

April 8, 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 5:20 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/Assistant to the City Manager Lisa Murphy
 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: Rispin Mansion Property 2000 & 2005 Wharf Road
 APN 035-371-01 & 02
 Agency Negotiator: Rich Hill, Executive Director/Jamie Goldstein, Deputy Executive Director
 Negotiating Parties: Capitola Redevelopment Agency and Barry Swenson Builder
 Under Negotiation: Real Property Lease/Sale
 Property: Gottschalks Property, 1825 41st Avenue
 APN 034-261-51
 City Negotiator: Rich Hill, City Manager/Executive Director - Jamie Goldstein, Acting City Manager/Deputy Executive Director
 Owner: Baskin Properties LLC
 Under Negotiation: Purchase of Property by City

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

Mayor Storey announced there were two new items on the Closed Session agenda regarding Real Property Negotiations: Rispin Mansion Property and Gottschalks Property.

Acting City Manager/Community Development Director Goldstein said the matter regarding the Rispin property can be removed from the Closed Session agenda as it will not be discussed. The item regarding the Gottschalks property, however, should be on the Closed Session agenda for discussion.

City Attorney Barisone clarified that the Brown Act requires items to be listed on the Closed Session Agenda and that an announcement be made in open session prior to going into closed session. At the time of the announcement regarding the items to be discussed, the public may comment.

Council Member/Director Graves asked why the Gottschalks property is on the Closed Session. Acting City Manager/Community Development Director Goldstein replied it is on the Closed Session Agenda to initiate negotiations to purchase an interest in real property.

Council Member/Director Graves expressed his concerns about putting the matter on executive session without first having the public speak to the matter.

Mayor/Chairperson Storey said the Rispin Property item is being withdrawn from discussion in Closed Session, and then he recited the agenda item description for the Gottschalks Property.

Council discussion was followed by this action:

ACTION: Council Member/Director Norton moved, second by Council Member/Director Begun, to refer the Gottschalks item to Closed Session. The motion carried with Council Member/ Director Graves voting no.

At 5:26 p.m. Mayor/Chairperson Storey asked if anyone wished to address any of the items to be discussed in Closed Session.

Lisa Saldana, member of the Mid-Management Group, addressed the Council regarding Labor Negotiations with the various employee groups. She discussed negotiations that have occurred during the past several months and the groups' willingness to reduce salaries in the 2010/11 fiscal year to address projected revenue deficit figures. She informed the Council Members that group representatives have been informed by the city manager of more favorable revenue figures and, based on those figures, employee groups do not believe it is necessary to go forward with the 10% reduction. Ms. Saldana also commented that the non-sworn groups have always been willing to work with the council, agreeing to a furlough program during the financial crisis, and did not receive a salary increase. Ms. Saldana responded to questions of council members following her comments.

Following discussion, the City Council/Redevelopment Agency recessed at 5:37 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 7:23 p.m. on Thursday, April 8, 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: Acting City Manager/Community Development Director Jamie Goldstein, City Attorney John G. Barisone, 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 reported that the City Council met in Closed Session on those items listed on the posted agenda.

Prior to going into closed session, the City Council heard from Lisa Saldana, member of the Mid-Management Group, regarding Labor Negotiations and took her comments under advisement prior to going into closed session.

City Attorney Barisone announced that the Rispin Mansion real property item was removed from the Closed Session agenda and not discussed in Closed Session. In addition, he said existing litigation items Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates) and Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates) were not discussed, nor was the one case of Anticipated Litigation.

City Attorney Barisone then reported on the items that were discussed in Closed Session:

Conference with Legal Counsel – Existing Litigation

Surf and Sand, LLC vs. City of Capitola – The council had discussion regarding items of litigation and took no reportable action in closed session.

Conference with Labor Negotiator – The City Council met with its labor negotiators, Assistant to the City Manager Murphy and Acting City Manager/Community Development Director Goldstein, concerning all employee bargaining group negotiations. The Council received an update regarding ongoing labor negotiations and provided instructions with regard to those negotiations. No reportable action was taken in closed session.

Conference with Real Property Negotiator

Gottschalks Property, 1825 41st Avenue – The City Council had a brief discussion regarding this item; however, due to time constraints and other considerations, there was no in-depth discussion, and no reportable action was taken.

