

March 11, 2010
 Capitola, California

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

**5:30 P.M. - CLOSED SESSION - CITY MANAGER'S OFFICE
 CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL**

At 5:30 p.m. in the City Hall Council Chambers, Mayor/Chairperson Storey noted that all City Council Members/Redevelopment Agency Directors were present, with the exception of Council Member/Director Graves. Mayor Storey 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 5:31 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 7:10 p.m. on Thursday, March 11, 2010, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

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

ABSENT: Council Member Ron Graves

OTHERS: City Treasurer Jacques Bertrand

STAFF:

City Manager Rich Hill, Deputy City Attorney Celestial Cassman, 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]

Deputy City Attorney Cassman reported that the council met in Closed Session at 5:30 p.m. Council Member/Director Graves was absent. The first item discussed was the Conference with Legal Counsel concerning existing litigation between Surf & Sand, LLC vs. City of Capitola. The council received a status update, discussed this item, instructed legal counsel, and took no reportable action. This item was continued to an Adjourned Closed Session to be held on Monday, March 15, 2010, at 5:00 p.m. in the City Manager's Office.

Deputy City Attorney Cassman also reported that the following items listed on the Closed Session Agenda were not discussed and were continued to an Adjourned Closed Session to be held on Monday, March 15, 2010, at 5:00 p.m. in the City Manager's Office:

- Conference with Legal Counsel – Existing Litigation: Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates) and Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates)
- Conference with Legal Counsel – Anticipated Litigation: One case of significant exposure to litigation and one case of initiation of litigation
- Conference with Real Property Negotiator: 2091 Wharf Road, APN 034-241-05

With respect to the Conference with Labor Negotiator pertaining to Employee Organizations, the City Council received a status update from its labor negotiator, City Manager Hill, and continued the item to the Adjourned Closed Session to be held on March 15, 2010, at 5 p.m.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

Robin Gordon said he wished to present a secondary proposal for a medical marijuana dispensary in Capitola. He submitted materials regarding his proposal to the council and asked that this be scheduled for the next meeting when he could answer any questions the council might have. Council Member Norton suggested Mr. Gordon speak to staff about the process. Mr. Gordon said he has already spoken to Planning staff.

C. Staff Comments

Community Development Director Goldstein reported that for the first time in 28 years the California Coastal Commission held a meeting in Santa Cruz. He informed the council that Capitola and Santa Cruz co-hosted a reception for commission members at Longs Marine Lab and that he, several staff members, as well as a Planning Commissioner, attended the reception.

D. City Council/Treasurer Comments/Committee Reports

■ Council Member Norton reported that he sits on the Integrated Waste Management Task Force, and they have been working on a countywide plastic bag take-out ban. He would like staff to bring an update to the council regarding this issue and to be able to provide preliminary direction to staff about a countywide ban.

ACTION: It was the consensus of the council to agendize that item for consideration.

2. D. ORAL COMMUNICATIONS (Continued)

■ Mayor Storey said the League of California Cities is putting forth a state initiative to protect local funds. He announced that council members are assisting the League in gathering signatures and that he and Council Member Begun would be manning tables at Capitola Mall this Sunday, March 14, and the following Saturday, March 20, with petitions for registered voters in order to get the measure on the November ballot. He encouraged everyone to let members of the community know about this initiative and to encourage them to sign the petition to protect our local funding. Council Member Begun said they would be there from 10 am to 2 pm on those days, and they would appreciate additional volunteers to cover those shifts.

■ City Treasurer Bertrand reported on the March 8th meeting of the Finance Advisory Committee. He said City Manager Hill reported on revenue developments at the Mid-Year Report and those projections show that the current fiscal year will balance, but the next fiscal year will be short. In preparation of the upcoming FY 2010/11 budget, the Finance Advisory Committee came up with expense reduction ideas, as well as revenue ideas. He summarized the written "Report on the Finance Advisory Committee held 3/8/2010," which was provided to the Council Members. (A copy is on file in the General file for the Finance Advisory Committee.) [330-40]

Council Member Norton expressed concern about the Finance Advisory Committee discussing parking at Pacific Cove Mobile Home Park. He said it is not an issue before the City, nor is it an issue of the Finance Advisory Committee. He said the future of the mobile home park is a political decision, and he does not think this is something the committee should be discussing. City Treasurer Bertrand said the committee realizes this is a council decision; however, the committee also realizes it as a potential source of revenue.

