

July 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 6:00 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
 Save the Habitat vs. City of Capitola (Rispin Mansion Project)

PERFORMANCE EVALUATION (Govt. Code §54957)

Title: City Manager

Mayor/Chairperson Begun asked if anyone wished to address items on the Closed Session agenda. Seeing no one, the City Council/Redevelopment Agency recessed at 6:01 p.m. to the Closed Session.

CAPITOLA REDEVELOPMENT AGENCY (See Redevelopment Agency Minutes)

REGULAR MEETING OF THE CITY COUNCIL

Mayor Begun called the Regular Meeting of the City Council to order at 7:14 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, Deputy City Attorney Celestial Cassman, Community Development Director Jamie Goldstein, Public Works Director Steve Jesberg, Police Captain Thomas Held, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

***** PRESENTATIONS *****

**Recognition of Excellence to the
 Capitola Finance Department Staff for Outstanding Service
 Linda Benko, Account Clerk
 Helen Marchese, Account Clerk
 Denice Pearson, Account Technician
 Lisa Saldana, Supervising Accountant
 Lonnie Wagner, Accountant II [120-40]**

PRESENTATIONS (Continued)

Mayor Begun called the employees receiving Recognition of Excellence Awards to come forward. City Clerk Greeninger presented certificates to each recipient. Mayor Begun noted that Supervising Accountant, Lisa Saldana, could not be in attendance. He explained that the city lost its finance director while implementing a new financial system for the city and that these five ladies have done an outstanding job in getting their jobs done, implementing the new system, getting the budget out, and helping wherever they could. Mayor Begun complimented them all for all their hard work and requested that they continue to do so, as the city is still without a finance director.

City Manager Hill also acknowledged Lonnie, Denice, Linda, Helen, and Lisa for their dedication and commitment to their jobs and the implementation of a very sophisticated finance system. He said that this is not an idle recognition; this is Recognition of Excellence of the Finance Department staff during difficult circumstances. He complimented the finance staff and said he is proud to have them as employees.

Mayor Begun invited the recipients to say a few words.

Helen said they have a great group that works well together, and they are all willing and able to do what they need to do to get the job done.

Denice said they could not have done it had they not worked so well together. She is sorry their supervisor, Lisa Saldana, could not be here.

Linda agreed with Denice and said Lisa was their guiding light, a pleasure to work for, and calm under pressure. She said it was unfortunate she could not be here to receive this recognition.

Lonnie thanked the mayor and council for the recognition, and she also expressed thanks for everyone's help during the implementation of the new financial system, particularly after the loss of the finance director.

1. REPORT ON CLOSED SESSION [520-25]

Deputy City Attorney Celestial Cassman reported on the items discussed in Closed Session by the City Council/Redevelopment Agency Directors as follows. She noted that all council members/RDA directors were present, and that the Closed Session commenced in the City Manager's Office at approximately 6 p.m.

Conference with Real Property Negotiator: Rispin Mansion Property Lease and Development Agreement – The Council/Directors received an update from its negotiator and provided direction. No reportable action was taken.

Conference with Legal Counsel - Existing Litigation:

Surf and Sand, LLC vs. City of Capitola – The Council received an update on this case, but took no reportable action.

Save the Habitat vs. City of Capitola (Rispin Mansion Project) – There was no discussion on this matter in closed session.

Performance Evaluation of City Manager – The City Council discussed the disposition of the investigation by the District Attorney and the City Attorney regarding allegations against Council Member Nicol. The investigation resulted in the conclusion that there were no criminal or civil violations. The City Council directed that the City Manager make the administrative investigation report a public record.

2. ORAL COMMUNICATIONS

- A. Additions and Deletions to Agenda – None
- B. Public Comments – None
- C. Staff Comments – None
- D. City Council/Treasurer Comments/Committee Reports

1) Mayor Begun reported that there was a press conference held today at 10:30 a.m. at Santa Cruz City Hall, where the mayors and council members from Santa Cruz and Monterey Counties voiced their concerns about the State taking local monies to solve their fiscal problems. He said the consequences of the State budget will affect many of the counties and cities that are underfunded.

2) Council Member Norton commented on the aquariums that are appearing around town. He said this is a project of the Art & Cultural Commission, and an artist is painting the city's signal control boxes with aquarium scenes.

E. Committee Appointments**1) Appointment of Christine Buechting as the Business Representative to the Finance Advisory Committee. [330-40/110-10]**

Mayor Begun asked if Christine was in attendance. City Treasurer Bertrand said he spoke to her, and she was not available to attend the meeting tonight. He also said she attended the last meeting of the Finance Advisory Committee.

