

February 25, 2010

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 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 LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9
One Case
Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9:
One Case

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 6:02 p.m. to the Closed Session.

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 7:28 p.m. on Thursday, February 25, 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, Chief of Police Michael Card, 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 said the items discussed in closed session were those items listed on the posted agenda. He then reported on those items as follows:

With respect to the ongoing Surf & Sand LLC vs. City of Capitola, multiple lawsuits, the Council heard from the City Attorney and the Community Development Director regarding ongoing negotiations pertaining to those matters. No reportable action was taken in Closed Session.

He said there was no discussion regarding Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates) or Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates) in closed session.

The council briefly discussed one item of significant exposure to litigation. City Attorney Barisone updated the Council on that matter, and the Council took no action in Closed Session.

The City Council heard from the City Manager with regard to ongoing negotiations with all of the city employee bargaining units. A status report was presented, and the Council gave direction to the City Manager with regard to ongoing negotiations. No reportable action was taken.

There was no discussion in closed session regarding the 2091 Wharf Road real property negotiations.

Council Member Graves noted that he was not present for the discussion regarding the one case of significant exposure to litigation, because of his residency is within 300 feet of the property discussed.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda - None

B. Public Comments

1) Jean Graham, resident at Turner Lane Mobile Home Park, wanted to let the Council know that Hill Street has not been lined, and it is dangerous.

2) Mickey Ording, resident on Monterey Avenue, reported an incident that occurred on the secret path near Hihn Park adjacent to his property where a neighbor removed a number of oak trees without a permit. Mr. Ording said he and his wife were present to encourage the City Council to look into the city's tree ordinances and to enforce them. He expressed his concerns that, although they brought this to the city's attention at the time the tree work was being done, nothing was done.

3) Molly Ording, resident at 218 Monterey, said nothing can change the past and nothing can bring back things that were lost. She expressed her hope that the City Council will agendize the items relating to the tree removal incident and clarify roles and responsibilities with respect to the city's ordinances to make sure they are enforceable and that they are enforced. She expressed the importance of educating everyone in the community, from staff to police to community members, about carrying out the city's ordinances properly. She invited council members and the community to join them on Sunday at Hihn Park.

4) Jim Gregory, 118 Cliff Avenue, also commented on removal of the trees along the pathway. He said he took pictures of the stump which is 18" in diameter. He believes enforcement is necessary and that heritage trees in Capitola need to be identified.

5) Sandy Erickson, Cabrillo Street, said Capitola has a major problem with enforcement of its ordinances. If there is a law on the books, it should be enforced, and the city should collect a fine for every tree removed.

2. B. ORAL COMMUNICATIONS (Continued)

6) Darcy Horton, 510 El Salto, explained her experience with the city in removing an oak tree that was lifting the foundation of her house. She discussed the time and money involved in following the city's requirements and expressed concern about the inconsistency of application and enforcement of city ordinances on behalf of the city. She would like an explanation as to why her neighbor was not required to follow the same procedures she had to follow.

7) Maureen O'Malley Moore, Burlingame Avenue, offered her support of the Ordning's concerns pertaining to tree removal and suggested that the council have a hearing on this, and that the council freeze any permits that are currently on the books for tree trimming or removal.

8) Phil Cross, homeowner in Capitola, proposed formation of a citizen's review committee to check on what the police do. He has seen police officers using what he believes to be excessive force, and he believes we need a committee.

9) Ginger Fortier, Capitola resident, announced that she was here to read a letter from Gayle Ortiz regarding the city's tree ordinance and the incident that occurred on the Hihn park pathway. *(A copy of the letter in on file.)* [1030-60]

10) Margaret Kinstler announced that she was present as a representative of the Capitola Village Residents' Association.

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

1) Mayor Storey said he would like to recommend staff agendize the occurrences that took place at the Hihn Park pathway and report back at the next council meeting, including identification of the ordinances that were violated and a report on how we can strengthen our enforcement.