Mayor Storey commented on revenue ideas and noted that there are no numbers identified. He asked if the committee was going to follow up to quantify these ideas with true values for those items. City Treasurer Bertrand said the committee would need staff support in order to accomplish this.

Council Member Begun agreed it was a good idea and that the direction would be to come up with numbers for the top five expense reduction and revenue ideas proposed by the Committee.

Mayor Storey thanked the committee its suggestions and for taking on this work.

1) Presentation of the 2009 Capitola Art & Cultural Commission Annual Report. [1010-60]

Michael Termini, Chair of the Art & Cultural Commission, presented the Commission's Annual Report for 2009. He commented on the work of the commission and informed the council of the current membership.

Using a PowerPoint Presentation, Mr. Termini discussed the various activities and events sponsored by the Commission. (A paper copy of the report is on file with this item.) He commented on the Art & Cultural Commission public art projects completed last year and upcoming projects. He also commented on the Twilight Concert Series and Art on the Beach. He discussed an addition to the Sunday Art on the Beach series, which will also include Jazz at the Beach on the Bandstand.

Mayor Storey thanked Mr. Termini for his presentation and thanked the Art & Cultural Commission for their valuable work to the community.

ACTION: The City Council received the 2009 Annual Report of the Art & Cultural Commission as an informational item; no action was taken.

ORAL COMMUNICATIONS (Continued)

E. Committee Appointments1) **Appointments of Two New At-Large Members to the Capitola Art & Cultural Commission. [1010-60]**

Michael Termini, Chair of the Art & Cultural Commission, thanked the council for approving the addition of two at-large members to the commission. He said they are recommending appointment of one of the applicants at this time, Marsha Taffett, and recommend the second appointment be continued until after the Art & Cultural Commission meets in April. He said one of the applicants being considered is present to introduce herself.

Jenny Shelton, resident of Soquel, introduced herself and expressed her love of the arts and her interest in serving on the Capitola Art & Cultural Commission in the event there is a vacancy available. She also commented on her volunteer service teaching art to students at Main Street School, as well as being involved with the US Green Building Council.

Mayor Storey said the recommendation is to appoint Marsha Taffett and to continue the other appointment. City Clerk Greeninger asked which term the council wished to fill, the one ending December 2011 or December 2010.

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to appoint Marsha Taffett as an At-Large Member to Capitola Art & Cultural Commission with a term ending December 31, 2011, and directing staff to continue the second appointment until the Art & Cultural Commission has had an opportunity to consider the applicants and to make a recommendation for appointment. The motion carried unanimously.

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

Council Member Begun asked what period of time Check #62420 on Page 6 for Attorney's fees to Endeman, Lincoln, Turek & Heater covers. Assistant to the City Manager Murphy said it was for December 2009 services.

Mayor Storey questioned Check #62441 on Page 8 to Shields Consulting Group. City Clerk Greeninger informed the council the City has a contract with this consultant who prepares the submittal report to the state for reimbursement of state mandated costs relative to Brown Act agenda posting requirements. Mayor Storey asked if the council could receive a report regarding how much money is reimbursed to the city by submitting this claim.

Council Member Norton thanked Chief of Police Card for providing the Council with advance information regarding the costs of targets.

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to approve the Check Register Reports dated February 19 and 26, 2010, including checks numbered 62408 through 62446, in the amount of \$51,566.58, and checks numbered 62447 through 62504 in the amount of \$117,248.24, respectively; and payroll disbursements for the February 26, 2010, payroll, in the amount of \$172,690.05, for a Grand Total of \$341,504.87, as submitted. The motion carried on the following vote: AYES: Council Members Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: Council Member Graves. 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. Mayor Storey had a question on Item 3.E., pertaining to the Bowman & Williams engineering bid and whether other bids were received. *(See comments under that item.)*

Council Member Nicol commented on Item 3.D. *(See comments under that item.)*

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

- C. Receive Planning Commission Action Minutes for the Meeting of March 4, 2010.**

[740-50]

ACTION: The City Council unanimously received the Planning Commission Action Minutes for the Regular Meeting of March 4, 2010, as submitted.