ACTION: Council Member Norton moved, seconded by Council Member Storey, to appoint Christine Buechting to serve as the Business Representative on the Finance Advisory Committee. 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]

Staff responded to a number of questions raised by council members pertaining to the Check Register Report.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Storey, to approve the Check Register Reports dated July 2 and 10, 2009, including checks numbered 60343 through 60422 in the amount of \$1,018,069.46, and checks 60423 through 60489 in the amount of \$542,754.84, respectively; and payroll disbursements for the July 3, 2009, payroll in the amount of \$217,894.48 for a Grand Total of \$1,778,718.78, 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 said he intends to vote differently on Item 3.J. pertaining to the Affordable Housing Overlay District ordinance and resolution. Council Member Storey said he, too, would be voting differently on that one item.

Community Development Director Goldstein said staff would like to pull Item 3.K. relating to setting the public hearing for the Surf & Sand Mobile Home Park for August 13. Council Member Norton suggested dealing with that item following action on the consent calendar rather than at the end of the meeting.

3. CONSENT CALENDAR (Continued)

Mayor Begun advised Item 3.K. would be discussed immediately following action on the Consent Calendar.

CONSENT CALENDAR ACTION: Council Member Graves moved, seconded by Council Member Nicol, to approve the Consent Calendar as recommended, with the exception of Item 3.K. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None. *(NOTE: Item 3.B. - Council Member Nicol abstained from voting on the Minutes of June 18, 2009, and Mayor Begun abstained from voting on the Minutes of July 9, 2009, only. Item 3.J. – Council Member Graves and Storey voted no on this item only.)*

- 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 – The Special Meeting of the City Council of June 18, 2009, and the Regular Meetings of the City Council of June 25 and July 9, 2009.**

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to approve the Minutes of the Regular Meetings of June 25 and July 9, 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. *(*NOTE: Council Member Nicol abstained from voting on the Minutes of June 18, 2009, and Mayor Begun abstained from voting on the Minutes of July 9, 2009, only).*

- C. Receive Planning Commission Action Minutes for the Special Meetings of July 8 and July 16, 2009. [740-50]**

ACTION: The City Council unanimously approved the Planning Commission Action Minutes for the Special Meetings of July 8 and 16, 2009, as submitted.

- D. Approve Request for Minor Special Event Permit, including Encroachment Permit for a Tie-Dye Event to be Held in Esplanade Park on Saturday, August 1, 2009; and Deny Applicant, Raina Snyder, the Grant Request for Permit Fees in the Amount of \$110.00. [1050-70]**

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to approve the recommended actions as follows:

1. Approved the Minor Special Event Permit, including an Encroachment Permit for the Tie-dye Event to be held in Esplanade Park on Saturday, August 1, 2009, from 12:00 pm to 5:00 pm, as submitted; and
2. Denied the grant request from applicant Raina Snyder for the permit fees in the amount of \$110.00.

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 Request for Special Event Permit including Encroachment Permit, Entertainment Permit and Sign Permit to Hang a Banner for the 57th Annual Capitola Begonia Festival to be held Friday, September 4, 2009, through Monday, September 7, 2009; Authorize the Capitola Police Department to Issue Permits; and Provide the Capitola Begonia Festival Committee with a Grant in the Amount of \$6,108.00. [1050-70]**

3. E. CONSENT CALENDAR (Continued)

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to approve the following actions:

1. Approved the Special Event Permit, including Encroachment Permit, Entertainment Permit, and Sign Permit to hang a banner, for the **57th Annual Capitola Begonia Festival** to be held from Friday, September 4 through Monday, September 7, 2009, and authorized the Capitola Police Department to issue the permits, as submitted; and
2. Provided the Capitola Begonia Festival Committee with a City Grant in the amount of \$6,108, as requested.

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

- F. Approve Request for Special Event Permit, Encroachment Permit and Entertainment Permit by the Capitola-Soquel Chamber of Commerce for the 27th Annual Art and Wine Festival in Capitola Village and Live Music in Esplanade Park on Saturday and Sunday, September 12 and 13, 2009; and Approve Grant for Permits and Police and Public Works Department Fees in the Amount of \$1,618.00. [1050-70]**

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to approve the following actions:

1. Approved the Special Event Permit, including all other permits, for the **27th Annual Capitola Art & Wine Festival** to be held Saturday and Sunday, September 12 and 13, 2009, and authorized the Capitola Police Department to issue said permits, as submitted; and
2. Approved a Grant to the Capitola-Soquel Chamber of Commerce in the amount of \$1,618.00 for permits and Public Works' fees, as requested.

