on the Finance Advisory Committee meeting during which City Manager Hill provided a report on the Rispin proforma.

2) Council Member Nicol commented on the 911 incident that has been recently publicized. He said he has publicly acknowledged his wrongdoing and has formally apologized to all concerned and to his colleagues on the City Council. Council Member Nicol advised the Council of his intent to reimburse the city for Police Department costs incurred by his actions. He said it was something that happened, and he cannot undo it. All he can do is plead guilty and try to move forward.

Council Member Storey commented that this has been a very difficult time for all and that the council is committed to investigating the situation. Council Member Storey personally accepts Council Member Nicol's apology.

3) Council Member Storey said he sits on the Library JPA Board and announced that the budget hearing will be held on Monday, May 11, at 7:30 p.m. at the Central Library branch.

Mayor Begun commented that he questioned the Library Finance Committee pertaining to the library sales tax decrease. It was reported back to him that the information was accurate; however, it has turned out to be inaccurate. He would like Council Member Storey to find out what information the library board is using to develop their statistics. Council Member Storey said the board had been projecting 4% decrease in sales tax; however, at this point it looks like the percentage of decrease in sales tax will be in the range of 6 and 7%.

E. Committee Appointments

1) **Appointments to the Capitola Traffic and Parking Commission. [470-60]**

Mayor Begun introduced this item. Council Member Norton suggested considering this item after the public hearings, since there are a number of people in attendance for the public hearing items.

ACTION: It was the consensus of the City Council to continue this matter for discussion and appointments following Item 4.B.

2. ORAL COMMUNICATIONS (Continued)

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

ACTION: Council Member Nicol moved, seconded by Council Member Storey, to approve the Check Register Report dated April 10, 2009, including checks numbered 59501 through 59567 in the amount of \$106,330.15, 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.

Council Member Graves commented on the report and asked if this were the new format. City Manager Hill said it was. Council Member Graves said he found the report difficult to read.

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 Norton pulled 3.I. Mayor Begun pulled D. & E. Mayor Begun advised Items 3.D., E. and I. would be discussed at the end of the meeting following Other Business Item 5.C. (*See discussion and action on Pages 11377 and 11378.*)

CONSENT CALENDAR ACTION: Council Member Norton moved, seconded by Council Member Storey, to approve the Consent Calendar as recommended with the exception of Items 3.D., E., and I. 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 Regular Meeting of the City Council of March 26, 2009, and the Special Joint Closed Session of the City Council/Redevelopment Agency of April 3, 2009.

ACTION: Council Member Norton moved, seconded by Council Member Storey, to approve the Minutes of the Regular Meeting of the City Council of March 26, 2009, and the Special Joint Closed Session Meeting of April 3, 2009, as submitted.

C. Adopt Resolution Amending the FY2008-2009 Operating Budget to Transfer \$150,000 from the Capital Projects Fund to the Compensated Absences Fund. [330-05/330-10]

ACTION: Council Member Norton moved, seconded by Council Member Storey, to adopt the Resolution No. 3747, Resolution Amending the FY2008/09 Operating Budget to Transfer \$150,000 from the Capital Projects Fund to the Compensated Absence Fund, 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.

D. Approve Submittal of the 38th Avenue Reconstruction Project for Grant Funding through the Santa Cruz County Regional Transportation Commission for Economic Stimulus (American Reinvestment and Recovery Act - ARRA) and Regional Surface Transportation Program (RSTP) Funds.

This item was pulled for separate discussion. (See Page 11377 for discussion and action.)

3. CONSENT CALENDAR (Continued)

- E. **Authorize the City Manager to Send a Letter of Support to the California Coastal Conservancy for the Santa Cruz County Regional Transportation Commission's Funding Request for the Monterey Bay Sanctuary Scenic Trail Network Master Plan and Environmental Review Project.**

This item was pulled for separate discussion. (See Page 11378 for discussion and action.)

- F. **Accept the Esplanade Restroom Remodel Project as Complete at a Final Cost of \$225,174.62 and Authorize the Release of the Contract Retention of \$22,517.46 in 35 days following the Recordation of the Notice of Completion. [270-10/500-10 A/C: JMA Construction]**

ACTION: Council Member Norton moved, seconded by Council Member Storey, to accept the Esplanade Restroom Remodel Project as complete at a final cost of \$225,174.62 and to authorize the release of the contract retention of \$22,517.46 in 35 days following the recordation of the Notice of Completion, 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.