2. ORAL COMMUNICATIONS

- A. Additions and Deletions to Agenda – None
- B. Public Comments – None
- C. Staff Comments – None
- D. City Council/Treasurer Comments/Committee Reports

1) Council Member Norton announced that on Wednesday, April 14, 2010, at 7 pm there will be a public hearing of the Santa Cruz County Regional Transportation Commission on the purchase of the Rail Corridor in the County Board of Supervisors Chambers, 701 Ocean Street. Then, on Thursday, May 6, 2010, at 9 am, in the County Board of Supervisors' Chambers, the Santa Cruz County Regional Transportation Commission Board of Directors will actually vote on whether to purchase the rail corridor. Council Member Norton said the council has voted in the past to support this purchase, and he would like to bring this matter to the council for discussion and public input at the next City Council meeting.

Mayor Storey discussed his interest in attending the Santa Cruz County Regional Transportation Commission hearing and believes it would be important for the Mayor of Capitola to be at the hearing and speak in favor of the acquisition.

2. D. 1) ORAL COMMUNICATIONS (Continued)

As the city's representative to the Santa Cruz County Regional Transportation Commission, Council Member Nicol encouraged people interested in this issue to go to the Santa Cruz County Regional Transportation Commission's website where information regarding the rail purchase is available. He reiterated Council Member Norton's announcement regarding the public hearing dates of April 14th at 6 pm and May 6th at 9 am.

Council Member Graves said he also serves on Santa Cruz County Regional Transportation Commission as the METRO representative, and he wanted to make sure the Council knows his vote will come from the METRO Board. He believes the Mayor should speak at the April 14th meeting.

ACTION: It was the consensus of the City Council to place this matter on the April 22, 2010, agenda for discussion on how the council's representative should vote and to consider supporting the purchase.

2) City Treasurer Bertrand said the Finance Advisory Committee will meet on Monday, April 12, 2010, at 6:30 p.m. in the Community Room.

E. Committee Appointments – None

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

Staff responded to questions of Council Members pertaining to checks #62608 to Scotts Valley regarding Avoid the 9 Grant Funding, #62679 to Loomis, and #62716 to Witmer-Tyson for dog training. Council Member Graves referred to costs for the Annex at 411 Capitola Avenue, and said he would like full accounting of payments the City makes for use of the Annex.

Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Graves, to approve the Check Register Reports dated March 19 and 26, 2010, including checks numbered 62596 through 62639 in the amount of \$625,869.76, and checks numbered 62640 through 62723 in the amount of \$112,327.27, respectively; and payroll disbursements for the March 26, 2010, payroll in the amount of \$182,854.63, for a Grand Total of \$921,051.66, 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 summarized the items listed on the Consent Calendar and asked if members of the council or the public wished to pull any of the items on the Consent Calendar for separate discussion.

Council Member Begun pulled Item 3.D. pertaining to the Special Event Permit for the Wharf to Wharf Race. He also noted that he has provided the City Clerk with the correct names of the League of California Cities Committees that he commented on at the February 25, 2010, meeting for correction to the minutes on Page 11597, Paragraph 2.D.4).

Mayor Storey advised Item 3.D. would be discussed at the end of the meeting following Other Business Item 5.B. (*See discussion and action on Pages 11645 & 11646.*)

CONSENT CALENDAR ACTION: Council Member Norton moved, seconded by Council Member Nicol, to approve the Consent Calendar as recommended, with the exception of Item 3.D. 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)

- 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 February 25 and March 25, 2010, the Special Meeting of March 24, 2010, the Special Closed Session Meeting of March 19, 2010, and the Adjourned Closed Session Meeting of March 30, 2010.**

Prior to action being taken on the Consent Calendar, Council Member Begun stated that he provided the City Clerk with the correct names of the League of California Cities Committees that he commented on at the February 25, 2010, meeting for correction to the minutes. *(Page 11597, Paragraph 2.D.4) shall read: "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 Revenue & Taxation Policy Committee and Transient Occupancy Tax Task Force meetings in Sacramento."*)

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to approve the Minutes of the Regular Meetings of February 25 and March 25, 2010, the Special Meeting of March 24, 2010, the Special Closed Session Meeting of March 19, 2010, and the Adjourned Closed Session Meeting of March 30, 2010, as submitted.

- C. Receive Planning Commission Action Minutes for the Regular Meeting of April 1, 2010. [740-50]**

ACTION: The City Council unanimously received the Planning Commission Action Minutes for the Regular Meeting of April 1, 2010, as submitted.