Council Member Begun asked if it would include an explanation by the city staff of the current procedure. Mayor Storey clarified that the report should include what the current ordinances provide for in terms of process, review of how the procedure was implemented in that instance, and whether there were failures in that respect, as well as recommendations on improving the procedures in the future. [1030-60]

2) Council Member Graves said at the last meeting the Council directed him and Council Member Begun to meet with the Recreation Department and staff regarding the recreational use of Monterey Park on Sundays, which was prompted by a complaint and petition from the neighbors on Monterey Avenue.

Council Member Graves announced that they had met and were able to accommodate the youth soccer league on Saturday, with no disruption to the neighborhood on Sundays. One of the things that were discussed was that when activities take place on weekends, there are no sanitary facilities available at the park. Staff is suggesting that porta-potties are placed at the park. Council Member Graves said fees for use of the park would be raised in order to cover that cost. He believes this gives the neighbors what they want and also gives the recreational leagues an opportunity to continue to use the park. Council Member Graves said he offered to monitor activities at the park during the spring, and he will contact the party who initially brought this to the council's attention to see how things are working out for the neighbors. He said use of the park would be limited on Saturday from 9 am to 4 pm by permit only, and the park would be free for use by the neighborhood on Sunday.

2. D. ORAL COMMUNICATIONS (Continued)

Council Member Graves said the council's direction was to bring this matter back; however, he would like to suggest that the city monitor the park this spring to see what happens.

Mayor Storey thanked Council Member Graves for the report and also thanked him and Council Member Begun for mediating that situation.

ACTION: It was the consensus of the City Council to defer follow-up agendaing of the Monterey Park item and to implement the compromise reached by Council Members Graves and Begun, and staff members. **[1040-20]**

3) Council Member Norton commented that the City does have an historic tree inventory prepared by Jan Babcock and staff a number of years ago. He thinks that should be part of the discussion that is brought back to council on the city's tree ordinance.

4) Council Member Begun reported that no expenses have been incurred by the City for transportation or other expenses to attend the League of California Cities Tax Force meeting in Sacramento.

5) City Treasurer Bertrand announced that the Finance Advisory Committee would be meeting on the second Monday of the month for the next 3 months.

E. Committee Appointments – None

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

The City Council received a "Corrected Copy" of the first page of the agenda report, which showed the correct total of checks and the 2/12/10 Payroll to be "\$333,911.94," not "\$675,268.31" as shown on the agenda report that was provided in the packet.

Staff responded to several questions on the check register prior to the following action being taken:

ACTION: Council Member Graves moved, seconded by Council Member Begun, to approve the Check Register Reports dated February 5 and 11, 2010, including checks numbered 62285 through 62326, in the amount of \$83,507.37, and checks numbered 62327 through 62407 in the amount of \$76,777.26, respectively; and payroll disbursements for the February 12, 2010, payroll, in the amount of \$173,627.31, for a Grand Total of \$333,911.94, 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**

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. No items were pulled.

CONSENT CALENDAR ACTION: Council Member Norton moved, seconded by Council Member Graves, 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.

3. CONSENT CALENDAR (Continued)

B. Approve City Council Minutes – Minutes of the Special Meeting of February 9, 2010, and the Regular Meeting of February 11, 2010.

ACTION: Council Member Norton moved, seconded by Council Member Graves, to approve the Minutes of the Special Meeting of February 9, 2010, and the Regular Meeting of February 11, 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. Authorize City Manager to Recruit for the Position of Community Development Director. [650-05]

ACTION: Council Member Norton moved, seconded by Council Member Graves, to authorize the City Manager to recruit for the position of Community Development Director, 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

A. Public Hearing on Project Application #09-132, 100-200 Kennedy Drive, to Consider Planning Commission Recommendation of 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. Presentation: Community Development Department. [730-10]

