

February 11, 2010
 Capitola, California

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

**5:15 P.M. - CLOSED SESSION - CITY MANAGER'S OFFICE
 CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL**

At 5:23 p.m. in the City Hall Council Chambers, Mayor/Chairperson Storey 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, Capitola Police Captains, Capitola Police Officers' Association, 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 Storey asked if anyone wished to address items on the Closed Session agenda. Seeing no one, the City Council/Redevelopment Agency recessed at 5:24 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 Storey called the Regular Meeting of the City Council to order at 7:13 p.m. on Thursday, February 11, 2010, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

PRESENT: Council Members Ron Graves, Dennis Norton, Kirby Nicol, Robert "Bob" Begun, and Mayor Sam Storey

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 Michael Card, 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:

1. REPORT ON CLOSED SESSION (Continued)

Conference with Legal Counsel – Existing Litigation:

Surf and Sand, LLC vs. City of Capitola – City Attorney Barisone reported that he and Deputy City Attorney George Kovacevich met with the council on this matter, providing an update to the council. No reportable action was taken.

City Attorney Barisone reported that there was nothing to discuss on the other two items of existing litigation, Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates) and Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates); therefore, there was no reportable action taken in Closed Session.

With respect to the matter relating to Conference with Labor Negotiator regarding the City's various Employee Organizations, City Attorney Barisone reported that the Council met with City Manager Hill and Community Development Director Goldstein and provided direction regarding ongoing negotiations. There was no reportable action taken in closed session.

The City Council received a status report from City Manager Hill pertaining to Real Property Negotiations regarding property located at 2091 Wharf Road and provided direction to its real property negotiator. No reportable action was taken.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Natasha Kowalski of the Santa Cruz County Health Services Agency said she was at the Council's meeting on behalf of the Santa Cruz County Tobacco Education Coalition to congratulate and recognize the Capitola City Council for its action in adopting an Ordinance in December which prohibits smoking in outdoor public places. She read and presented the "Award of Recognition" and thanked the City Council for its vision, leadership, and commitment to improve the health and safety of our community.

Mayor Storey thanked Ms. Kowalski and accepted the award on behalf of the City Council and the City of Capitola.

Council Member Norton asked Ms. Kowalski to discuss why Capitola received a D rating and what the city could do to improve that rating. She explained the rating is made by the American Lung Association. She said they have revised the rating for outdoor second-hand smoke to a C rating; however, it was not enough to change the overall rating. She explained the Association's three grading areas, which include: 1) outdoor second-hand smoke, 2) use access (the ability to purchase tobacco illegally at the store), and 3) smoking in multi-unit housing. In order to address the use access issue, Ms. Kowalski said some jurisdictions have passed tobacco retail licensing ordinances where stores must pay for an annual permit. The fees are then used for enforcement.

Council Member Norton asked if their organization could write to the City Council with their recommendations to address those areas and what the city can do to improve its rating.

C. Staff Comments – None

D. City Council/Treasurer Comments/Committee Reports

1) Mayor Storey apologized to the residents of Pacific Cove Mobile Home Park regarding the incorrect agenda packet being posted on the city's website which contained an item concerning Pacific Cove. He said the error was rectified, and staff will be more careful in the future.

2. D. ORAL COMMUNICATIONS (Continued)

2) Council Member Begun said he is not sure he understands all the perks that are in the contracts with the city's personnel, and he would appreciate having staff generate a document with the different perks that individuals have that are not uniform.

3) Council Member Graves reported on the AMBAG meeting he attended last night. He said our representative to the League of California Cities, Deanna Sessums, was at the meeting urging city representatives to sign and to gather signatures from electors to amend the state constitution to keep the legislature and the Governor from taking revenues from local government. Council Member Graves announced that he has petitions, and he encouraged everyone to sign the petition in order to get it on the November ballot.

4) Council Member Begun said that back in FY2001-2002 the collection of court fines was taken from the municipalities and given to the courts. There have been discussions about shortfall in court fines paid to the cities. He reported that he and Chief of Police Card met with a representative of the court to discuss that matter, and he felt they had a successful meeting to address this issue.

5) Mayor Storey announced that the Capitola Historical Museum just had a grand opening of its new exhibit, *A Landmark History of Capitola*, in memory of former long-time board trustee Georgette Dufresne, who recently passed away. He said it is a wonderful exhibit and encouraged everyone to visit the Museum.