- D. Approve Request by Wharf to Wharf Race, Incorporated, for a Special Event Permit, Entertainment Permit, Encroachment Permit, and Sign Permit for the 38th Annual Wharf to Wharf Foot Race to be held on Sunday, July 25, 2010, and Request for a Grant of all Permits, Police and Public Works Fees in the Amount of \$8,079.**

This item was pulled for separate discussion. (See discussion and action on Pages 11645 and 11646.)

4. PUBLIC HEARINGS - None

5. OTHER BUSINESS

- A. Ordinance Amending Section 3.20.060 of the Capitola Municipal Code to Add Paragraph D Pertaining to Year-End Appropriations, which would make all Budget Appropriations to the Capital Improvement Program, Grant Funded Programs, and Other Projects non-lapsing at the end of each fiscal year. [1st Reading] [330-05 Budget 2010/11]**

Public Works Director Jesberg summarized the written agenda report and the reasons for adopting the proposed ordinance amendment. Following his report he responded to numerous questions of council members.

5. A. OTHER BUSINESS (Continued)

Council Member Graves said he would be interested in having the prior year appropriations in the proposed budget. Mayor Storey said he, too, would feel more comfortable if, in the budget, "unfunded appropriations" would have reference to a specific project.

Council Member Graves said he doesn't see any problems with this approach, especially for grant funds. He is afraid we are going to forget what these funds were being saved for and said there needs to be something specified in the budget.

Mayor Storey asked if anyone from the public wished to address the council on this item. There were no public comments.

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to pass the proposed Ordinance Amending Section 3.20.060 of the Capitola Municipal Code to add Paragraph D. Pertaining to Year-End Appropriations to a second reading, as submitted.

Under discussion, Council Member Graves suggested that proper notation be included in the budget for "unfunded appropriations," which would reference specific projects, as discussed by the council. The motion was amended to include that direction to staff.

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

B. Establishment of a Recovery Zone for the Purpose of Issuing Bonds as Authorized by the American Recovery and Reinvestment Act (ARRA). [730-10 1855 41st Avenue (Kohl's), SunEdison Solar Energy Facility Project]

Acting City Manager/Community Development Director Goldstein summarized the written agenda report and provided information regarding the proposed resolutions which Create a Recovery Zone for the Purpose of Issuing Bonds under the Provisions of the American Recovery and Reinvestment Act.

Acting City Manager/Community Development Director Goldstein said the city facilitated a TEFRA (Tax Equity & Fiscal Responsibility Act) Public Hearing at 4:00 p.m. on Monday, April 5, 2010, to hear from the public regarding a proposed plan of financing to issue the debt. He said there were no public comments received at that hearing. He said the City is taking care of the procedural steps so the parties may obtain funding. Following his report, Acting City Manager/Community Development Director Goldstein responded to questions of council members.

Council Member Norton asked what the City could do to encourage other businesses to take advantage of this funding.

Mayor Storey questioned where SunEdison is located and asked if a proviso or strong encouragement could be made for them to use local subcontractors for the project.

Mayor Storey asked if any members of the public wished to address this item. Seeing no one, the following action was taken:

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to adopt the proposed resolutions, as recommended, and with direction to staff to prepare a letter requesting that to the maximum extent possible, local labor be used on this project:

5. B. OTHER BUSINESS (Continued)

1) Adopted **Resolution No. 3807, Resolution Authorizing the Creation of a Recovery Zone Under the Provisions of the American Recovery and Reinvestment Act of 2009 for the Purpose of Issuing Recovery Zone Facility Bonds; Designation of the California Statewide Communities Development Authority as an Authorized Issuer of the Recovery Zone Facility Bonds to be Issued Pursuant to the Local Suballocation of Volume Cap Granted to the City of Capitola, and Related Matters, and**

2) Adopted **Resolution No. 3808, Resolution Approving the Issuance by the California Statewide Communities Development Authority of Recovery Zone Facility Revenue Bonds for the SunEdison California Portfolio.**

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 Norton asked if this information could be sent out to the other stores in the Mall or other large businesses in the City that would benefit from this. Nob Hill and Whole Foods were suggested.