Senior Planner Bane summarized the written agenda report. The proposal is to convert the two-building complex into six commercial condo units. He commented on the recommendation of the Planning Commission regarding public funding for gate installation. Staff researched this and found that in order to use public funds, the improvements would need to be used for a public purpose. He said in this instance it would be an inappropriate expenditure of public funds; as the funds would be used to resolve a private dispute between two private property owners. The possibility of using city housing trust funds or Redevelopment Agency low-moderate income housing funds was also looked into by staff, but it was determined those funds could not be used in this case. In closing, Senior Planner Bane said staff is recommending denial of the appeal and approval of the project application, subject to the conditions and findings contained in the staff report.

Council Member Norton noted that the Tract Map has the wrong city on it. Senior Planner Bane said that has been corrected.

Council Member Norton asked staff to explain what kind of conditions can be placed on an application coming back for a land division. Senior Planner Bane answered that any conditions must be related to the Subdivision Map Act.

City Attorney Barisone further explained conditions have to bear nexus to the findings that are made. He said the conditions allow the findings. In this case there are four findings that need to be made in order to approve the application, and he read each of those findings. He said that any conditions the council would impose would need to serve one of those findings.

4. A. PUBLIC HEARINGS (Continued)

Council Member Graves discussed his observations at the site, where it became apparent to him that the integrity of the neighborhood has changed. He commented on the gate that was removed and old paving that exists. He discussed reinstalling a new gate that would be used by tenants of the proposed commercial condominium project and asked if this condition for a gate would meet the findings for approval of the subdivision, since it has disrupted the integrity and character of the neighborhood.

Senior Planner Bane discussed an access way existing on Mr. McCoy's and also on Mr. Vieira's property that the mobile home park and Mr. McCoy's property have a right to use.

There were further questions and comments of council members and responses by Senior Planner Bane and Community Development Director Goldstein.

At 8:18 p.m., Mayor Storey invited the applicant to make his presentation.

John McCoy, property owner of 100-200 Kennedy Drive, commented that last November he submitted an application for individual parcel numbers for the six units within this project. Since that time there has not been one single inquiry, question or complaint about the provisions of the California Subdivision Map Act as it relates to this application. He then provided background information relative to the start of the project, which began five years ago, including discussion of the city's economic development plan. Mr. McCoy urged the council to approve the project application for a major land division as submitted. Following his comments, Mr. McCoy responded to questions of council members.

Mayor Storey opened the hearing to the public for comment at 8:28 p.m.

Jean Graham, resident of Turner Lane Estates, 920 Capitola Avenue, (the other mobile home park behind the wall) spoke to the damaging character and integrity of the community. She expressed concerns about the condominium aspect of the application and contracts the property owner will be entering into with the individual units. She commented on drainage from Mr. McCoy's property on to Turner Lane property and a maintenance agreement that was entered into regarding the drainage. Ms. Graham expressed her concerns that the condominium owners will not be responsive to the provisions of that agreement.

Frederick Coquelin, resident of Cabrillo Mobile Home Park, said he is being disturbed by the lighting from the project. He explained that one of the conditions of approval for the project was that the lights not disturb the residents. Mr. Coquelin explained that there is a yellow light shining into his bedroom all night long. He also believes the integrity of the neighborhood has changed, and the city should find a solution regarding access to the mobile home park.

Pamela Atmore commented on the letter dated 2/17/10 and photos that she and Brenda Fulkerson submitted to the City Council. She summarized the reasons for not approving the conversion of the Kennedy Drive building complex into six commercial condominium units as articulated in the letter. Ms. Atmore said the new building has changed her neighborhood, and she hopes the council will seriously consider the information in her letter. Following her comments, she responded to questions of council members.

4. A. PUBLIC HEARINGS (Continued)

Patricia Cultera, Space 63, commented on the increased non-resident traffic and the speed of vehicles driving in the mobile home park. She expressed interest in having the fence replaced and encouraged the council to give their park consideration.

