

December 10, 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 LEGAL COUNSEL – EXISTING LITIGATION (Govt. Code §54956.9a)**

Surf and Sand, LLC vs. City of Capitola  
 Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates)  
 Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates)

**CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)**

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

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

Property: 2091 Wharf Road, APN 034-241-05  
 City Negotiator: Rich Hill, City Manager  
 Owner: Joseph K. and Debbie A. Genge  
 Under Negotiation: Purchase of Property by City

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 6:06 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 7:09 p.m. on Thursday, December 10, 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:** City Treasurer Jacques Bertrand  
**STAFF:** City Manager Rich Hill, City Attorney John G. Barisone, Community Development Director Jamie Goldstein, Interim Chief of Police Ehle, Public Works Director Steve Jesberg, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

**1. REPORT ON CLOSED SESSION [520-25]**

City Attorney Barisone reported on the items discussed in Closed Session as follows:

Conference with Legal Counsel regarding Existing Litigation:

1) Surf and Sand, LLC - The City Council heard from the City Attorney and the Community Development Director, Jamie Goldstein, relative to the ongoing lawsuits that are pending between the City and Surf and Sand, LLC. City Attorney Barisone reported that prior to tonight's Closed Session each of the Council Members was served with a copy of the most recent Federal Court Complaint filed by Surf and Sand, LLC, in late November. City Attorney Barisone said that personal service was actually unnecessary in that counsel for the City of Capitola had already made arrangements to voluntarily accept service on behalf of the city. He noted that although service was made, service had already been accomplished through the cooperation of counsel from the city. No reportable action was taken.

2) Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates) – the City Council received a brief status report from the City Attorney on that matter. No reportable action was taken.

Conference with Labor Negotiator - The City Manager provided the City Council with a brief update on Labor Negotiations with the various city groups identified on the posted agenda and provided direction to staff. No reportable action was taken.

Conference with Real Property Negotiator – The City Council heard from City Manager Hill regarding ongoing property negotiations pertaining to potential acquisition of the property located at 2091 Wharf Road in connection with the potential library site. No reportable action was taken.

**2. ORAL COMMUNICATIONS****A. Additions and Deletions to Agenda**

Council Member Graves asked if the council members would be interested in reordering Item 2.E.1), Appointments/Reappointments to the Art & Cultural Commission, following Other Business Item 5.E. and explained why.

**ACTION:** It was the consensus of the City Council to reorder Item 2.E.1), Appointments/Reappointments to the Art & Cultural Commission, following Other Business Item 5.E. on the Agenda.

**B. Public Comments**

1) Stephanie Harlan reported on news from the Santa Cruz County Conference and Visitor's Council, where she represents the City of Capitola. She discussed the CVC's Spring Marketing Campaign, Playcation Getaway, and submitted a copy of the report to the City Council. She also commented on the TOT revenues over the past five years. In closing, Ms. Harlan thanked the council for its support of the Santa Cruz County Conference and Visitor's Council. Council Member Storey asked whether copies of the survey results would be made available. Ms. Harlan said she would make sure the council receives a copy. **[150-70]**

2) Sandra Williams asked if the council would consider designating the two chairs in the front row of the Council Chambers located in front of the podium for handicapped individuals only. She explained the reason for her request and requested some type of sign saying "Handicapped Only" be placed on those chairs.

3) Sandra Williams also commented on the Rispin property and suggested that the council consider another tile project, similar to the sea wall, for the wall surrounding the Rispin site on Wharf Road. She believes that would be a good fund raising project for the city. Council Member Norton said he would bring it up at a future Art & Cultural Commission meeting.

## 2. ORAL COMMUNICATIONS (Continued)

C. Staff Comments – NoneD. City Council/Treasurer Comments/Committee Reports

Council Member Norton reported on his attendance at the Integrated Waste Management Committee meeting and the committee's discussion to ban plastic bags within the county. He said the committee is looking at governmental controls and the process necessary to move forward with such a ban.

E. Committee Appointments

**1) City Council Appointments/Reappointments to the Art & Cultural Commission.**

*This item was reordered for discussion and action following Other Business Item 5.E. (See Page 11545.)*

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

There was no discussion prior to the following action being taken:

**ACTION:** Council Member Norton moved, seconded by Council Member Graves, to approve the Check Register Report dated November 20, 2009, including checks numbered 61700 through 61768 in the amount of \$72,859.51 and payroll disbursements for the November 20, 2009, payroll in the amount of \$186,949.50, for a Grand Total of \$259,809.01, 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 Norton pulled Item 3.G., regarding adoption of a Resolution Increasing the Residential and Commercial Garbage Collection and Recycling Rates in Capitola effective January 1, 2010.