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 Resolution Amending FY 2009-10 Budget Authorizing Acceptance of an Office of Homeland Security – Commercial Equipment Direct Assistance Program (CEDAP) Grant, Consisting of a Bullard TacSight SE35 Thermal Imager with a Value of \$15,000. [330-10/390-25]**

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to adopt **Resolution No. 3767, Resolution Authorizing Acceptance of a Office of Homeland Security – Commercial Equipment Direct Assistance Program (CEDAP) Grant, Consisting of a Bullard TacSight SE35 Thermal Imager with a Value of \$15,000**, 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 Resolution Amending the General Fund Fiscal Year 2009-10 Operating Budget to Accept FY 09 Recovery Act Edward Byrne Memorial Justice Assistance Grant Funds in the Amount of \$34,233 and Authorizing Budget Expenditures of \$34,233 for Radio Infrastructure Improvements. [330-10/390-25]**

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to adopt **Resolution No. 3768, Resolution Amending the General Fund FY2009-10 Operating Budget to Accept FY 09 Recovery Act Edward Byrne Memorial Justice Assistance Grant in the Amount of \$34,233 and Authorizing Budget Expenditures of \$34,233**, 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)

- I. **Approve Contract with Carolyn Flynn for an Amount not to Exceed \$16,550 for Fiscal Year 2009-2010 for Assistance with the City's Economic Development Community Development Block Grant (CDBG) Planning and Technical Assistance Grants and Overall Administration of the City's CDBG Program. [700-10/500-10 A/C: Flynn, Carolyn]**

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to approve a sole source contract with Carolyn Flynn for an amount not to exceed \$16,550 for FY 2009/10 for Assistance with the City's Economic Development CDBG Planning and Technical Assistance Grants and overall administration of the City's Community Development Block Grant (CDBG) Program, 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.

- J. **Adopt Ordinance Adding Chapter 17.20 to Title 17 of the Capitola Municipal Code Pertaining to an Affordable Housing Overlay (AHO) District [2nd Reading]; and Adopt Resolution Authorizing Submittal to the California Coastal Commission for the Certification of Amendments to the Local Coastal Program to Create an Affordable Housing Overlay District and Modification of the Community Commercial Zoning District to Allow Mixed-Use. [730-85 Zoning/740-30 LCP/ 740-40 General Plan]**

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to approve the following actions:

1. Adopted **Ordinance No. 942, An Ordinance of the City Council of the City of Capitola Adding Chapter 17.20 to Title 17 of the Capitola Municipal Code Pertaining to an Affordable Housing Overlay (AHO) District**, as submitted; and
2. Adopted **Resolution No. 3769, Resolution Authorizing Submittal to the California Coastal Commission for the Certification of Amendments to the Local Coastal Program to Create an Affordable Housing Overlay and Modification of the Community commercial zoning district to Allow Mixed-Use**, as submitted.

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.

Item 3.K. was pulled for separate discussion and dealt with following action on the Consent Calendar.

- K. **750 47th Avenue – Project Application #09-011 - Set Public Hearing for the City Council Meeting of August 13, 2009, to Consider an Appeal of a Coastal Development Permit and the Sufficiency of a Relocation Impact Report for the Closure of Surf and Sand Mobile Home Park in the MHE (Mobile Home Exclusive) Zoning District and Located in the Coastal Zone. [730-10: 750 47th Avenue, Surf & Sand Mobile Home Park]**

Community Development Director Goldstein discussed the highly impacted agenda for August 13, and he suggested that the council consider scheduling a special meeting for this hearing. He suggested the date of Thursday, August 20.

Council Member Nicol said he would be out of the country from August 14 to 25 and would not be available.

Council Member Storey asked about trying for August 26, as he is leery about waiting until the very last day.

3. K. CONSENT CALENDAR (Continued)

City Manager Hill said the council could consider keeping it on the August 13 meeting, being aware it could be a long meeting. Council Member Norton said he cannot make the meeting of August 13.

Considerable Council discussion was followed by this action:

ACTION: Council Member Norton moved to set the hearing to consider an appeal of a Coastal Development Permit, and the Sufficiency of a Relocation Impact Report, for Application #09-011, 750 47th Avenue, for a Special Meeting of the City Council to be held on Thursday, August 27, 2009. Council Member Nicol 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 Norton then requested that Item 5.A. be reordered for discussion and action at this time, prior to the public hearing.

Council Member Storey asked for staff's assessment of how long this Item might take. City Manager Hill commented that the item that will be discussed the most is staff's recommendation for bringing another person on staff to move this process forward.

City Manager Hill went on to say that perhaps now is not the time to begin the process and said one option might be to delay the general plan process until the next council election in 2010. He said it has been his experience that when a council changes, the process changes as a result of new council members. By delaying the process until after the election, more money can then be accrued in the general plan fund.

It was the consensus of the City Council to deal with Item 5.A. at this time.

5. OTHER BUSINESS

A. General Plan Update: Work Plan and Authorization to Issue Request for Proposals. Staff recommendation: Accept the General Plan Update Work Plan, authorize staff to issue Request for Proposals, and authorize the creation and recruitment of a 2-year "General Plan Coordinator" staff position. [740-40]

Prior to taking action to reorder this item, City Manager Hill provided a verbal report. (See discussion above.)

