

June 25, 2009
 Capitola, California

**CAPITOLA CITY COUNCIL
 MINUTES OF A REGULAR MEETING**

**6:15 P.M. - CLOSED SESSION - CITY MANAGER'S OFFICE
 CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL**

At 6:18 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: The Rispin 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)

PERFORMANCE EVALUATION (Govt. Code §54957)
 Title: City Manager

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

Paul Pelkey commented on the tremendous amount of danger around Hill Street and other matters. Mayor/Chairperson Begun reminded Mr. Pelkey that comments at this time should relate to items on the Closed Session agenda.

The City Council/Redevelopment Agency recessed at 6:21 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 7:08 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 by Interim Chief of Police Rick Ehle
 to Capitola Police Officers Guillermo Vazquez, Andrew Dally,
 and Barry Duggan for Heroic Action [120-40]**

PRESENTATIONS (Continued)

Interim Chief of Police Ehle read and presented Certificates of Commendation to Capitola Police Officers Guillermo Vazquez and Andrew Dally for the actions they took which saved a man's life. He said Officer Barry Duggan was on vacation and was unable to attend tonight's meeting. Interim Chief of Police Ehle commended each of the police officers for their heroic actions.

1. REPORT ON CLOSED SESSION [520-25]

City Manager Hill reported on the items discussed in closed session which were listed on the posted agenda. He said no discussion took place regarding the City Manager's evaluation, and that no reportable action was taken on the following items discussed in Closed Session:

Conference with Real Property Negotiator - Rispin Mansion Property

Conference with Legal Counsel – Existing Litigation:

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)

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Vicki Campbell, Capitola resident, said she attended this meeting to comment on a pending complaint regarding Council Member Kirby Nicol and questioned the status of the investigation. She also stated it was reported in error in the newspaper that the recall was over. She provided a website for information on the recall efforts: www.recallkirbynicol.com

City Attorney Barisone responded to her question pertaining to the complaint regarding Council Member Nicol, saying the investigation has been completed and has been turned over to the District Attorney's office.

2) Paul Pelkey commented on various items and said the public should have the right to hear what is discussed in closed session.

3) Tom Mader, Capitola resident, informed the Council that Kirby Nicol was served today with a "Notice of Intention to Circulate Recall Petition." Mr. Mader displayed a sign that will be popping up around the city regarding the recall of Kirby Nicol and the proponents' efforts to restore integrity to the political process in Capitola.

C. Staff Comments – None

D. City Council/Treasurer Comments/Committee Reports

1) Mayor Begun announced that he issued a Mayor's Proclamation to Diane Porter Cooley who was named 2009 Farmer of the Year by the Santa Cruz County Farm Bureau.

2) Council Member Norton announced that the Capitola-Soquel Chamber of Commerce is sponsoring a Vintage Motorcycle Show at Capitola Mall on Sunday, June 28, between the hours of 9 am and 4 pm.

3) Mayor Begun commented on a breakfast hosted by Whole Foods today, and he announced the Whole Foods store in Capitola will be opening on July 29.

4) City Treasurer Bertrand announced that the Finance Advisory Committee would be meeting next Tuesday, June 30, 2009, at 6 p.m. in the City Hall Community Room.

2. ORAL COMMUNICATIONS (Continued)

E. Committee Appointments1) **Appointment/Reappointment of Three (3) Members to the Capitola Historical Museum Board of Trustees. [110-10/240-40]**

Mayor Begun introduced this item stating that the three current board members are seeking reappointment and that no other applications were received.

ACTION: Council Member Norton moved, seconded by Council Member Storey, to accept the recommendation of the Capitola Historical Museum Board and reappointed Linda Smith, Topsy Smalley, and Darcy Horton to the Board for three years, with terms to expire on the second Thursday in June, 2012. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

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

Council Member Norton questioned check #60058, Police Officers Association Dues, and #60139 to SC County Public Works. Public Works Director Jesberg said #60139 was for cooperative steel head counting in Soquel Creek with the County of Santa Cruz. He said the study was funded with monies received by Redtree Properties and The Rispin LLC and is not related to the creek monitoring program.

Mayor Begun believes check #60055 should be identified as being "funded," as it is paid for by the Capitola Village and Wharf Business Improvement Area. He also asked what dates of service Check #60065 to Charlie Howard covers for Automobile & Truck Maintenance. Staff will check into it and report back to council.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to approve the Check Register Reports dated June 5 and June 12, 2009; including checks numbered 60050 through 60084 in the amount of \$48,019.26, and checks 60085 through 60149 in the amount of \$399,747.99, respectively; and payroll disbursements for the June 5, 2009, payroll in the amount of \$191,497.84, for a Grand Total of \$639,265.09, 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 Graves had a question regarding Item 3.C. (See comments under that item on Page 11436.)