- G. **Adopt Ordinance Amending Section 17.27.060 of the Capitola Municipal Code Pertaining to Conditional Uses in the Community Commercial (CC) Zoning District to Allow Mixed Use Residential Development. [2nd Reading] [730-85]**

ACTION: Council Member Norton moved, seconded by Council Member Storey, to adopt Ordinance No. 937, Ordinance Amending Section 17.27.060 of the Capitola Municipal Code Pertaining to Conditional Uses in the CC – Community Commercial Zoning District by Adding Paragraph V. to Allow Mixed Use Residential Development, 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.

- H. **Adopt Ordinance Adding Chapter 18.03 to the Capitola Municipal Code Pertaining to Residential Density Bonus. [2nd Reading] [740-40]**

ACTION: Council Member Norton moved, seconded by Council Member Storey, to adopt Ordinance No. 938, Ordinance Adding Chapter 18.03 to the Capitola Municipal Code Pertaining to Residential Density Bonus, 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.

- I. **Adopt 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 [2nd Reading]. [930-30]**

This item was pulled for separate discussion. (See Page 11378 for discussion and action.)

- J. **Approve Temporary Lifting of the City's Hiring Freeze and Authorize the Police Department to hire a Part-Time Parking Enforcement Officer at a Starting Salary of \$18.18 an hour, not to exceed 900 Hours Per Year. [600-10]**

ACTION: Council Member Norton moved, seconded by Council Member Storey, to approve recommended action to temporarily lift the hiring freeze and to authorize the Police Department to hire a part-time Parking Enforcement Officer at a salary of \$18.18 an hour, not to exceed 900 hours per year, 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)

- K. **Adopt Resolution Amending the FY2008/09 General Fund and Supplemental Law Enforcement Services Fund (SLESF) Budgets by \$10,000 to Reflect Total State Grant of \$100,000. [330-05/330-10]**

ACTION: Council Member Norton moved, seconded by Council Member Storey, to adopt **Resolution No. 3748, Resolution Amending the General Fund Budget Eliminating the Transfer of \$10,000 from the General Fund to the Supplemental Law Enforcement Services Fund (SLESF) and Increasing the Supplemental Law Enforcement Services Fund (SLESF) Intergovernmental Revenues by \$10,000 for a Total of \$100,000 for the 2008/09 Fiscal Year**, 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.

4. PUBLIC HEARINGS

- A. **Public Hearing to Consider Appeal of Project 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, including the Addition of a Residential Unit, a Request for an Exception to the Height Requirement, and a Variance to the Interior Parking Dimension in the CV (Central Village) Zoning District. (APN 035-173-01) Property Owner: Patrick Kearns. Applicant/Representative: Dennis Norton. Presentation: Community Development Department. [730-10]**

Council Member Norton recused himself from participation on this item due to a conflict of interest.

Community Development Director Goldstein noted that he had received direction from City Attorney Barisone earlier in the day. In his correspondence, Mr. Barisone clarified the options for council to consider. One option for the council is to uphold the appeal and deny the project. The other option would be to approve the project. The council may continue it to a future hearing and recommend a redesign to include a mechanical device necessary for the maintenance of the building to be incorporated into the structure that extends beyond the 27-foot height limit.

Associate Planner Akeman summarized the written agenda report. He said the project went to the Architectural and Site Review Committee on two occasions and was also reviewed by the Planning Commission at two meetings. Associate Planner Akeman said it was a unique site with unique challenges.

Community Development Director Goldstein commented on revised findings that would need to be approved if the Council approves the project.

Stephen Graves, representing the owner, provided additional detailed information on the project. He discussed the community's support and noted that a petition was submitted signed by 110 residents. He presented photographs of other buildings in the city that are either unique and/or considered historic structures such as the Windmill House, the homes on Cliff Avenue, and the architectural details at the Nob Hill Center. Mr. Graves showed pictures of the buildings located in the general area of the project along Riverview Avenue and noted the varied height elements, including the roof top deck and stairwell at the adjacent building. He commented on a photo showing the flagging of the building, as well as a photo simulated drawing showing how the building would look on the site. He also showed a photo of a lighthouse in Oregon the applicant used as a concept for this project.

4. A. PUBLIC HEARINGS

Stephen Graves responded to a number of questions from council members pertaining to the project. He noted that at the Planning Commission meeting, the issue of quality craftsmanship was discussed. In addition, quality building material will also be used. The owner wishes to have a landmark building in the Village that will make the community proud, and a livable home where he will retire. In closing, Mr. Graves encouraged the council to approve this project, saying it will be an incredible asset to the community.

Mayor Begun opened the hearing to the appellant.