6) City Treasurer Bertrand reported that at the last meeting of the Finance Advisory Committee the committee received a report from Chief of Police Mike Card and Captain Tom Held.

E. Committee Appointments – None

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

Staff responded to questions of council members about various checks.

Council Member Norton said the Council has asked to have the Coastal Watershed Council make a presentation to the Council. He would also like to see if Don Alley could report on Soquel Creek at the same meeting.

Council discussion was followed by this action:

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to approve the Check Register Reports dated January 22 and January 29, 2010, including checks numbered 62193 through 62223 in the amount of \$315,522.48, and checks numbered 62224 through 62284 in the amount of \$178,684.27, respectively; and payroll disbursements for the January 29, 2010 payroll in the amount of \$181,061.56, for a Grand Total of \$675,268.31, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None. (NOTE: Council Member Norton abstained from approving Check #62219 to the Santa Cruz County Consolidated Communications JPA in the amount of \$118,715.75.)

3. **CONSENT CALENDAR**

Mayor Storey asked if there were any items on the Consent Calendar that members of the council or the public wished to pull for separate discussion.

Glenn Hanna asked to remove Item 3.G., pertaining to the City Manager Employment Agreement for Jamie Goldstein, for separate discussion.

3. CONSENT CALENDAR (Continued)

City Attorney Barisone commented on Item 3.I., pertaining to setting a Public Hearing on an appeal of Project Application #09-132, 100-200 Kennedy Drive. (See comments under that item.)

Community Development Director Goldstein asked to pull Item 3.F., pertaining to the Housing Element.

Mayor Storey advised Items 3.G. and 3.F. would be discussed at the end of the meeting following Other Business Item 5.F. (See discussion and action on Pages 11583 through 11585.)

CONSENT CALENDAR ACTION: Council Member Begun moved, seconded by Council Member Norton, to approve the Consent Calendar as recommended. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

A. Approve Reading by Title of all Ordinances and Resolutions and declare that said Titles which appear on the Public Agenda shall be determined to have been read by Title and Further Reading Waived.

ACTION: The City Council unanimously approved the reading by title of all Ordinances and Resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

B. Approve City Council Minutes – Minutes of the Regular Meetings of January 14 and January 28, 2010, and the Special Goal Setting Session of January 20, 2010.

ACTION: Council Member Begun moved, seconded by Council Member Norton, to approve the Minutes of the Regular Meetings of January 14 and January 28, 2010, and the Special Goal Setting Session of January 20, 2010, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

C. Receive Planning Commission Action Minutes for the Regular Meeting of February 4, 2010. [740-50]

ACTION: The City Council unanimously received the Planning Commission Action Minutes for the Regular Meeting of February 4, 2010, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

D. Receive City Treasurer's Report for the Month Ended December 31, 2009, (Unaudited). [380-30]

ACTION: Council Member Begun moved, seconded by Council Member Norton, to receive the City Treasurer's Report for the Month Ended December 31, 2009, (Unaudited), as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

E. Receive the Quarterly Departmental Financial Report for the Second Quarter Ending December 31, 2009. [380-05]

ACTION: Council Member Begun moved, seconded by Council Member Norton, to receive the Quarterly Departmental Financial Report for the Second Quarter Ending December 31, 2009, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

3. CONSENT CALENDAR (Continued)

- F. Adopt Resolution Certifying Negative Declaration and Amending the City's General Plan by Rescinding the 2000-2007 Housing Element and Adopting the 2007-2014 Housing Element and Authorizing and Directing the Community Development Director to Submit it to the State Department of Housing and Community Development for Certification.**

This item was pulled for separate discussion. (See discussion and action on Pages 11585.)

- G. Approve Employment Agreement with Benjamin (Jamie) Goldstein for the Position of City Manager.**

This item was pulled for separate discussion. (See discussion and action on Pages 11583 and 11584.)