Council Member Begun asked who has jurisdiction within the park. Community Development Director Goldstein said the State Department of Housing and Community Development regulate improvements within mobile home parks; the City does not retain jurisdiction to regulate development within the park.

Manuel Vieira, owner of Cabrillo Mobile Estates, commented on the meeting that had been scheduled to negotiate the gate. He was there; however, Mr. McCoy did not attend the meeting. Mr. Vieira expressed concerns that at the last council meeting staff said there was no easement on the properties, and now the Community Development Director says there is an easement. He informed the council that he is working with an attorney regarding these issues.

Mr. Vieira went on to say that he is opposed to the proposed condominium application, as he would have to deal with 6 different owners rather than one property owner. He is also concerned about additional traffic and the unresolved issues relative to drainage and lighting.

Council Member Begun asked if Mr. Vieira had any objection to the installation of a gate and asked him where he would suggest locating a gate.

Mr. Vieira replied that is not his problem; the gate was already existing, and he thinks it was fine where it was located.

Council Member Nicol questioned if each property owner (Mr. McCoy and Mr. Vieira) had reciprocal easements and whether those easements were exclusive. City Attorney Barisone believed if there were easements, they would be exclusive. City Attorney Barisone then explained the difference between exclusive and non-exclusive easements.

Council Member Nicol stated it would be important to know if there were exclusive easements or non-exclusive easements. City Attorney Barisone said the city has no interest at all in those easements, as it is privately-owned property.

Mr. Vieira felt the easement issue should have been dealt with prior to approval of the project.

Mayor Storey closed the public hearing at 8:58 p.m.

Council Member Norton had questions of the Fire Chief regarding emergency access to the property. Chief Bruce Clark, Central Fire Protection District, responded to Council Member Norton's question pertaining to what the acceptable width would be to service both the commercial building and the mobile home park. He said the minimum width would be 20 feet and said it was important to be able to make a radius turn. Council Member Norton asked if a 24-foot lane would be acceptable. Chief Clark said it would be if it were red-lined for no parking. Chief Clark said the Fire District would be happy to work with the city and property owners to address this issue and to make sure there is adequate turning radius for emergency vehicles.

4. A. PUBLIC HEARINGS (Continued)

Council Member Norton said he wanted the applicant to have a final decision tonight, and he offered a motion to approve the subdivision application and require the installation of a gate at the location of the gate that was removed. He also discussed his interest in narrowing the easement to 24' to address the mobile home encroachment on the easement. Council Member Graves seconded the motion for purposes of discussion.

There was discussion regarding the motion and the inability of the council to impose conditions upon an adjacent property owner.

Council Member Graves concurred with Council Member Norton that the gate needs to be put back where it was, and he also agreed with Council Member Nicol that the property owners need to work it out. Council Member Graves went on to say he thinks there is a nexus to this application, and it is in the findings that the Council has to make. He believes the City Council should go on record as saying, "We see this as your problem, Mr. Vieira and Mr. McCoy." He said Mr. McCoy needs to get the gate issue resolved; it will work to everyone's advantage.

Council Member Nicol asked the city attorney how much latitude the council has relative to development process.

City Attorney Barisone said the council can determine it is reasonably foreseeable that the incremental increase in use intensity from a single unit project to a six-unit project will potentially create additional problems that the originally-approved single-unit project did not present. He said the Council can impose conditions to address the impacts caused by that incremental increase pursuant to the second finding, "B. The application will maintain the character and integrity of the neighborhood."

City Attorney Barisone informed the Council that a condition would need to be within the purview and ability of the developer to comply with. If it is not, it is potentially an invalid condition. If the Council is interested in Council Member Norton's proposal, a provision in the motion could state that if Mr. Vieira does not grant permission or tries to prevent Mr. McCoy from complying with the gate condition, the requirement for compliance is dispensed with.

Council Member Norton said that provision would be acceptable to his motion. Council Member Graves said it was acceptable to his second as well.