- D. Receive City Treasurer's Report for the month ended January 31, 2010 (Unaudited). [380-30]**

Prior to action being taken on the Consent Calendar, Council Member Nicol commented on the last page of the report containing State Treasurer Bill Lockyer's report on LAIF rates and pointed out the substantial decline in interest rates.

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to accept the Treasurer's Report for the month ending January 31, 2010 (Unaudited), as submitted. The motion carried on the following vote: AYES: Council Members Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

- E. Award Contract to Bowman & Williams Engineers in the amount of \$59,100 for Surveying and Engineering Work for the 38th Avenue Reconstruction Project between Capitola Road and Brommer Street. [940-40/500-10 A/C: Bowman & Williams Engineers]**

Prior to action being taken on the Consent Calendar, Mayor Storey questioned whether other bids were received for this project. Public Works Director Jesberg responded saying that the city has been rotating projects between Bowman & Williams and Harris & Associates, in order to retain local firms. He confirmed that he is confident the city is receiving the best possible price for this work.

Council Member Norton commented that he and Public Works Director Jesberg met with County Supervisor John Leopold's office and County Public Works on this project, since it is so close to the County's project in that area. He said they are sharing information to make 38th Avenue a continuous pedestrian and bicycle-friendly street.

E. CONSENT CALENDAR (Continued)

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to award a contract to Bowman and Williams Engineers in the amount of \$59,100 for Surveying and Engineering Work for the preparation of plans and specifications for the 38th Avenue Road Reconstruction Project, as submitted. The motion carried on the following vote: AYES: Council Members Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: Council Member Graves. ABSTAIN: None.

F. Approve Special Event Permit Request by the Capitola Art & Cultural Commission for the 2010 Twilight Concert Series at the Bandstand in Esplanade Park on 11 Wednesday Evenings from June 23 to September 1, 2010, and the Hanging of a Banner prior to each Concert. [1010-10]

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to approve the recommended actions, as submitted:

- 1) Approved the Special Event Permit for the 2010 Twilight Concert Series and Authorized the Capitola Police Department to issue said permit, as submitted and;
- 2) Authorized Public Works to hang the event banner on the Monday preceding each concert.

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

1. PUBLIC HEARINGS - None

5. OTHER BUSINESS

A. Review of Tree Protection Ordinance and Overview of Implementation Practices. Staff recommendation: receive report [1030-60]

Community Development Director Goldstein informed the Council that the administrative process associated with the alleged violations at 104 Fairview is not yet completed; therefore, he will be focusing on the city's tree protection ordinance and implementation practices.

Using a PowerPoint Presentation, Community Development Director Goldstein summarized the written agenda report and then responded to questions of council members. *(A paper copy is on file with this item.)*

At 8:16 p.m. Mayor Storey opened this item to the public for comment.

Victor Veysey, property owner of 104 Fairview Avenue, commented on the city's code relative to trees. He expressed his concerns pertaining to the code as it relates to there being no definition of what a stump is, nor is there a definition of violation, i.e., whether each tree is a separate violation. Mr. Veysey commented on the penalties for each violation and said he would be interested in clarification in that regard. Mr. Veysey believes in this case the city followed its guidelines. He informed the council that he has trees in pots ready to be planted.

There was considerable council discussion regarding this item and a suggestion by Council Member Begun that the item be continued until after the administrative review has been completed. Council Member Nicol believes this was a discussion item only, and it has been discussed. Council Member Norton said that, separate from the Hihn Park Path issue, it would be advantageous for the Planning Commission to review the city's ordinance in general, and to make a clear definition as to whether the city has an historic tree inventory that should be implemented.

5. A. OTHER BUSINESS (Continued)

Considerable Council discussion was followed by this action:

ACTION: It was the consensus of the City Council that after conclusion of the administrative review on the Hihn Park Pathway (104 Fairview) tree issue, that the city's ordinance pertaining to Community Trees be scheduled for staff review and Planning Commission review within the next six months.