Council Members Graves and Nicol stated that they would be voting "No" on Item 3.F. only, adoption of an Ordinance Amending the Municipal Code pertaining to Smoking Regulations.

Mayor Begun noted there was a minor correction to the Minutes of November 12, 2009, Item 3.B. (*See comments under that item.*)

Mayor Begun advised Item 3.G. would be discussed at the end of the meeting following reordered Item 2.E.1). (*See discussion and action on Page 11546.*)

**CONSENT CALENDAR ACTION:** Council Member Storey moved, seconded by Council Member Nicol, to approve the Consent Calendar as recommended with the exception of Item 3.G. and with the correction to the Minutes of November 12, 2009 (Item 3.B.). The motion carried on the following vote: AYES: Council Members \*Graves, Storey, \*Nicol, Norton, and Mayor Begun. NOES: None. \* **Council Member Graves and Nicol voted "No" on Item 3.F. only.** 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.

## 3. CONSENT CALENDAR (Continued)

**B. Approve City Council Minutes – Minutes of the Regular Meeting of November 12, 2009.**

Prior to action being taken on the Consent Calendar, Mayor Begun said there was a minor correction to the Minutes of November 12, 2009. He referred to page 11521, Oral Communications, 2.A.1). He noted that the word "She" in the second sentence should be "He."

**ACTION:** Council Member Storey moved, seconded by Council Member Nicol, to approve the Minutes of the Regular Meeting of November 12, 2009, as corrected. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

**C. Receive Planning Commission Action Minutes for the Regular Meeting of December 3, 2009. [740-50]**

**ACTION:** The City Council unanimously approved the Planning Commission Action Minutes for the Regular Meeting of December 3, 2009, as submitted.

**D. Set Annual City Goal Setting Session for Wednesday, January 20, 2010, at 6:00 p.m. in the City Hall Council Chambers. [120-10]**

**ACTION:** Council Member Storey moved, seconded by Council Member Nicol, to set the Annual City Goal Setting Session for Wednesday, January 20, 2010, at 6:00 p.m., in the City Council Chambers. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

**E. Adopt Resolution Setting Interest Rate for Tenant Security Deposits for 2010 at 0.10% Consistent with the County of Santa Cruz. [750-10]**

**ACTION:** Council Member Storey moved, seconded by Council Member Nicol, to adopt **Resolution No. 3791, Resolution Setting Interest Rate for Tenant Security Deposits for 2010 at 0.10 Percent (0.10%) in the City of Capitola**, 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. Adopt Ordinance Amending Municipal Code Sections 8.38.030 and 8.38.050, and Adding Section 8.38.055 to the Capitola Municipal Code pertaining to Smoking Regulations [2<sup>nd</sup> Reading]. [460-70]**

**ACTION:** Council Member Storey moved, seconded by Council Member Nicol, to adopt **Ordinance No. 943, Ordinance Amending Municipal Code Sections 8.38.030 and 8.38.050, and Adding Section 8.38.055 to the Capitola Municipal Code Pertaining to Smoking Regulations**, as submitted. The motion carried on the following vote: AYES: Council Members Storey, Norton and Mayor Begun. NOES: Council Member Graves and Nicol. ABSENT: None. ABSTAIN: None.

**G. Adopt Resolution Approving a 0.085% Increase in the Residential and Commercial Garbage Collection and Recycling Rates in Capitola effective January 1, 2010.**

*This item was pulled for separate discussion. (See action on Page 11546.)*

**H. Accept the 41<sup>st</sup> Avenue Reconstruction Project as Complete at a Final Cost of \$355,130.15, and Authorize the Release of the Contract Retention of \$35,512.02 in 35 days following the Recordation of the Notice of Completion. [940-40/500-10 A/C: Granite Construction]**

## 3. H. CONSENT CALENDAR (Continued)

**ACTION:** Council Member Storey moved, seconded by Council Member Nicol, to accept the 41<sup>st</sup> Avenue Street Rehabilitation Project as complete at a final cost of \$355,130.15 and authorized the release of the contract retention of \$35,512.02 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.

**I. Approve Professional Services Agreement with Daniel Kostelec for Building Inspection and Plan Review Services to the City of Capitola in the Amount of \$27,500 for FY2009/2010. [100-15/500-10 A/C: Kostelec, Daniel]**

**ACTION:** Council Member Storey moved, seconded by Council Member Nicol, to approve a sole source contract with Daniel Kostelec for an amount not to exceed \$27,500.00 for FY 2009-10 to provide building code inspection, plan review, and consultation services, 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. City Council Consideration of Reorganization - Selection of a New Mayor and Vice Mayor. [120-37]**

Mayor Begun said this was the time for the City Council to consider reorganization and selection of a new Mayor and Vice Mayor.