There was further discussion and deliberation prior to calling for a vote on the motion. Mayor Storey stated that the motion was to approve the subdivision upon condition that a gate be installed where the original gate was located; however, if Mr. Vieira does not cooperate in putting up the gate, then the condition would be waived. The motion failed on the following vote: AYES: Council Members Norton and Begun. NOES: Council Member Graves, Nicol, and Mayor Storey. ABSENT: None. ABSTAIN: None.

Following the failed motion, Council Member Graves suggested a new motion which did not get a second. Council Member Norton then offered the following motion.

ACTION: Council Member Norton moved, seconded by Council Member Graves, to approve the subdivision (Project Application #09-132, 100-200 Kennedy Drive, for a Major Land Division to Convert an Existing Two-Building Light Industrial Complex into Six Commercial Condominium Units in the Industrial Park Zoning District) subject to the Conditions and Findings contained on Attachment 1 of the Agenda Report, and with a condition that Mr. McCoy (the property owner) places a gate that he has control of access to at the same location as the old gate. The motion carried on the following vote: AYES: Council Members Graves, Norton, Begun, and Mayor Storey. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.

The council took a short break at 9:33 p.m. and reconvened at 9:43 p.m.

4. PUBLIC HEARINGS (Continued)

B. Public Hearing 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. Presentation: Community Development Department. [730-10]

Senior Planner Bane summarized the written agenda report and said this public hearing is for City Council conceptual review and to provide feedback to the applicant as to whether the Council would consider approval of such a use.

Marsha Taffett, applicant, made a presentation to the Council using a PowerPoint Presentation; she explained her idea for a wellness center in Capitola. (*A paper copy of the PowerPoint Presentation is on file.*) Ms. Taffett said she would be interested in paying a special use tax on all cannabis products dispensed from her business. In response to a question from Council Member Norton regarding what the tax would be, she suggested two percent (2%). She also recommended a trial period of at least 2 years be established for her business. Following her presentation, Ms. Taffett responded to questions of council members.

Mayor Storey opened the public hearing at 10:20 p.m.

Damian Alcaraz, Jr., discussed his family's background in the medical profession. He informed the council he was a medical marijuana user due to a sports injury and that his comments are not to support or oppose the proposed business. He said once an ordinance was adopted to allow the use, others are going to want to open up shop. Mr. Alcaraz questioned how the city would regulate such clubs and if a limit to the number of clubs would be established. He said the drug is illegal on a federal level, and, if approved, he believes there should be official guidelines for Capitola. He also agrees there should be a tax. In closing, Mr. Alcaraz said this is a complicated issue, and all the details would need to be worked out. He thanked the Council for the opportunity to address this item.

Chris Morganelli, Capitola Healing Association, said he makes cannabis deliveries in Capitola. If the Council approves the use in Capitola, he would want to open a dispensary as well. He believes the service is needed in the community and said he supports the application.

Barbara Gorson, Capitola resident, spoke on behalf of her friend, Millie, who is an 85 year-old woman. She said Millie has been active all her life; however, she now must use a walker to get around and is in constant pain. Millie has been a medical marijuana user for 3 years, and she can't say enough about how this medicine has helped her and her quality of life. She is not a resident of Capitola; however, it is difficult for her to go to the Harvey West area of Santa Cruz to obtain her cannabis and it would be much easier to come to Capitola. Millie asked her to let the Council know she wholeheartedly supports the approval of medical cannabis in Capitola. Ms. Gorson then spoke on behalf of herself and said she is not a medical marijuana user; however, she agrees with Ms. Taffett's vision and believes it would be a community-minded business. She supports the application to amend the city's municipal code to allow medical cannabis dispensaries in Capitola.

Amy Lacy, Santa Cruz resident, spoke in support of Ms. Taffett's application.