CONSENT CALENDAR ACTION: Council Member Storey moved, seconded by Council Member Nicol, 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 – Regular Meeting of May 28, 2009.**

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to approve the Minutes of the Regular Meeting of May 28, 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.

3. CONSENT CALENDAR (Continued)

- C. Adopt Resolution Accepting a State Office of Alcoholic Beverage Control (ABC) Grant in the Amount of \$12,500 and Amending the 2009/2010 Fiscal Year General Fund Operating Budget Increasing both Revenues and Expenditures by \$12,500. [330-10 FY09-10/500-10 A/C: California, State of, Alcoholic Beverage Control, Dept. of]**

Prior to action being taken on the Consent Calendar, Council Member Graves asked how the decoys are budgeted. Interim Chief of Police Ehle said they are not budgeted as they are volunteers and are not paid.

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to adopt **Resolution No. 3760, Resolution Accepting a State Office of Alcoholic Beverage Control (ABC) Grant in the Amount of \$12,500, and amending the FY2009/2010 General Fund Operating Budget Increasing Both Revenues and Expenditures by \$12,500**, 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 Request by the Capitola Junior Lifeguard Parents' Club for a Minor Special Event Permit, Entertainment Permit, and Encroachment Permit for a Post Competition "Beach Bash" on Friday, July 10, 2009, from 4:00 to 7:00 p.m., on Capitola Beach and Bandstand, and Provide a Grant for all Permit Fees and Bandstand Rental in the amount of \$291.00. [1050-70]**

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to approve the recommended action as follows:

1. Approved the Minor Special Event Permit, including Entertainment Permit, Encroachment Permit, and Bandstand Rental for the Post Competition "Beach Bash" to be held on Friday, July 10, 2009, from 4:00 pm to 7:00 pm, at Capitola Beach and Bandstand, as submitted;
2. Provided the Capitola Junior Lifeguard Parent's Club with a Grant for the Permit Fees and Bandstand Rental in the amount of \$291.00; and
3. Denied the request for a waiver of the Insurance Requirements.

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

- E. Approve Special Event Permit for a Block Party on Gilroy Drive between Beverly Drive and Center Street, on Saturday, July 18, 2009, from 3:30 to 7:30 p.m., and Provide a Grant for the Permit Fees in the amount of \$141.00. [1050-70/490-75]**

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to approve the recommended action as follows:

1. Approved the Minor Special Event Permit, including Entertainment and Encroachment Permits for the Gilroy Drive Block Party to be held on Saturday, July 18, 2009, from 3:30 to 7:30 p.m., as submitted; and
2. Provided the applicant, Stacie Clary, with a Grant for the Permit Fees in the amount of \$141.00.

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

4. PUBLIC HEARINGS

- A. Continued Public Hearing to Consider an Ordinance Adding Chapter 17.20 to Title 17 of the Capitola Municipal Code Pertaining to an Affordable Housing Overlay (AHO) District and to Amend the City Zoning and General Plan Maps to Apply the Affordable Housing Overlay to One or More of the Following Assessor's Parcel Numbers:

034-124-20 and/or 034-124-21 (Capitola Gardens Site)

036-151-15 (600 Park Avenue Site)

036-341-02 (City-Owned McGregor Drive Site)

036-011-28 (822 Bay Avenue, Capitola Inn Site)

**Presentation: Community Development Department
[730-85 Zoning/740-30 LCP/740-40 General Plan]**

Mayor Begun announced that the public portion of the hearing was closed at the Special Meeting of June 18, 2009; therefore, the council would not be receiving any further public testimony.

Community Development Director Goldstein provided a very brief recap of the prior hearing and responded to questions of Council Member Graves pertaining to action that was taken to remove Capitola Gardens as an opportunity site.

There were two failed motions, considerable council discussion, and then the following motion to reconsider: Council Member Nicol moved to reconsider Council Member Norton's first motion with the amendment. Council Member Graves seconded the motion. 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.

ACTION: Council Member Norton then moved, seconded by Council Member Nicol, to approve the recommended action and to include 600 Park Avenue (APN 036-151-15) and Capitola Inn located at 822 Bay Avenue (APN 036-011-28) as the city's Affordable Housing Overlay District sites, with the conditions to those sites as outlined in the submittal from Council Member Norton, and with the additional language to Section 17.20.040 pertaining to the development agreement provided by staff to be included in the proposed ordinance, as follows:

1. Passed the proposed Ordinance Adding Chapter 17.20 to Title 17 of the Capitola Municipal Code Pertaining to an Affordable Housing Overlay (AHO) District to a second reading, with the following language added to Section 17.20.040:
17.20.040 Uses Permitted with a Development Agreement:
"The following uses are permitted with the execution of a Development Agreement by the City and the developer in accordance with the provisions of California Government Code Section 65864 et seq."
2. Adopted **Resolution No. 3761, Resolution Authorizing Amendments to the City Zoning Map to Apply the Affordable Housing Overlay to Assessor's Parcel Numbers: 036-151-15 (600 Park Avenue) and 036-011-28 (Capitola Inn, 822 Bay Avenue);** and
3. Adopted **Resolution No. 3762, Resolution Authorizing Amendments to the City General Plan Land Use Element by Revising the Land Use Densities to Residential R-H High 10-20 Units/Acre for Assessor's Parcel Numbers: 036-151-15 (600 Park Avenue) and 036-011-28 (Capitola Inn, 822 Bay Avenue).**

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. Report on the Status of the 200 Kennedy Drive Project. [730-10: 200 Kennedy Drive; Application #07-019]

Community Development Director Goldstein and Senior Planner Bane presented this item and responded to questions of council members. Senior Planner Bane said staff has worked with the City Attorney regarding the status of the easement, and he explained how the shared access easement works. Staff responded to questions of council members.

The City Council heard from several residents of Cabrillo Mobile Estates, the park owner Albert Vieira, as well as Bob Dwyer, Mr. McCoy's partner.

Considerable Council discussion and deliberation was followed by this action:

ACTION: Council Member Norton moved to direct staff to work with Mr. McCoy, Mr. Vieira, the Homeowners' Association, and Mayor Bob Begun in resolving the two issues that are at hand: 1) Some type of screening along both Pamela's and Brenda's properties, and 2) some type of workable gate located in the proximity suggested by staff. Before a meeting takes place, staff should obtain a cost estimate for the gate and the screening. The discussion among the parties would be about how these costs would be shared. Once a resolution has been made, staff should report back to the council regarding that resolution.

Council Member Graves seconded the motion. In addition, he addressed the issue raised by mobile home park residents regarding deliveries to the site. He offered a friendly amendment to the motion that when staff prepares the deed restriction called for in the conditions, that a condition be included that would allow deliveries during normal business hours, Monday through Friday, and eliminate deliveries on Saturdays, Sundays, and holidays.

Council Member Norton said he did not think the council could add a condition to the project. Council Member Graves explained it was not a condition to the project, but an item to be added to the deed restriction that will be entered into prior to occupancy. Mayor Begun asked where that condition was located in the agenda report. Community Development Director Goldstein said it could be found on Page 3, Condition 21.

After reviewing the condition, Council Member Norton agreed that it would be appropriate to include a condition in the deed restriction pertaining to deliveries as suggested by Council Member Graves, and he accepted the amendment to the motion.

Pamela Atwood suggested that they be required to use sensor lighting that would only come on if someone were around the building. Council Member Storey suggested she talk to Mr. Bob Dwyer, since it could be a cost savings.

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

B. Art & Cultural Commission Graphic Traffic Box Public Art Project. [1010-10]

Assistant to the City Manager Murphy summarized the written agenda report. Art & Cultural Commissioner Joyce Murphy provided a history of the project, saying it was originally brought to the Art & Cultural Commission by Debbie Hale. She then introduced artist Bruce Harman, who responded to questions of council members pertaining to graffiti.

Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Storey, to approve the Art & Cultural Commission Graphic Traffic Box Public Art Project and to authorize execution of the Professional Services Agreement between the City and Artist Bruce Harman, 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. Designation of Voting Delegate and Alternates for the 2009 League of California Cities Annual Conference to be held in San Jose from September 16 to 18, 2009. [150-50]

City Clerk Greeninger asked who planned to attend the League's Annual Conference. Council Member Storey and Mayor Begun said they planned to attend.

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to designate Mayor Begun as the city's voting delegate, and Vice Mayor Storey as the city's alternate voting delegate, at the 2009 League of California Cities Annual Conference to be held in San Jose. 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 commented on references to administrative policies, and he wondered how those policies are approved for content and if those policies are approved by the city council. City Manager Hill said there are three different types of administrative policies: council approved policies, policies that require negotiation by employee group unions, and policies approved by staff. Council Member Graves said he was particularly concerned with policies that deal with the public the council members represent.

Mayor Begun complimented the council for working together to address two very difficult subjects on tonight's agenda. He also urged everyone to Shop Capitola.

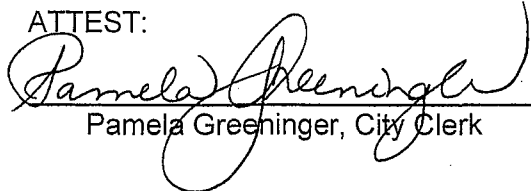
7. ADJOURNMENT

The City Council adjourned at 9:37 p.m. to its next Regular Meeting to be held on Thursday, July 9, 2009, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Robert A. Begun, Mayor

ATTEST:



_____, MMC
Pamela Greeninger, City Clerk

MINUTES UNANIMOUSLY APPROVED BY THE CITY COUNCIL ON JULY 23, 2009