- H. Approve Request by the New Brighton Middle School Foundation for a Minor Special Event Permit, Amplified Sound Permit and Encroachment Permit for a Fund Raising Auction on the Lawn Area Adjacent to the Blue Water Steakhouse in Esplanade Park to be Held on Saturday, March 13, 2010, from 3:00 p.m. to 6:00 p.m., and Approve Request for a Grant of Permit Fees in the Amount of \$137.00. [1050-70]**

ACTION: Council Member Begun moved, seconded by Council Member Norton, to approve the recommended action as follows:

1. Approved the Minor Special Event Permit, including Amplified Sound and Encroachment Permits for the Fund Raising Auction on the lawn area adjacent to the Blue Water Steakhouse in the Esplanade Park to be held on Saturday, March 13, 2010, from 3:00 pm to 6:00 pm, as submitted; and
2. Provided the applicant, New Brighton Middle School Foundation, with a Grant for the Permit Fees in the amount of \$137.00, as submitted.

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

- I. Set Public Hearing for February 25, 2010, on Project Application #09-132, 100-200 Kennedy Drive, to Consider Appeal of a Planning Commission Approval for a Major Land Division to Convert an Existing Two-Building Light Industrial Complex into Six Commercial Condominium Units in the IP (Industrial Park) Zoning District, APN 036-031-01. Categorically Exempt. Filed 11/19/09. Property Owner: John McCoy, Trustee of the McCoy Trust. Representative: Bob Dwyer [730-10]**

Prior to action being taken on the Consent Calendar, City Attorney Barisone commented on this item, which refers to an appeal of the major land division at 100-200 Kennedy Drive that was filed by Council Member Norton. He said the appeal was submitted with the understanding that the Planning Commission had actually made a final decision on that subdivision application. He explained that under the city's subdivision ordinance relating to major land divisions, the Planning Commission can only make recommendations to the City Council, and the City Council has final approval authority. Under the Subdivision Map Act the Council is obligated to have a public hearing to approve or disapprove and make a final decision within 30 days. Setting the hearing for February 25, 2010, will meet that requirement. City Attorney Barisone said Council Member Norton's appeal was moot as there was nothing to appeal from the Planning Commission; the Planning Commission was simply making a recommendation on the subdivision.

3. I. CONSENT CALENDAR (Continued)

Following City Attorney Barisone's comments, Mayor Storey clarified that this item should reflect that a public hearing would be set for City Council consideration of the Planning Commission's recommendation for approval of the Major Land Division.

ACTION: Council Member Begun moved, seconded by Council Member Norton, to set a Public Hearing for Thursday, February 25, 2010, on Project Application #09-132, 100-200 Kennedy Drive, to consider the Planning Commission's recommendation for approval of a Major Land Division to Convert an Existing Two-Building Light Industrial Complex into Six Commercial Condominium Units in the IP (Industrial Park) Zoning District, APN 036-031-01. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

J. Set Public Hearing for February 25, 2010, for Conceptual Review to Consider Amending the Municipal Code to Allow Medical Cannabis Dispensary Uses within the City of Capitola. Project Application #09-140. Filed 12/14/09. Applicant: Marsha Taffett [730-10]

ACTION: Council Member Begun moved, seconded by Council Member Norton, to approve the recommended action to set a Public Hearing for Thursday, February 25, 2010, for Conceptual Review to Consider Amending the Municipal Code to all Medical Cannabis Dispensary Uses within the City of Capitola, Project Application #09-140, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

4. PUBLIC HEARINGS - None

5. OTHER BUSINESS

A. Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2009. (Continued from the Meeting of January 28, 2010) [310-20]

City Manager Hill said this item was continued from the prior meeting in order that council members' questions could be answered.

Lonnie Wagner, Accountant II, discussed the Comprehensive Annual Financial Report (CAFR). She explained that the grouping of the financial data is defined, and the format is predetermined by regulation. She commented on the reason for uniformity in the report. She also said the City's CAFR has received an Award for Outstanding Financial Reporting for the past 7 seven years, and the city expects to receive the award again this year. In closing, Ms. Wagner said the recommendation is for the Council to accept this regulatory document.

Ms. Wagner responded to questions from council members pertaining to the unfunded CRHP (Capitola Retiree Health Care Plan) liability. There was interest on behalf of the council to receive more information regarding this program.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Begun, to accept the Comprehensive Annual Financial Report for the City of Capitola for the Fiscal Year Ended June 30, 2009, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

Council Member Graves asked if the motion included all three attachments to the audit. The Council agreed it did.