4. B. PUBLIC HEARINGS (Continued)

Julie Keller, resident and homeowner in Capitola, informed the Council that she is a registered nurse and has been a medical marijuana user for about ten years. She commented on prescription drug and alcohol-related issues, and she asked, "What good does a liquor store bring to our community?" She supports the proposed application and encouraged the Council to lead the way and show other communities that people can smoke marijuana legally, with permission.

Mayor Storey closed the public hearing at 10:38 p.m.

Council Member Graves said he voted for Prop 215; however, he has never heard from any residents in Capitola asking for a dispensary in Capitola.

Council Member Nicol said he would welcome a Wellness Center in Capitola if cannabis were not sold. He commented on the federal government's decision to draw the line against legalizing cannabis and believes it would be a violation of his oath of office to support an illegal controlled substance. He questioned what the people in Capitola want, and he is not sure most of the people in Capitola want this.

Council Member Begun said the question he would ask is, "Is this a service that the community of Capitola wants?" He is not sure he knows the answer to that question.

Council Member Norton asked, "Does this community need a cannabis dispensary? Yes, it does." "Is this the right time in history to do that? No, I do not think so." He then explained his reasons for his conclusion. Council Member Norton said he has not really heard from many people in our community who want a dispensary in Capitola. He commented on the need for an established system and said the location is important to him. He also respects the police chief's concerns about staffing, etc.

Mayor Storey commented that everyone knows marijuana is out there, and it is not a violation of the state. He commented on the health care summit taking place in Washington as a result of the exploding expense of health care. He thinks the city has a solution to provide people with medical needs at much less cost than they have by depending upon the pharmaceutical companies and established drug companies. The City Council has been asked to look at crafting an ordinance to regulate cannabis in Capitola, and he would support moving forward in drafting an ordinance with regulations to control it. Mayor Storey expressed concern that without regulations marijuana will be in our community, uncontrolled and creating problems, which the city will have no means to handle.

Ms. Taffett expressed her interest in working with the council and responded to further questions of council members. There was concern expressed by the council about the proposed business plan, spot zoning and giving one person an exclusive right to business, as well as the accompanying problems associated with the proposed business.

After Council discussion, Mayor Storey informed the applicant that she has heard from the council members about what some of them would need in order to conceptually support the proposal, and he would encourage her to go out and bring that information back to the council.

Ms. Taffett asked if she should come back to the Council or the Planning Commission.

4. B. PUBLIC HEARINGS (Continued)

Community Development Director Goldstein provided options for council consideration: He said the Council could continue the conceptual review hearing; or, alternatively, the Council could conclude the conceptual review process, and the applicant could then submit a formal application for a rezone and use permit for a specific site.

Mayor Storey said the council would need to know there would be support for her business from the community. Ms. Taffett asked what that level of support would be. Mayor Storey said it was not something that could necessarily be quantified.

Community Development Director Goldstein said the conceptual review process is to receive feedback from the Council to determine whether or not it makes financial sense for an applicant to pursue a complicated planning application. He believes the council has provided that feedback to the applicant.

Council Member Norton said he would be interested in seeing an ordinance from another city and how it works. Ms. Taffett pointed out there was a draft ordinance in the packet that was a combination of ordinances from three different cities that she had edited for Capitola.

Mayor Storey asked if there was any interest by the Council of continuing this item for 60 days. He said the purpose would be for the applicant to provide documentation of local support.

Council Member Graves said in addition to community support, he would need to know in what zoning district Ms. Taffett intended to apply for this conditional use permit.

Council Member Norton suggested Ms. Taffett apply for a zoning change and go to the Planning Commission through the planning application process.

ACTION: The City Council conducted the public hearing, provided comments to the applicant, and took no action on the application.

