

October 8, 2009
 Capitola, California

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

**6:00 P.M. - CLOSED SESSION - CITY MANAGER'S OFFICE
 CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL**

At 6:01 p.m. in the City Hall Council Chambers, Mayor/Chairperson Begun noted that all City Council Members/Redevelopment Agency Directors were present. He made an announcement regarding the items to be discussed in Closed Session, as follows:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Govt. Code §54956.8)

Property: Rispin Mansion Property, 2000 & 2005 Wharf Road
 APN 035-371-01 & 02
 Agency/City Negotiator: Rich Hill, City Manager/RDA Executive Director
 Negotiating parties: The Rispin LLC, City of Capitola, and City of Capitola
 Redevelopment Agency
 Under Negotiation: Lease and Development Agreement

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Govt. Code §54956.8)

Property: 4140 Jade Street, APN 034-641-08
 City Negotiator: Rich Hill, City Manager
 Owner: John and Karen Huffman
 Under Negotiation: Purchase of Property by City

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)

CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)

Negotiator: Rich Hill, City Manager
 Employee Organizations: Association of Capitola Employees, Capitola Police Captains,
 Capitola Police Officers Association, Confidential Employees, Mid-Management
 Group, Building Official, City Manager, Community Development Director, and
 Public Works Director

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Frank Pieper

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

The following people addressed the City Council/Redevelopment Agency Directors pertaining to the Rispin Mansion Property Lease and Development Agreement:

Tony Gualtieri, on behalf of the Ad Hoc Capitola Library Committee, read for the record comments from the committee regarding the Redevelopment Agency/City Council Closed Session item pertaining to the Rispin Mansion Property Lease and Development Agreement. *(Mr. Gualtieri submitted the comments he made orally in writing for the record. A copy is on file in Central Files: File #275-35, Rispin Development Negotiations).*

Kathryn Gualtieri, Grand Avenue resident, discussed her knowledge of a property qualifying for the National Register of Historic Places and informed the City Council/Redevelopment Agency Directors that it was her professional opinion the Rispin Mansion would no longer qualify to be listed on the National Register. In closing, Mrs. Gualtieri said she believes the developers' project cannot meet the requirements of historic preservation and the project should be abandoned. *(Mrs. Gualtieri submitted her comments in writing to the City Clerk for the record.)* [230-10]

Michael Termini, former Council Member and current Planning Commissioner, said there was a time when he could support the project; however, given the current economy it is not a viable project for our community. He urged the council to terminate the LDA now and not to act from fear, but to act for the good of the community and stressed the importance of a decision tonight.

Nels Westman said it was painful to think of all the staff time and city resources that have been invested in this property over the years. He commented that there are many urgent needs for city and RDA tax dollars; the last thing the city should be considering is investing millions in a poorly conceived boutique B&B. Mr. Westman urged the City Council/RDA Directors not to let this drag on any further. He suggested going in a new direction that will really benefit the average resident in Capitola - a permanent library.

There being no further comments from the public, the City Council/Redevelopment Agency recessed at 6:10 p.m. to the Closed Session in the City Manager's Office.

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 7:20 p.m. on Thursday, October 8, 2009, 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 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 *****

Mayor Begun announced that he would be making a Mayor's Proclamation to Lakeside Organic Gardens, who was named "Food Industry Donor of the Year" by the Second Harvest Food Bank at their Annual Membership Luncheon on October 19, 2009. [120-40]

**Presentation of Mayor's Proclamation Designating November 2009 [120-40]
"Pancreatic Cancer Awareness Month"**

Mayor Begun called representatives of the Pancreatic Cancer Action Network forward to receive the Mayor's Proclamation Designating November 2009 "Pancreatic Cancer Awareness Month." He read portions of the proclamation and presented it to the representatives.

Diane Morrison, 3-year pancreatic cancer survivor, discussed her situation and the need for research funding, increased awareness about pancreatic cancer, early detection and development of effective treatments and a cure. She thanked the Mayor for helping them to raise awareness in our community.

Capitola resident Jennifer Flaniken thanked Mayor Begun, and she commented on her participation in the Pancreatic Cancer Action Network, which was prompted by her father's condition.

In closing, Mayor Begun encouraged citizens to join the Pancreatic Cancer Action Network to support those patients currently battling pancreatic cancer.

PRESENTATIONS (Continued)

Recognition of Capitola's 60th Birthday Committee Volunteers & Sponsors [160-10]

Mayor Begun turned this item over to Vice Mayor Storey, who made the following presentations:

**Lin Banks, Bob Begun, Toni Castro, Lynsey Niizawa,
Linda Smith, Carolyn Swift, Mike Termini, Gary Wetsel**

Vice Mayor Storey said he was asked to perform this honor since one of the recipients is our Mayor, Bob Begun. He summarized the various 60th Birthday events planned by this group and the City's interest in recognizing those individuals for their hard work and dedication in contributing to make the City's 60th Birthday memorable.