5. OTHER BUSINESS (Continued)

- B. Resolution Amending FY 2009-2010 Budget for City Attorney Services. Staff recommendation: adopt Resolution Amending the FY 2009-2010 Budget by Transferring \$50,000 from the Fund Balance to the City Attorney Department Contract Services Account increasing City Attorney's Contract Expenditures by \$50,000 for Litigation Expenses related to Defending the Mobile Home Park Rent Control Ordinance. [330-10]**

Assistant to the City Manager Murphy summarized the written agenda report and responded to questions of council members.

Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Begun, to adopt **Resolution No. 3801, Resolution Amending the FY2009/2010 Budget by Transferring \$50,000 from the Fund Balance to the City Attorney Department Contract Services Account Increasing City Attorney's Contract Expenditures by \$50,000 for Litigation Expenses Related to Defending the Mobilehome Park Rent Control Ordinance**, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

- C. Sunday Use of Monterey Park. (Continued from the Meeting of January 14, 2010) [1040-20]**

City Manager Hill provided a brief report advising this item was continued from the Council's meeting of January 14, 2010, for additional information.

Recreation Supervisor Elise Legare and Recreation Coordinator Kurt Edwards provided additional information regarding the use of Monterey Park by various groups and answered questions from council members. There was discussion regarding the high demand for playing fields and in the county, concerns about parking impacts from the use of Monterey Park by the soccer league, and concern that organized sports takes away the opportunity for residents to enjoy the parks for recreation.

Mayor Storey opened this item to the public for comment at 8:05 p.m.

Linda Rose, Monterey Avenue resident, said she lives directly across the street from the park. She supports the use of the park by youth leagues. She encouraged the council to work with the school district to utilize their parking lot and to consider keeping the park open for league use on Sunday.

Eric Marlatt, representing Cabrillo Gals, informed the council that he and the president of Gals Softball did speak with the neighbors who were at the last meeting to confirm that their practices at Monterey Park have not been problematic for the neighborhood. He said they would like to continue to use Monterey Park for softball practice on Sundays during February and March and September and October. Mr. Marlatt also said there is an important distinction between practices and league games.

City Treasurer Bertrand said he also lives directly across the street from the park. He has noticed if there are organized activities at Monterey Park, residents from the neighborhood move to the area behind New Brighton Middle School.

At 8:10 p.m., Mayor Storey asked if there were any further public comments. Seeing none, Mayor Storey brought the matter back to the council.

5. C. OTHER BUSINESS (Continued).

Mayor Storey expressed concern about approving the recommended action. Elise commented that there is nothing to keep leagues from using the park if no activities are scheduled. Mayor Storey commented that the problem could be worse if the city did not have contracts with leagues.

There was further discussion and interest on behalf of the council to meet with the La Liga soccer group regarding use of the park and the parking problem.

City Manager Hill offered a suggestion that the council create an ad hoc committee of two council members, give direction to staff to negotiate with the people who have an interest in using the park on Sunday and the neighborhood, and that staff be given direction to execute whatever compromise is achieved through that process. If a compromise is not achieved through that process, staff would bring the matter back to the council at its meeting to be held on March 11, 2010.

ACTION: Council Member Begun moved to approve the recommendation of City Manager Hill to create an ad hoc committee of two council members, to direct staff to negotiate with the people who have an interest in using the park on Sunday and the neighborhood, and to direct staff to execute whatever compromise is achieved through that process. If a compromise is not achieved through that process, staff would bring the matter back to the council at its meeting on March 11, 2010. The motion was seconded by Council Member Graves.

Under discussion of the motion, Council Member Norton said if during the process we cannot move La Liga off Monterey Park on Sunday, he would like the matter brought back to the City Council before a decision is made. Council Member Begun agreed that this matter should come back to the council whether a compromise is reached or not. Council Member Graves accepted that amendment to the motion.

Mayor Storey asked if Council Members Graves and Begun were agreeable to serve on the ad hoc committee. They both agreed.

The motion carried unanimously.

D. City FY 2009-2010 Fiscal Mid-Year Report. [330-05]

City Manager Hill provided a detailed report of information provided in the written agenda report and responded to questions of council members.