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

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

D. Approve Request by Wharf to Wharf Race, Incorporated, for a Special Event Permit, Entertainment Permit, Encroachment Permit, and Sign Permit for the 38th Annual Wharf to Wharf Foot Race to be held on Sunday, July 25, 2010, and Request for a Grant of all Permits, Police and Public Works Fees in the Amount of \$8,079. [1050-70]

Council Member Nicol recused himself from discussion of this item due to a conflict of interest as he is the Executive Director for the Wharf to Wharf Race. He left the meeting at 8:16 p.m.

Chief of Police Card summarized the written agenda report for the special event permit and responded to questions of council members. Jim Maxwell, Treasurer for the Wharf to Wharf Race Board, also responded to questions of council members.

There was discussion regarding the request for a grant of city fees in the amount of \$8,079. Mr. Maxwell commented that other events, such as the Car Show, the Art & Wine Festival, and the Begonia Festival, all receive grants for fees, and their organization would like the City to do the same for the Wharf to Wharf Race.

Council Member Begun said he would propose that the race pay the city for those expenses.

Council Member Norton commented that one of the services the council anticipates having to cut from next year's budget is Hope Services in the amount of \$7,000. He said perhaps the Wharf to Wharf Race could donate \$7,000 to keep that service alive in our community.

Council Member Graves expressed his concerns regarding the grant of fees for special events. He believes the Wharf to Wharf Race and other events mentioned by Mr. Maxwell all bring good things to Capitola. The benefit of events in Capitola comes back two- or three-fold. He does not think these groups should have to ask for grants; the City should be encouraging groups to have events in the community. He said during these tough economic times he would look favorably on a donation for Hope Services. He believes Capitola gets more benefit than Santa Cruz does out of the race since it ends in Capitola.

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

Mayor Storey said if the council is going to make adjustments for the grant program, it should do so across the board, not on a single application. He is not sure why this event is different and said perhaps the City should have a policy that if an organization receives over a certain amount of money, they would not be provided a grant. Mayor Storey believes the Council should grant the waiver because that is what has been done consistently throughout the year for other events. The City Council should not single this event out but could make the gracious request to donate \$7,000 back to the City or directly to Hope Services for those services.

Considerable Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Begun, to take the following action:

1. Approved the Special Event Permit, including Entertainment, Sign and Encroachment Permits for the 38th Annual Wharf to Wharf Race to be held on Sunday, July 25, 2010, from 5:00 a.m. to 12:00 p.m., as submitted;
2. Approved a City grant of fees in the amount of \$8,079.00 to the Wharf to Wharf Race Committee; and
3. Directed staff to request a donation back to the City of \$7,000 from the Wharf to Wharf Race Committee, which the City will earmark for Hope Services to clean the Esplanade and beach during the summer season.

There was discussion regarding the motion and interest on behalf of the Council to review the city's policy pertaining to Special Event Permits. Acting City Manager/Community Development Director Goldstein said staff would bring something back to Council.

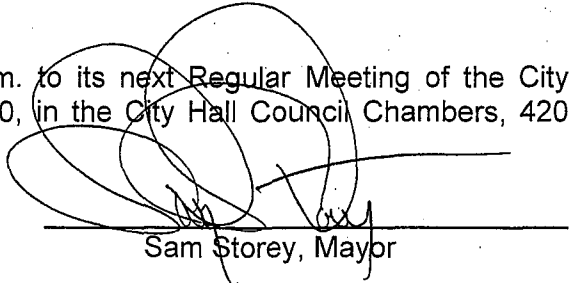
The motion carried on the following vote: AYES: Council Members Graves, Norton, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None. DISQUALIFIED: Council Member Nicol.

6. COUNCIL/STAFF COMMUNICATIONS

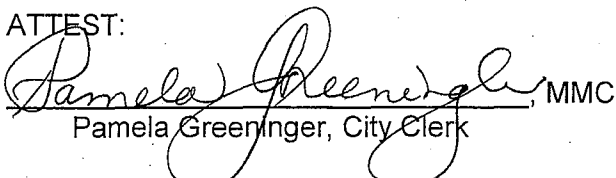
- A. Mayor Storey encouraged everyone to "Shop Capitola."
- B. Council Member Norton said the speed limit in Capitola is 25 miles per hour.

7. ADJOURNMENT

The City Council adjourned at 8:40 p.m. to its next Regular Meeting of the City Council to be held on Thursday, April 22, 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 4/22/2010