Dennis Calvert, owner of 304 Riverview Avenue, said he has been a resident for over 25 years and is a strong advocate for improving the Village. He actually supports the proposed project; however, he is concerned about the process the city is using to approve the project and the impact the project will unfairly impose on nearby properties, including his property at 304 Riverview. Mr. Calvert said his major request is that the council consider revising the northern side of the building facing Riverview Avenue which is a high wall, and he suggested tiering down the wall.

John Hickey, Attorney representing the Mr. and Mrs. Calvert, said his clients' concerns relate to the process, as well as to the monolithic wall. He said many concerns were presented in the appeal letter that was submitted, and he reviewed some of those concerns, including solar access and the shadow of the building on the Calvert's property.

At 9:24 p.m. Patrick Kearns, owner of 107 Stockton Avenue, clarified that the current building was built in 1992 and has 5-foot cement walls, and he commented on the solar access issue. Mr. Kearns stated for the record that Council Member Graves, who appealed this matter to the Council, did not choose to air his objections to the project at any of four public meetings where this project was discussed. He said this project is already approved and he urged the council to do the right thing.

Mayor Begun opened the public portion of the hearing at 9:32 p.m.

Bob Henry, resident at 402 Riverview, wished to commend staff on the work they have done on this project. He expressed his support of the project and said he volunteered to take a petition around regarding the project.

Ron Lorenzo, resident at 108 Stockton Avenue, expressed his support of the proposed project and said he also received signatures on the petition.

Greg Tedesco, Magellan Street, pointed out that the conceptual pictures are really well done, but they do not show how the new structure will look in relation to the other buildings in the area. He suggested that when new buildings/projects come before the Planning Commission or City Council on appeal, such as this one being considered, that Photoshop or some other program be used to show how it will actually look in relation to the current structures.

Sandy Ericson commented that she sent an email to the council regarding this project, and she discussed her concerns with respect to the storypoles. Before stepping away from the podium, Ms. Ericson also commented on Item 5.C. (*See comments under that item on Page 11369.*)

At 9:54 p.m. Council Member Graves moved, seconded by Council Member Storey, to close the public hearing.

4. A. PUBLIC HEARINGS

Council Member Graves further commented on the project, and he articulated several changes that he could support.

There was considerable council discussion and deliberation pertaining to the proposed project, as well as input from staff on specific findings that would need to be made if the project were approved.

Community Development Director Goldstein informed the Council that based on the evidence presented at the hearing, and the proposed condition of approval which required a mechanical device to be placed in the lighthouse, the Council could approve the project tonight if it so choose.

ACTION: Council Member Storey moved to uphold the Planning Commission decision on Project Application #08-058, to add the Condition #11 contained on Attachment 4 of the Agenda Report concerning the necessity of adding a mechanical appurtenance, and to include a new Condition #12, stating, "Prior to the issuance of a building permit, the applicant shall submit engineered/structural drawings that reflect the design as presented and approved by City Council. Any significant modification or changes must be approved by City Council," and that the amended Findings, also contained in Attachment 4, also be adopted. Council Member Graves seconded the motion. 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.

The City Council took a short break at 10:28 p.m. and reconvened at 10:36 p.m.

B. Public Hearing to Consider Project Application #08-053, 1911 42nd Avenue, Planned Development Rezoning and Tentative Map for a Ten Lot Subdivision, as well as a Conditional Use Permit and Architectural and Site Review for Construction of Ten Single-Family Homes in the RM-M. (Multiple Family Residence: Medium) Zoning District. (APN 034-201-033) Property Owner/Applicant: Mark DeMattei. Representative: Tom Thacher, Thacher & Thompson Architects. Presentation: Community Development Department. [730-10]

Senior Planner Bane summarized the written agenda and responded to questions of council members pertaining to maintenance of the common area, a breakaway gate, number of units, parking requirements, guest parking, conditions of approval, traffic calming fees pursuant to traffic study, finding required by city ordinance pertaining to change in zoning from RM-M to PD, the general plan, etc. He said the proposed project will meet the city's housing element goals.

Senior Planner Bane commented on the 3 guest parking spaces provided within the project and said another option would be to have a landscaped area there that would be shared by all of the homes. He said two Planning Commissioners recommended guest parking, while one Commissioner preferred a landscaped area. Community Development Director Goldstein said both parking options meet requirements for a Planned Development.

Mayor Begun opened the public hearing to the applicant at 10:55 p.m.

Tom Thacher, Thacher & Thompson Architects, commented on the discussion pertaining to parking requirements and said that 25 parking spaces are required for the project and that 34 spaces are being provided.