Considerable Council discussion was followed by this action:

ACTION: Mayor Storey moved that the council direct the city manager to move ahead negotiating the 36-hour work week for non-sworn employees; to begin negotiations concerning adjustments to the vacation maximum; to move ahead with deferment of the Police Officers' Association's 4% salary increase, the slurry seal in CIP, transferring of the contingency reserve to the parking fund, and CMC (Capitola Municipal Code) fines; to strike the proposed street sweeping and household hazardous waste costs from being added to residents' garbage bills; to bring back a separate report and analysis on the proposed parking meter credit card project (noting that the Traffic & Parking Commission had recommended the city move toward credit card meters); to implement the proposed bank deposit by City employee; to defer action regarding reduction of community grants to a separate meeting (noting that he would like to remove himself from participating in that discussion); and to move ahead with the HOPE Services cut and the freeze of one sworn position in the police department.

5. D. OTHER BUSINESS (Continued)

Mayor Storey noted that the 1998 Reassessment payback would be coming back to the Council as a separate item. City Manager Hill said it would be on the council's next agenda.

Mayor Storey then said he would also like to include as part of this motion direction to staff to come back with quarterly reports of department revenues and expenditures.

Council Member Norton seconded the motion. In addition, he would like an analysis of compensated absences and what the city anticipates paying out during the next two-year period.

Council Member Norton also suggested an amendment to the motion directing staff to talk with HOPE Services about continuing the beach clean-up program at a reduced cost. He said perhaps they would be willing to continue the program at half the cost. Mayor Storey accepted that amendment.

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

E. **Support of the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010. [560-10 Elections Adm – Initiative Measures General]**

City Manager Hill summarized the written agenda report and the proposed resolution of support.

Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to adopt **Resolution No. 3802, Resolution in Support of the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010**, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

F. **Oral Report on Police Department Overtime. [480-05]**

Chief of Police Card provided an overview of Police Department Overtime utilizing a PowerPoint Presentation. (A paper copy of the PowerPoint Presentation is on file.)

Following his presentation, Chief Card responded to questions from council members.

Mayor Storey thanked Chief Card for his presentation. No action was taken.

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

3. CONSENT CALENDAR (*Items pulled for separate discussion.*)G. **Approve Employment Agreement with Benjamin (Jamie) Goldstein for the Position of City Manager. [600-10/500-10 A/C: Goldstein, Benjamin (Jamie)]**

Assistant to the City Manager Murphy provided staff's report pertaining to the employment agreement with Jamie Goldstein, which was negotiated with the City Council. She discussed the provisions of the agreement as outlined in the written agenda report.

Council Member Graves commented that the yearly salary of \$11,917 in the staff report should be a "monthly" salary.

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

Glenn Hanna advised that he pulled this item for separate discussion. He commented on the difference between Rich Hill's first contract and the proposed contract for Mr. Goldstein. Mr. Hanna expressed his concerns about the number of hours of vacation and sick leave that can be accumulated. He would like to introduce the concept of "use it or lose it." He said it could be a two-tiered system, which would affect any new employees hired by the city. Mr. Hanna said he would hope a report on what these payoffs are going to be will be prepared.

Larry Laurent, Information Systems Specialist, referred to Section 9. A. of the agreement pertaining to PERS Retirement Benefits. He said according to the proposed agreement Jamie will not be capped on PERS. Mr. Laurent explained his participation on the negotiating team for the miscellaneous group and their understanding of the importance to the Council to have the PERS benefit capped. He wished to call this to the council's attention and to let them know the employees were not aware this was acceptable.

City Attorney Barisone pointed out a typographical error in Section 7.A.1. on page 5. The sentence regarding accumulation of vacation days of 165.98, should actually be "hours," not days. After further discussion, he noted that the date the employer acknowledges the accrued vacation should be July 12, 2010, not "2012." [The sentence should read: "Employer acknowledges that as of July 12, 2010, Employee has accumulated 165.98 vacation hours to which employee shall remain entitled subject to the provisions of this Subsection A."]

Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to approve the City Manager Employment Agreement with Benjamin (Jamie) Goldstein effective July 12, 2010, with corrections identified by the City Attorney.

Under discussion of the motion, Council Member Graves said he does not remember the PERS cap being removed. He expressed his concern about the residency requirements and said the city should be encouraging people to live in the city. He would prefer to say the City Council is making an exception in this one case.

There was further discussion regarding the residency requirement as it relates to Mr. Goldstein's particular situation.

Prior to calling for a vote on the motion, Mayor Storey said he would like to ask Jamie to consider whether or not he should accept a cap on his PERS as the rest of the staff has done. Mayor Storey realizes that the Council has gone through negotiations with Jamie on the agreement, but would like him to consider the fact that the employees have accepted that sacrifice.