**ACTION:** Council Member Nicol moved to nominate Council Member Sam Storey as the new Mayor for the City of Capitola. The motion was seconded by Council Member Norton. The motion carried on the following vote: AYES: Council Members Graves, Storey, Nicol, Norton, and Mayor Begun. NOES: None. ABSENT: None. ABSTAIN: None.

Mayor Begun then turned the gavel over to newly-selected Mayor Sam Storey, who presided over the rest of the agenda. Mayor Storey thanked the council members for their vote of confidence in selecting him to serve as Mayor.

Mayor Storey then entertained nominations for Vice Mayor.

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

**B. Presentation to Outgoing Mayor Robert "Bob" Begun [120-40]**

Mayor Storey then invited outgoing Mayor Bob Begun to come forward. He commented on Mayor Begun's service during the past year, saying that during that period he observed him guiding the council in a steadfast way through an economic meltdown, a political crisis, as well as council audiences that sometimes verged on rebellion.

Mayor Storey said Bob Begun steered the ship of governance to safe harbor during his tenure as Mayor, and he wished to acknowledge and thank Bob for his leadership during that time. Although it has been a difficult year, the city celebrated its 60<sup>th</sup> Birthday where Mayor Begun participated in various activities and presided over many ribbon cuttings and other community celebrations.

## 5. B. OTHER BUSINESS (Continued)

Mayor Storey then presented outgoing Mayor Robert "Bob" Begun with the Mayor's Gavel Plaque in Appreciation and Recognition for his service as Mayor of the City of Capitola from December 4, 2008, until December 10, 2009.

Council Member Norton thanked Bob Begun for being so accessible to the community during the past year and complimented him for being a great negotiator for the city.

Council Member Nicol said Mayor Begun has served the community well during a difficult year of political drama and hard economics. He noted Bob Begun was always available to the public, and he always looked for the good in everyone. Council Member Nicol congratulated Bob Begun on his service as Mayor and said he looks forward to working with him in the coming year.

Council Member Graves stated he would not repeat the compliments made by his fellow council members, but then wished Bob, "From one fisherman to another – good luck."

**C. Comments from Outgoing Mayor Begun**

Mayor Begun thanked the four councilmen and staff for their support during the past year. He also wished to thank his partner, Doree, and his family for their support. He commented on the financial crisis but believes Capitola is in the best financial shape of any organization in Santa Cruz or Monterey County. He said there are challenges ahead, and the council needs to keep working as a team in order to meet those challenges. Mayor Begun expressed special thanks to City Manager Rich Hill for all his help during the past year and for meeting with him weekly. He also thanked City Attorney John Barisone.

**D. Comments from the New Mayor**

Mayor Storey said it is a great honor to sit in the Mayor's seat. He loves the community and is honored to serve as Capitola's Mayor. Mayor Storey thanked his wife, Helen, and his daughters Jessica, Jennifer, and Ruby for their support. He also thanked the council members, the city staff, and the staff at Community Bridges where he serves as Executive Director. In addition, he thanked all those who supported his campaign in 2006 and all the people of Capitola who have created this community.

Mayor Storey discussed the challenges before the council in the next year and his interest in fostering economic development, continuing to protect the city's low-income housing and mobile home parks, joint use of Jade Street Park with the school district, moving forward with a new library, and opening the Rispin property to community use. He looks forward to welcoming the City's new Chief of Police, Mike Card, and working with the City Council to select and transition a new city manager.

In closing, Mayor Storey announced he welcomes input from the residents and will make himself available to the public. He said his contact information is on the City's Community Channel 8 scroll, his email address is: [samforcapitola@att.net](mailto:samforcapitola@att.net), and residents can follow him on *Twitter* at **samforcapitola**.

Council Member Norton congratulated Sam Storey on being selected Mayor and commented on his own efforts to encourage Sam to run for City Council.

## 5. OTHER BUSINESS (Continued)

**E. Review of City Council Representation on City and County/Multi-County Boards, Commissions, and Committees. [110-10 General/330-40 Finance Advisory Committee/430-05 COE/430-50 Monterey Bay Unified Air Pollution Control District]**

City Clerk Greeninger summarized the written agenda report and the actions that need to be taken pertaining to Council representation on the Finance Advisory Committee and the Commission on the Environment. She also commented that the council needs to nominate for someone for the Monterey Bay Unified Air Pollution Control District as the term ends this month. The nomination would then go to the City Selection Committee for appointment.