4. B. PUBLIC HEARINGS (Continued)

Mayor Begun opened the hearing for public comment at 11:01 p.m.

Erin Bernall, resident of 42nd Avenue, addressed two points: 1) She said this parcel is actually not a transition parcel. It is situated in the middle of single family homes. Although there are multi-family units on the street, she said this particular lot is neighbored by single family homes on three sides. 2) Ms. Bernall said it was naïve to compare this development and their neighborhood to the Heritage Lane development, which is situated on a major commercial street and surrounded by businesses. She said the neighborhood consensus, documented in the minutes of various public meetings held during the past 12 months, is that a development of 6 to 8 single family homes is more compatible to the existing neighborhood and would be a suitable compromise. Ms. Bernall urged the council to approve a plan with fewer than 10 houses.

Council Member Norton suggested that the council hear all the public testimony tonight, but that this item should be continued due to the lateness of the hour.

Stephanie Harlan, 42nd Avenue resident, said she did not participate at the Planning Commission meetings because she lives too close to the proposed development. She commented on the concerns of the residents pertaining to the number of units on this site, cut-through traffic on 42nd Avenue, the number of cars owned by the residents in the various housing facilities in the area, etc. She said the neighbors do not want apartments in that location. In closing, Ms. Harlan urged the council to take the bold action to support the neighborhood and give direction to the applicant to reduce the number of units and to provide additional landscaping.

City Treasurer Bertrand echoed Council Member Norton's comments regarding continuation of the public comments portion of the hearing to the next meeting.

Representative Thacher commented that one cannot get more than 4, possibly 5, detached single family lots on this property without a PD designation. He said if all that could be built on the parcel was 4 units, the single family home project would not happen. The project would most likely come back as an RM project: a 14-unit condominium or a townhouse development. He said the proposed project does not work without a PD zoning designation.

Tim Collins, 46th Avenue, spoke in support of the neighbors on 42nd Avenue to reduce the number of units at this project. He urged the council to keep the density of this project as low as possible.

Seeing no further speakers, at 11:16 p.m. Mayor Begun announced that the public hearing would remain open for additional comments at the continued public hearing. There was no council discussion on this item at this time.

ACTION: It was the consensus of the City Council to continue Public Hearing Item 4.B. to the next regular meeting of the City Council to be held on May 14, 2009.

At 11:17 p.m., Mayor Begun asked if there were any items on the agenda that needed to be dealt with tonight.

Public Works Director Jesberg said he would like Council direction regarding Item 3.D. pertaining to the submittal of a funding request, Item 3.D. on the Agenda. The City Council then dealt with that item as follows:

3. CONSENT CALENDAR *(Items pulled for separate discussion.)***D. Approve Submittal of the 38th Avenue Reconstruction Project for Grant Funding through the Santa Cruz County Regional Transportation Commission for Economic Stimulus (American Reinvestment and Recovery Act - ARRA) and Regional Surface Transportation Program (RSTP) Funds. [770-05]**

Public Works Director Jesberg summarized the written agenda report and responded to questions of council members. There was interest expressed by Council Member Storey to also request funding for sidewalks on Park Avenue. Public Works Director Jesberg said both projects could be submitted, but he would need to know which one would have the highest priority.

Council discussion was followed by this action:

ACTION: Council Member Story moved to approve submittal for grant funding through the Santa Cruz County Regional Transportation Commission for the 38th Avenue Reconstruction Project and the Park Avenue Sidewalk Project, with priority given to the 38th Avenue Reconstruction Project if funding is not available for both projects. Council Member Norton 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.

Council Member Graves asked how items can be removed from the wish list. Public Works Director Jesberg said staff can be directed to remove items from the Master Projects list when the CIP is reviewed by the Council.

E. Committee Appointments**1) Appointments to the Capitola Traffic and Parking Commission. [470-60]**

City Clerk Greeninger and Public Works Director Jesberg commented on this item. Public Works Director Jesberg said the first meeting of the commission had been tentatively scheduled for May 13; however, if appointments were continued, that date would change.

Council Member Norton noted this item ties into the Parking Implementation Plan. Public Works Director Jesberg said it would be good to have the plan in place prior to the first meeting of the new commission.

ACTION: It was the consensus of the Council to continue this item to the next Regular Meeting of the City Council to be held on Thursday, May 14, 2009.

5. OTHER BUSINESS**A. Capitola Parking Implementation Plan. [470-40]**

ACTION: It was the consensus of the Council to continue this item to the next Regular Meeting of the City council to be held on Thursday, May 14, 2009.