Community Development Director Goldstein said it would be staff's intent to take the staff report prepared and the presentation made at tonight's meeting, along with a summary of the comments received at the meeting, to the Planning Commission for their review. If the commission has any recommended changes to the ordinance, those recommendations would be forwarded to the City Council.

B. Parking Pay Stations in the Capitola Village Area. [370-40 Purchasing-Procurement]

Public Works Director Jesberg summarized the written agenda report utilizing a PowerPoint Presentation (*a paper copy of the presentation is on file with this item*). He also said Janis Rhodes, consultant for this type of parking system, has been very helpful and is available for questions. He reviewed the various types of systems and staff's recommendation for a pay by space parking station system. Public Works Director Jesberg and Ms. Rhodes responded to questions of council members.

Mayor Storey opened this item to the public at 9:17 p.m.

Traffic & Parking Commission member Nels Westman reported on the Traffic & Parking Commission meeting held last night and the Commission's Alternate Pay Station Proposal, which was emailed to the City Council today. (*A paper copy is on file for this item.*) Mr. Westman read the Commission's proposal and responded to questions of council members.

Carin Hanna said she was excited to see the pay station program moving forward, although she is also nervous about it moving forward. She worries about convenience to visitors to the Village. She believes the council has to be cautious and thinks a 12-month trial might be the answer. Mrs. Hanna supports moving ahead with the RFP and encouraged the council to consider the trial program on the Esplanade proposed by the Traffic & Parking Commission.

Mayor Storey closed the public hearing at 9:29 p.m.

Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to authorize the Director of Public Works to issue an RFP (Request for Proposals) for the purchase and installation of pay station parking systems in the Village area, as recommended by staff. Then, once the proposals are received, look at the costs and make a determination whether the city council wants to implement the entire program or a partial phase, and then consider the possibility of incorporating a third phase into the program (i.e., the Traffic & Parking Commission's recommendation to install meters in the Cherry Avenue neighborhood).

Under discussion, Council Member Nicol said the recommendation of the Traffic & Parking Commission is compelling, and he would be interested in looking at the proposals and reviewing the recommendation of the Traffic & Parking Commission.

B. OTHER BUSINESS (Continued)

Mayor Storey said it seems to be a good idea to start with a smaller phase to see how it is received by the public, how it actually works in practice, and how much additional money it actually does bring in before making a huge investment. He would also like staff to come back with the other recommendations of Traffic & Parking Commission concerning installation of meters at 43 existing unmetered 2-hour parking spaces on Cherry Avenue, Park Place, San José, Stockton and California Avenues. The residents who live on those streets should also have a chance to comment.

Council Member Norton stated when this comes back to the Council, he would like to discuss the possibility of fifty percent of the additional revenues generated by this program going into the parking fund. Mayor Storey said he would interpret the council's original decision pertaining to increased revenues going to the parking fund to include this increased revenue as well.

Mayor Storey then clarified that Council Member Norton's motion is that the RFP would be flexible in terms of the initial investment when it is issued.

Council Member Nicol questioned how the RFP would address the Council's desire for flexibility in the number of pay stations. Public Works Director Jesberg said staff would work with the consultant to come up with language to address the Council's direction.

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

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Prior to announcing the next item pertaining to consideration of the Revised Winter Shelter Cost Allocation Formula, Mayor Storey said his organization, which includes Lift Line Transportation, provides transportation services to the Winter Shelter, and he will need to recuse himself from participating from that item. Council Member Norton suggested that perhaps the council could deal with Item 5.D. at this time so that the Mayor would not need to return after discussion of the Winter Shelter item.

Mayor Storey asked if anyone in the audience wished to address the council on Item 5.C. Seeing no one, it was the consensus of the City Council to deal with Item 5.D. at this time.

D. Work Plans to Achieve the Seven City Goals for 2010. [120-10]

There was no staff presentation or council comments prior to the following motion:

ACTION: Council Member Begun moved, seconded by Council Member Norton, to accept the seven Work Plans developed to achieve the City Goals for 2010, as submitted. The motion carried unanimously.

Council Member Norton said this information is well written and a good outline of what needs to be done, but he commented that the council would need to meet two times a week for the rest of the year to get through these goals.