Vice Mayor Storey called each person forward and presented each with a "*Certificate of Recognition in Appreciation for Serving on the City of Capitola's 60th Birthday Committee and Contributing Significantly to the City's Sense of community and Good Fun.*"

Committee Member Lin Banks said City Manager Rich Hill and Assistant to the City Manager Lisa Murphy should also be recognized as they also were instrumental in contributing to the 60th Birthday events.

**Capitola Mall, Capitola Public Safety Foundation,
Devcon Construction, Gayle's Bakery, Redtree Properties**

City Manager Hill said there were several corporate heroes who contributed to the 60th Birthday events.

Committee Member Mike Termini then presented framed photographs taken by Larry Smith on September 2, 2009, of the fireworks display to representatives of Devcon Construction and Redtree Properties, and he thanked them for their generous donations.

Craig French, on behalf of Redtree Properties, said he has received so many positive comments from members of the community regarding the fireworks display. He said Redtree Properties was happy to participate in the City's 60th Birthday by donating money for the fireworks.

Brett Sisney, on behalf of Devcon Construction, said Devcon enjoyed sponsoring the fireworks event for Capitola's 60th Birthday, which was enjoyed by the community and their employees.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone said the items discussed in Closed Session were those items listed on the posted agenda. In addition, he reported that the City Council unanimously made the findings under the Brown Act to add *Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates)* to the Closed Session Agenda in light of the written decision received from the 9th Circuit Court of Appeals issued yesterday pertaining to that existing litigation case, which requires Council's action prior to the City Council's next regular meeting on October 22, 2009.

City Attorney Barisone then reported on the items discussed in closed session as follows:

City Attorney Barisone reported on the discussion and action taken by the City Council/ Redevelopment Agency Directors pertaining to its Conference with Real Property Negotiator, Rich Hill, regarding the Rispin Mansion Property Lease and Development Agreement (LDA). He provided background information regarding this item, including extension of the LDA to September 29, 2009, following the fire that occurred at the Rispin Mansion in May. He said September 29th came and went and construction was not underway on the project. Accordingly, as of September 29, 2009, the LDA automatically terminated. He reported that in Closed Session the City Council/RDA Directors unanimously voted to direct staff to write a letter confirming that the LDA is

1. REPORT ON CLOSED SESSION (Continued)

terminated as of September 29, 2009, and that any negotiations to reinstate the agreement would not be continued. Staff was also directed to discontinue negotiations to reinstate the agreement. He clarified that as of this time the Lease and Development Agreement is no longer binding on either party.

City Attorney Barisone reported that the City Council heard from the City Manager regarding the status of real property negotiations regarding the 4140 Jade Street property and took no reportable action in closed session.

The City Council heard from the City Attorney with respect to two items of litigation concerning Surf & Sand Mobile Home Park vs. City of Capitola. One item was a Public Records Act lawsuit in which he provided a status report. He said the court issued part of its decision last Friday and continued that matter for review on October 22, 2009. City Attorney Barisone also reported that the Surf & Sand federal court challenge to the city's park conversion ordinance, which is pending in federal court, heard an oral argument in the 9th Circuit Court of Appeal yesterday but did not rule at that time. No reportable action was taken on either of those items.

City Attorney Barisone reported that he provided the City Council with a summary of the *Los Altos/El Granada Investors vs. City of Capitola* (Castle Mobile Estates) decision which was added to the Closed Session agenda. The City Council provided direction to the City Attorney with regard to the further defense of that matter in the 9th Circuit Court of Appeal.

City Attorney Barisone announced that the council took the matter regarding labor negotiations off the Closed Session agenda. There was no discussion regarding that matter.

He also reported that there was no discussion regarding the tort claim of Frank Pieper and advised the matter is on the open meeting Consent Calendar for council action.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Lin Banks announced that the Capitola Public Safety and Community Service Foundation would be having a fundraiser on November 9, 2009, at Pasatiempo Golf Course. She said the foundation has two fundraisers each year, the Rod & Custom Car Show in May and a golf tournament in the fall. She encouraged everyone who knows a golfer to sign up for this special event and said additional information is available on the website at: www.CapitolaSafety.com

2) Margaret Kinstler said she was in attendance at the meeting on behalf of Capitola Village Residents' Association.

C. Staff Comments – None

D. City Council/Treasurer Comments/Committee Reports

1) City Treasurer Jacques Bertrand announced that the regularly scheduled meeting of the Finance Advisory Committee for October has been cancelled and that the next meeting would be held on November 10. He announced that the Finance Advisory Committee is beginning to review individual city departments in preparation of the budget and will start with the financials of the Public Works Department.

2. D. ORAL COMMUNICATIONS (Continued)

2) Council Member Norton said the Santa Cruz Public Library System is in the process of developing a plan for the future. On October 13 they are holding a Town Hall Meeting at the New Brighton Middle School Performing Arts Center. The community will have an opportunity to meet Patricia Landers, the new library director, at 6:30 p.m. The town hall meeting will begin at 7:00 p.m.

3) Council Member Norton said, with the council's consent, he would like staff to look into a 2-tiered rent structure for Pacific Cove Mobile Home Park. It was the consensus of the council to do so.

E. Committee Appointments1) **Appointment of Youth Member to the Commission on the Environment.**
[430-05]

City Clerk Greeninger summarized the written agenda report and various options provided in the agenda report.