B. Public Art Donation of Tiki Statue #2. Staff recommendation: approve the Art & Cultural Commission's recommendation to accept the Public Art Donation of a Tiki statue from Ronald Lorenzo to be installed in Esplanade Park at the same location as the first Tiki and authorize execution of the Public Art/Sculpture Agreement. [1010-10/1040-20/500-10 A/C: Lorenzo, Ronald]

Council Member Norton provided a brief report on the public art donation of a Tiki statute, which was approved by the Art & Cultural Commission. He said a contractor has volunteered to install the Tiki for the city, and he explained how the contractor intends to do it so that the Tiki will not be easily removed.

ACTION: Council Member Norton moved, seconded by Council Member Graves, to approve the Art & Cultural Commission recommendation to accept the Public Art Donation of a Tiki statue from Ronald Lorenzo to be installed in Esplanade Park at the same location as the first Tiki statue and authorized execution of the proposed Public Art/Sculpture Agreement, 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.

5. OTHER BUSINESS (Continued)

C. Adopt Resolution for Installation of Stop Signs at the Intersection of Monterey Avenue and Bay Avenue. [490-60]

NOTE: During comments on Item 4.A., Sandy Ericson said she would not stay for the entire meeting and wished to inform the Council that she does not want a stop sign at Bay and Monterey Avenues.

ACTION: It was the consensus of the Council to continue this item to the next Regular Meeting of the City council to be held on Thursday, May 14, 2009.

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

3. CONSENT CALENDAR (*Items pulled for separate discussion.*)**E. Authorize the City Manager to Send a Letter of Support to the California Coastal Conservancy for the Santa Cruz County Regional Transportation Commission's Funding Request for the Monterey Bay Sanctuary Scenic Trail Network Master Plan and Environmental Review Project. [430-80]**

Council Member Graves said he approved of the proposed support for funding letter, but he would like to add a sentence stating, "...and we look forward to the California Coastal Conservancy bringing back the final determination as to where the path will go through Capitola for the Council's approval." Council Member Graves wants to go on record that the Coastal Conservancy needs to come back to ask the city for approval of the path's location.

ACTION: Council Member Graves moved to approve the recommended action authorizing and directing the City Manager to sign and forward a letter of support to the California Coastal Conservancy for the Santa Cruz County Regional Transportation Commission's funding request for the Monterey Bay Sanctuary Scenic Trail Network Master Plan and Environmental Review Project, with the proviso that an additional sentence be added to the letter as articulated in his comments. Council Member Nicol seconded the motion. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, and Norton. NOES: Mayor Begun. ABSENT: None. ABSTAIN: None.

I. Adopt 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 [2nd Reading]. [930-30]

Council Member Norton thought the ordinance should state that Styrofoam coolers are not allowed.

City Attorney Barisone said the intent of the ordinance is they are not exempt; therefore, the ban applies to Styrofoam coolers. He said the effect of the ordinance as written is you cannot have Styrofoam coolers in Capitola.

Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to adopt **Ordinance No. 939, 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**, 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.

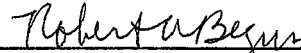
6. COUNCIL/STAFF COMMUNICATIONS

Council Member Graves said he would like to know what issues will be discussed in closed session tonight; he is interested in setting parameters as he has a Transit District meeting tomorrow morning. Council Member Norton suggested that the Closed Session be continued to tomorrow afternoon.

After discussion, it was the consensus of the City Council to continue the Closed Session, including all items on the posted agenda and the added item pertaining to Evaluation of the City Manager, to Friday, April 24, 2009, at 3:30 p.m., in the City Manager's Office.

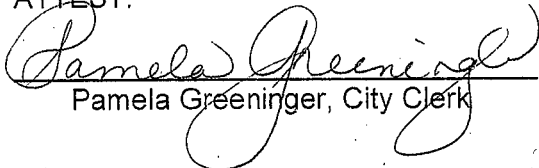
7. ADJOURNMENT

The City Council adjourned at 11:33 p.m. to a Continued Closed Session of the City Council/Redevelopment Agency to be held at 3:30 p.m. on Friday, April 24, 2009, in the City Manager's Office, and then to a Special Joint City Council/Redevelopment Agency Meeting regarding the Rispin Mansion project to be held at 6:00 p.m. on Thursday, May 7, 2009, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Robert A. Begun, Mayor

ATTEST:



Pamela Greeninger, City Clerk, CMC

MINUTES WERE UNANIMOUSLY APPROVED BY THE CITY COUNCIL ON 5/28/09