Mayor Storey had a question on the Gottschalks space and whether Target is interested in the property. City Manager Hill explained the current situation with the property and said staff would be meeting with Target and Macerich next week to discuss the Gottschalk's property.

The City Council now dealt with Item 5.C.

C. Consideration of Revised Winter Shelter Cost Allocation Formula. [750-20/330-10]

Mayor Storey recused himself from participating on this item due to a conflict of interest and left the meeting at 9:44 p.m.

Vice Mayor Norton then introduced Item 5.C., noting that the City Council was considering the "Revised" Agenda Report.

Community Development Director Goldstein summarized the Revised Agenda Report using a PowerPoint Presentation (*a paper copy is on file in the record for this item*). He discussed the 2009/10 shortfall due to elimination of grant funds from the state and the revised Winter Shelter Cost Allocation Formula.

Council Member Nicol said he was troubled by the proposed formula change from 4% to 6.5% for Capitola and asked if this was a reasonable increase.

City Manager Hill explained that it was to the City's benefit that homeless services are provided in the City of Santa Cruz. He also commented on meeting the requirements of the City's Housing Element.

Community Development Director Goldstein responded to concerns expressed by Council Member Begun regarding the numbers and who monitors this funding.

Council discussion was followed by this action:

ACTION: Council Member Begun moved to approve the recommended action with the provision that the city pays only if all of the other entities pay their share.

Council Member Nicol said he was not going to second the motion as he believes the Council should hold the line on the amount that we agreed to pay this year and pay only that amount. He feels we should give them more incentive to live within their means.

Vice Mayor Norton seconded the motion, with a stipulation that the city also send a message to the Winter Shelter that Capitola will not consider a cost override in this calendar year.

City Manager Hill clarified his understanding of the motion, which is to accept the recommended action, but if the shelter experiences overruns this calendar year, Capitola will not pay for overruns.

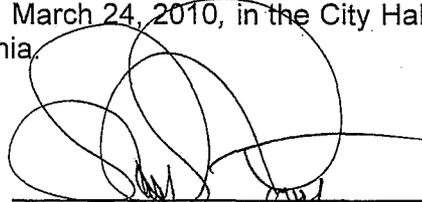
City Clerk Greeninger confirmed that the Council's motion is to approve the revised Winter Shelter Cost Allocation Formula and adoption of the "Final Revised Draft" resolution, **Resolution No. 3804, Resolution Amending the FY2009/2010 Budget by Transferring \$11,285 from the City Manager's Unanticipated Events Fund to the City Council Department Contract Services Account Increasing City Councils Contract Services Expenditures by \$11,285 to Fund the Winter Shelter Program.** Community Development Director Goldstein clarified that the City's funding commitment is contingent upon the other jurisdictions providing commensurate contributions, and Council Member Norton added that staff will send a message to the Winter Shelter that next year's cost overruns will not be considered. The motion carried on the following vote: AYES: Council Members Begun and Vice Mayor Norton. NOES: Council Member Nicol. ABSENT: Council Member Graves. ABSTAIN: None. DISQUALIFIED: Mayor Storey.

COUNCIL/STAFF COMMUNICATIONS

Council Member Norton reminded everyone that the speed limit in Capitola is 25 miles per hour.

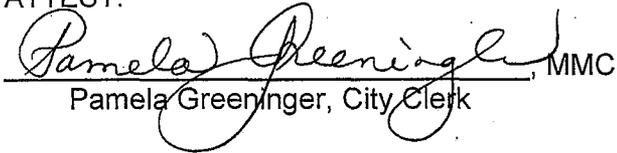
7. ADJOURNMENT

The City Council adjourned at 10:03 p.m. to an Adjourned Closed Session to be held on Monday, March 15, 2010, at 5:00 p.m. in the City Manager's Office, and then to a Special Meeting of the City Council regarding the Surf and Sand Mobile Home Park Subdivision Application to be held on Wednesday, March 24, 2010, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Sam Storey, Mayor

ATTEST:



Pamela Greeninger, City Clerk

**MINUTES WERE UNANIMOUSLY APPROVED AS SUBMITTED BY THE CITY COUNCIL ON 3/25/2010,
WITH COUNCIL MEMBER GRAVES ABSTAINING**