**ACTION:** After considerable Council discussion, the following actions were taken:

1) Council Member Graves moved, seconded by Council Member Nicol, to nominate Mayor Sam Storey to continue to serve on the Monterey Bay Unified Air Pollution Control District Board and directed staff to send a letter to the Santa Cruz County Administrator with the City Council's nomination for consideration by the City Selection Committee. The motion carried unanimously.

2) Council Member Graves moved, seconded by Council Member Norton, to approve appointment of Council Member Nicol to serve on behalf of the Mayor, and Council Member Begun to serve on behalf of the Vice Mayor, on the Finance Advisory Committee. The motion carried unanimously.

3) Council Member Graves moved, seconded by Council Member Begun, to appoint Council Member Norton to continue to serve as the Council representative on the Commission on the Environment. The motion carried unanimously.

4) It was the consensus of the City Council to direct staff to bring this item back at its next regular meeting for further review of Council representation on City and County/Multi-County Boards, Commissions and Committees.

*The City Council then dealt with Item 2.E.1), which was reordered:*

2. **E. Committee Appointments****1) City Council Appointments/Reappointments to the Art & Cultural Commission. [1010-60]**

Council Member Norton said he would like to provide the report on this item. He reviewed the Art & Cultural Commission's discussion at their last meeting regarding interest on behalf of all current members to continue to serve and interviews of the four applicants. Council Member Norton reported that the commission recommends reappointment of the current members and recommends that the council consider adding two additional At-Large Member seats to be filled by Capitola residents Wioleta Kaminska and Marsha Taffett.

City Clerk Greeninger and City Attorney Barisone commented on the direction that would need to be given in order to add two At-Large member seats to the commission.

Considerable Council discussion was followed by this action:

**ACTION:** Council Member Nicol moved, seconded by Council Member Graves, to approve the Art & Cultural Commission's recommendation to reappoint Debbie Hale and James Wallace as the At-Large Members, Roy Johnson as Arts Professional Member, and Karen Nevis as the Artist or Arts Organization Representative Member. In addition, staff was directed to put on the next agenda an item considering expansion of the Art & Cultural Commission membership from 7 to 9 members, to include two additional at-large members. The motion carried on the following vote: AYES: Council Members Graves, Begun, Nicol, Norton, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

Following the vote on this item, Council Member Graves suggested that staff thank the applicants and inform them of the Council's direction to expand the membership on the commission.

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

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

G. Adopt Resolution Approving a 0.085% Increase in the Residential and Commercial Garbage Collection and Recycling Rates in Capitola effective January 1, 2010. [930-45]

Council Member Norton said he pulled this item to comment on the current economic condition and his interest in being able to say the garbage rates in Capitola are the same as last year. He believes it is the responsibility of the council to hold the line, even though it is not a large increase.

Council Member Graves commented on the fiscal impact statement in the agenda report as it relates to "average residential customer." He stated there are different sized containers for residential customers to choose from. In the future Council Member Graves said he would like to see a breakdown of the cost for the different sized containers as it would be helpful to him.

Assistant to the City Manager Murphy responded that the majority of residents in Capitola use either a 64-gallon container for a 35-gallon container. She said it is a 2-cent per month increase for both sizes of residential containers. Assistant to the City Manager Murphy also said the annual rate increase is part of the garbage company's franchise agreement.

Council discussion was followed by this action:

**ACTION:** Council Member Nicol moved, seconded by Council Member Graves, to adopt Resolution No. 3791, Resolution Approving a Rate Schedule for Residential and Commercial Garbage Collection and Recycling in Capitola Effective January 1, 2010, Superceding Resolution No. 3730, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Begun, Nicol, and Mayor Storey. NOES: Council Member Norton. ABSENT: None. ABSTAIN: None.

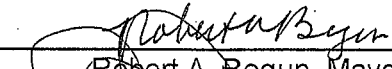
6. COUNCIL/STAFF COMMUNICATIONS


Council Member Nicol congratulated Sam Storey on his appointment as Mayor and said he looks forward to working with him during the next year.

Council Member Norton said the speed limit in Capitola is 25 mph and encouraged residents to drive that speed.

7. ADJOURNMENT

At 8:08 p.m., Mayor Storey announced that the City Council was adjourning to a Special Closed Session Meeting of the City Council to be held on Tuesday, December 15, 2009, at 3 p.m., and then to its next Regular Meeting to be held on Thursday, January 14, 2010, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

  
Robert A. Begun, Mayor

  
Sam Storey, Mayor

ATTEST:   
Pamela Greeninger, City Clerk, MMC