Mayor Begun asked if the Council could appoint Alyssa Stanger even though she is not a resident of Capitola. City Attorney Barisone responded stating that the council would be violating its own resolution if it was to do so, and he said the council has the authority to amend the resolution.

Council Member Norton said he had the opportunity to meet Alyssa at the Commission on the Environment meeting, and he believes she would be a real asset to the commission.

Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Storey, to appoint Alyssa Stanger as the Youth Member on the Commission on the Environment, and to adopt Resolution No. 3779, **Resolution Amending Section 3 of Resolution No. 3696 Regarding the Youth Member on the Capitola Commission on the Environment**, with an additional provision that the Youth Member be a Santa Cruz County resident.

Under discussion of the motion, Council Member Nicol said he could not support the resolution; he believes there must many young people in Capitola who could participate, and he does not think the City Council should change the law.

Council Member Graves commented on the duration of time staff has been recruiting for this vacancy and believes the proposed amendment offers the council with a solution.

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

2) Council Member Graves thanked City Clerk Pam Greeninger and staff for recruiting for his nomination to the METRO Advisory Committee (MAC). He received 2 applications and his nomination, Craig Agler, was appointed by the Santa Cruz Metropolitan Transit District Board on October 9, 2009.

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

Staff responded to questions of council members pertaining to several checks on the check register. Council discussion was followed by this action:

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

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to approve the Check Register Reports dated September 18 and 25, 2009, including checks numbered 61144 through 61202 in the amount of \$36,144.35, and checks numbered 61203 through 61273 in the amount of \$103,678.58, respectively; and payroll disbursements for the September 25, 2009, payroll in the amount of \$189,436.87, for a Grand Total of \$329,259.80, 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 advised he would be abstaining on Item 3.B., approval of the Minutes, since he was absent.

CONSENT CALENDAR ACTION: Council Member Norton 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. (*Note: Council Member Graves abstained from voting on Item 3.B., Approval of the Minutes 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 Joint Meeting of the City Council/Planning Commission with Assembly Member Bill Monning of September 22, 2009, and the Regular Meeting of September 24, 2009.

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to approve the Minutes of the Special Joint Meeting with assembly Member Bill Monning of September 22, 2009, and the Regular Meeting of September 24, 2009, as submitted. The motion carried on the following vote: AYES: Council Members Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: Council Member Graves.

C. Receive Planning Commission Action Minutes for the Regular Meeting of October 1, 2009. [740-50]

ACTION: The City Council unanimously approved the Planning Commission Action Minutes for the Regular meeting of October 1, 2009, as submitted.

D. Approve Contract Change Order No. 1 in an Amount not to Exceed \$25,906 for Storm Drain Improvement on Hill Street with Granite Construction Company in Conjunction with the 2009 Street Overlay Project on Hill Street, Pine Street, Plum Street, and a Portion of Rosedale Avenue. [940-40/500-10 A/C: Granite Construction]

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to approve Contract Change Order No. 1 in the amount of \$25,906 for the 2009 Street Overlay Project awarded to Granite Construction for storm drain improvements on Hill Street, 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 Frank Pieper in the amount of \$247 and Forward the Claim to the City's Liability Insurance Carrier. [Claims Binder]**

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to deny the claim of Frank Pieper in the amount of \$247 and forward the claim to the City's Liability Insurance Carrier, 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.

- F. **Receive City Treasurer's Report for the Month Ended June 30, 2009 (Unaudited). [380-30]**

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to accept the City Treasurer's Report for the month ended June 30, 2009 (Unaudited), 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 Resolution Rescinding Resolution No. 3167 and Resolution No. 3310 and Adopting a Revised Records Retention Schedule for the City of Capitola, Authorizing the Destruction of Certain City Records, and Authorizing Updates to the Records Retention Schedules. [170-10]**

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to adopt Resolution No. 3780, Resolution Rescinding Resolution No. 3167 and Resolution No. 3310 and Adopting a Revised Records Retention Schedule for the City of Capitola, Authorizing the Destruction of Certain City Records, and Authorizing Updates to the Records Retention Schedules, 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 - None

5. OTHER BUSINESS

- A. **Library Siting Hearing Date Change to November 4, 2009. [230-10/520-40]**

ACTION: Council Member Storey moved, seconded by Council Member Graves, to approve a change in the Library Siting Hearing date from October 14, 2009, at 6:00 p.m. to Wednesday, November 4, 2009, at 6:00 p.m. in the City Hall Council Chambers, 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.

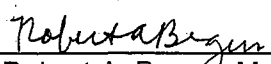
6. COUNCIL/STAFF COMMUNICATIONS

Council Member Norton commented on his prior discussion to request the METRO consider a bus service from the Village to downtown Santa Cruz. Council Member Graves said he did bring this request to the board at the last meeting he attended, and he would renew that discussion at the next meeting.

7. ADJOURNMENT

The City Council adjourned at 8:06 p.m. to its next Regular Meeting to be held on Thursday, October 22, 2009, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ATTEST: , MMC
Pamela Greeninger, City Clerk


Robert A. Begun, Mayor