Limited Council discussion was followed by this action:

ACTION: Council Member Storey moved to defer the implementation of the General Plan elements, other than the Housing Element, until after the 2010 election and seating of the new city council at that time. The motion was seconded by Council Member Norton.

Community Development Director Goldstein commented on the motion and said that given the timelines involved he would recommend that the process actually begin about a year from now, so far as issuing an RFP, in order to begin the public process, etc.

Council Member Storey said he would amend his motion accordingly. Council Member Norton accepted the amendment to the motion. The implementation of the General Plan elements, other than the Housing Element, was deferred to one year from now, July 2010, as recommended by 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.

4. PUBLIC HEARINGS

A. **Public Hearing to Consider a Request by the Pacific Cove Mobile Home Park Homeowner's Association to Purchase Pacific Cove Mobile Home Park from the City. Presentation: Community Development Department. [260-10]**

Council Member Norton and Council Member Graves recused themselves from participating on this item as they live within 500 feet of the site.

Community Development Director Goldstein provided a brief presentation and said staff's recommendation is to decline the request.

Mike Kelly, speaking on behalf the Pacific Cove Mobile Home Park Homeowner's Association, said that they would like the items identified at the June 11 meeting and then discussed with the city manager considered before the Council takes action on this matter. He said they have not received a response from the city to their written request on whether the city would be willing to sell the entire park. The homeowners would also like to hear the City Council's decision regarding the possible closure of the Surf & Sand Mobile Home Park, as the outcome of their closure proceedings could affect how Pacific Cove residents will be treated by the city. He said it would be premature for the city to ask the Homeowners' Association to make its presentation without knowing the answers to these questions. Following his comments, Mr. Kelly responded to questions of council members.

The following people addressed the city council on this matter:

Carin Hanna said she was speaking on behalf of herself and is also representing her brother, Nels Westman, who was on the original committee and could not attend tonight's hearing. She said the intent of the original committee was to purchase the park for public use. To that end, prior councils purchased coaches as they came up for sale. With respect to the residents in the mobile home park, she suggested that the permanent full-time residents in the park have life tenure. She urged the council to protect the low-income, full-time residents and to protect future potential of the property for the community. She expressed opposition to the city selling the property adjacent to City Hall.

Carin Hanna also made a statement on behalf of the Capitola Village and Wharf Business Improvement Area, informing the Council that the businesses feel the future of the Barry Swenson hotel project is important to the economic viability of the Village businesses, and nothing should occur that could jeopardize the project due to lack of parking. She also said the increase in TOT from a beachside hotel which would undoubtedly enjoy high occupancy would offset in a few years any one-time revenue from the sale of the park.

Jacques Bertrand, 601 Monterey Avenue, said this resource was purchased at an earlier time by the City for the use of the residents in the future. He recognized the obligation of the city to protect the mobile home park residents, but he believes there are other options available for housing for permanent residents. Mr. Bertrand urged the Council to keep the park for the City of Capitola for the use of its residents or a use to be determined.

Molly Ordning, Monterey Avenue resident and member of the new Traffic & Parking Commission, said the commission needs a clear decision regarding the Pacific Cove Mobile Home Park property from the City Council in order for them to come up with long-term parking and circulation plan for the community.

Council discussion was followed by this action:

4. A. PUBLIC HEARINGS (Continued)

ACTION: Council Member Nicol moved approval of the staff recommendation to decline the residents' request to purchase Pacific Cove Mobile Home Park and to retain the property for future public use. Council Member Storey asked if we can add the words "at this time" to that motion. Council Member Nicol said yes. The motion was then seconded by Council Member Storey.

Under discussion of the motion, Mayor Begun commented on the city's need for additional parking for the Village and the costs associated with creating more parking spaces.

The motion to decline the residents' request to purchase Pacific Cove Mobile Home Park and to retain the property for future public use at this time carried on the following vote: AYES: Council Members Storey, Nicol, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None. DISQUALIFIED: Council Members Graves and Norton.

5. OTHER BUSINESS

A. General Plan Update: Work Plan and Authorization to Issue Request for Proposals.

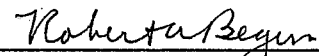
This item was reordered prior to Public Hearing Item 4.A. (See discussion and action on Page 11455.)

6. COUNCIL/STAFF COMMUNICATIONS

Mayor Begun encouraged everyone to **Shop Capitola**, and if not Capitola, Santa Cruz County.


7. ADJOURNMENT

The City Council adjourned at 8:09 p.m. to its next Regular Meeting to be held on Thursday, August 13, 2009, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Robert A. Begun, Mayor

ATTEST:



Pamela Greeninger, City Clerk, MMC

MINUTES UNANIMOUSLY APPROVED BY THE CITY COUNCIL ON AUGUST 13, 2009