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

Community Development Director Goldstein thanked the council for approving his contract and for the opportunity to work as Capitola's City Manager. He is honored and excited about working with the council in this new capacity.

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

F. Adopt Resolution Certifying Negative Declaration and Amending the City's General Plan by Rescinding the 2000-2007 Housing Element and Adopting the 2007-2014 Housing Element and Authorizing and Directing the Community Development Director to Submit it to the State Department of Housing and Community Development for Certification. [740-40]

Community Development Director Goldstein said he pulled this item to explain the necessity for an additional change to the 2007-2014 Housing Element, based on a telephone call from the State Department of Housing and Community Development received Tuesday afternoon.

On the large screen, Mr. Goldstein illustrated the changes recommended by HCD with a red-lined version of Section 3.3a Homeless Shelters. He also passed out paper copies to the council members for their review. He explained why HCD is requesting this change, and he responded to questions of council members. There was concern expressed about the second recommended paragraph relating to the City's continued pursuit of a multijurisdictional agreement to accommodate the City's identified homeless need, and interest on the part of the Council to remove that language.

Considerable Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Norton, to adopt **Resolution No. 3803, Resolution Certifying Negative Declaration and Amending the City's General Plan by Rescinding the 2000-2007 Housing Element and Adopting the 2007-2014 Housing Element and Authorizing and Directing the Community Development Director to submit it to the State Department of Housing and Community Development for Certification**, with the following new language recommended by HCD to replace the language under "Program 3.3a Homeless Shelters" submitted in the draft 2007-2014 Housing Element of the General Plan, as follows:

"Within one year of adoption of the housing element, the City will amend its Zoning Ordinance to allow emergency shelters without CUP or other discretionary approval in the Industrial Park (IP) zone. The IP zone includes a total of 6.37 acres in eight parcels. Four of the parcels (approximately 2.17 acres) are vacant or underutilized and demonstrate that sufficient land is available for at least one emergency shelter to accommodate the City's identified homeless need. The City may apply objective development standards to encourage and facilitate the use as provided under Government Code Section 65583(a)(4)(A).

Responsible Agency: Community Development Department

Potential Funding Source: General Fund

Proposed Timing:

- Amend zoning to allow ES without CUP or discretionary approval in the IP zone within one year of adoption of the element."

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

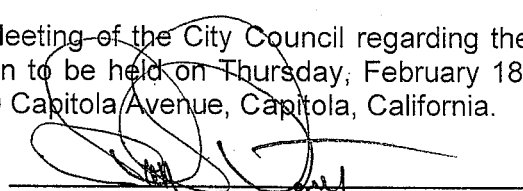
Community Development Director Goldstein said there would be a number of items that will be coming back to council based on the provisions of this Housing Element.

6. COUNCIL/STAFF COMMUNICATIONS

- A) Council Member Nicol pointed out that both tomorrow and Monday are paid holidays for city employees, and City Hall will be closed.
- B) Community Development Director Goldstein announced that Ecology Action submitted a grant for the CaliforniaFIRST Program, and it was announced yesterday that the grant was funded. He said there is now a program which will allow Capitola residents to tap into a funding source to make energy efficient improvements to their homes.
- C) Council Member Begun encouraged everyone to "Shop Capitola."
- D) Council Member Norton said the speed limit in Capitola is 25 miles per hour.

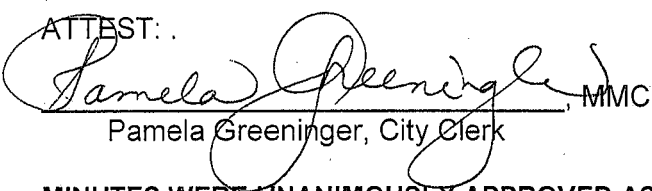
7. ADJOURNMENT

The City Council adjourned at 11:25 p.m. to a Special Meeting of the City Council regarding the Surf and Sand Mobile Home Park Subdivision Application to be held on Thursday, February 18, 2010, at 6:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Sam Storey, Mayor

ATTEST: .



Pamela Greeninger, City Clerk

MMC

MINUTES WERE UNANIMOUSLY APPROVED AS SUBMITTED BY THE CITY COUNCIL ON 2/11/2010