5. OTHER BUSINESS

A. Accept and Approve the Closeout Analysis and Findings Report Prepared by NBS for the Capitola Financing Authority 1998 Reassessment Revenue Bonds. Staff recommendation: adopt resolution approving the Closeout Analysis and Findings Report prepared by NBS for the Capitola Financing Authority 1998 Reassessment Revenue Bonds; authorizing application of \$36,719.16 as reimbursement of City staff time from 1998 – 2009; authorizing transfer of funds in the amount of \$36, 719.16 to the City of Capitola General Fund; and authorizing FY 2009/10 budget amendment for receipt of revenue in the amount of \$36,719.16. (Continued from the Meeting of January 28, 2010) [335-40]

Lonnie Wagner, Accountant II, summarized the written agenda report and responded to questions of Council Members. She discussed additional information distributed to the council from Attorney Samuel Sperry and summarized the points made in his letter dated February 22, 2010, pertaining to disposition of balance in Investment Earnings Fund.

Council Member Begun moved, seconded by Council Member Norton, to approve the recommended action to adopt the proposed resolution, as submitted.

Under discussion of the motion, Lonnie Wagner responded to additional questions of council members.

5. A. OTHER BUSINESS (Continued)

At 11:24 p.m. Mayor Storey opened this item to the public for comments.

Charles Canfield, 4200 Auto Plaza Drive, informed the Council that he checked with their bond counsel regarding this matter and was told that the city could only take \$1,000 of this money. He requested that their portion of the proceeds be set aside or returned to them for the maintenance of improvements that were funded by the bonds.

Jerry Bowles, Brookvale Terrace Mobile Home Park, informed the Council that the homeowner's association used the bonds for part of the infrastructure of Brookvale Terrace; i.e., the streets, drainage, water distribution system, lighting, etc. On behalf of the residents of Brookvale Terrace, Mr. Bowles requested that the excess funds come back to benefit the residents of the mobile home park.

Council Member Norton asked Mr. Bowles how much the city contributed in assisting the residents to convert their park. Mr. Bowles discussed the ways the city helped them.

Glenn Hanna said he was the City Treasurer at the time of both bond issues. Mr. Hanna expressed his concerns about the recommended action, saying this is not the city's money and recommending the money be put in a trust account to be used by the Auto Center and Brookvale Terrace Mobile Home Park for maintenance of improvements funded by the bonds.

Following public input, Mayor Storey said there was a motion on the floor, and he would like to call for the question. City Clerk Greeninger stated that the motion was to approve the recommended action to adopt the proposed resolution.

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

ACTION: Council Member Graves then moved to accept and approve the Closeout Analysis and Findings Report prepared by NBS for the Capitola Financing Authority 1998 Reassessment Revenue Bonds and that the City take receipt of the excess 1998 Reassessment District funds and place the monies in a trust fund to be used for maintenance of the improvements that the original issue was for. Council Member Nicol seconded the motion. Mayor Storey asked if the motion makers would entertain an amendment that the City will receive \$1,000 as provided by the Streets & Highways Code. Council Members Graves and Nicol accepted that amendment. The motion carried on the following vote: AYES: Council Members Graves, Nicol, and Mayor Storey. NOES: Council Members Norton and Begun. ABSENT: None. ABSTAIN: None.

B. Senate Bill 211 Regarding Formation of a Regional Park and Open Space District. Staff recommendation: provide direction to staff. [580-40]

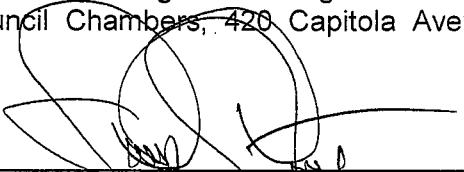
Council Member Begun said the meeting was running late, and he would like to postpone this item to the next meeting.

ACTION: Council Member Graves moved, seconded by Council Member Begun, to continue this item to the Council's next Regular Meeting on March 11, 2010. The motion carried unanimously.

6. COUNCIL/STAFF COMMUNICATIONS – None


7. ADJOURNMENT

The City Council adjourned at 11:46 p.m. to its next Regular Meeting to be held on Thursday, March 11, 2010, 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 4/8/2010