

May 27, 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 6:05 p.m. in the City Hall Council Chambers, Mayor/Chairperson Storey noted that all City Council Members/Redevelopment Agency Directors, with the exception of Council Member/Director Norton, were present. (*NOTE: Council Member/Director Norton was present for the Closed Session in the City Manager's Office.*) 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)
 Julie Talbert vs. City of Capitola

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

Deputy City Attorney Cassman announced that the item regarding Anticipated Litigation is now an Existing Litigation item as the City has filed a Complaint against the Soquel Union Elementary School District. A finding was made and unanimously passed by the City Council to add that new item of Existing Litigation to the Closed Session agenda, since it needs to be discussed prior to the next regular meeting and was not known until after posting of the agenda.

Mayor/Chairperson Storey then asked if anyone in the audience wished to address the Council/RDA Directors on Closed Session items. Seeing no one, the City Council/Redevelopment Agency recessed at 6:10 p.m. to the Closed Session in the City Manager's Office.

REGULAR MEETING OF THE CITY COUNCIL

Mayor Storey called the Regular Meeting of the City Council to order at 7:42 p.m. on Thursday, May 27, 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, Deputy City Attorney Celestial Cassman, 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

*** PRESENTATIONS ***

**Mayor's Proclamation Designating the Week of
May 31 through June 6, 2010 "Traffic Safety Week" [120-40]**

Mayor Storey announced and read the Proclamation Designating the Week of May 31 through June 6, 2010, as "Traffic Safety Week" in the City of Capitola, and he noted that the speed limit in Capitola is 25 miles per hour. Council Member Norton asked that the speed limit be strictly enforced.

1. REPORT ON CLOSED SESSION [520-25]

Deputy City Attorney Cassman reported that the Council Members/Redevelopment Agency Directors met in open session for an announcement regarding the Closed Session at approximately 6:05 p.m. At that time they added a new item of Existing Litigation, City of Capitola vs. Soquel Union Elementary School District. The Council found that the need to discuss this matter arose after the posting of the agenda. Deputy City Attorney Cassman said this item was formerly listed on the Closed Session Agenda as Anticipated Litigation, but since the posting of the agenda, the City has filed a Complaint, thus the matter has become Existing Litigation.

The Council Members/RDA Directors convened in Closed Session at approximately 6:10 p.m., and all members were present, as were the City Manager, Community Development Director, and Deputy City Attorney. City Attorney Barisone was also available by telephone for the added item concerning the City of Capitola vs. Soquel Union Elementary School District.

Deputy City Attorney Cassman then reported on the items discussed in closed session as follows:

The City Council received a report from the City Attorney pertaining to the new litigation between the City of Capitola vs. Soquel Union Elementary School District. There was discussion and direction to staff. No reportable action was taken in Closed Session.

The Council received status updates and discussed three cases under Existing Litigation: Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates), Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates), and Julie Talbert vs. City of Capitola. No reportable action was taken in Closed Session.

Deputy City Attorney Cassman said the council members/directors did not discuss the Existing Litigation between Surf and Sand LLC and the City.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Marilyn Garrett announced that she was at the Council's meeting to call for a statewide moratorium of Smart Meters. She said there have been a lot of complaints about the effects of smart meters and submitted a packet of documentation pertaining to this matter for council members' review and information. She said there would be a presentation covering health and environmental impacts of RF microwave wireless devices on Thursday, June 10, 2010, from 7 to 9:30 p.m., at St. Andrew's Presbyterian Church in Aptos. In closing, Ms. Garrett urged the council to agendaize this matter for a future meeting. **[565-30]**

Mayor Storey asked Community Development Director Goldstein to look into whether Smart Meters are being installed in Capitola and to report to council members.

2. ORAL COMMUNICATIONS (Continued)

C. Staff Comments

Chief of Police Card announced that there would be a Memorial Day Service at Esplanade Park Bandstand from 10 to 11:00 am on Monday, May 31. Mayor Storey encouraged Capitola residents to come to the event.

D. City Council/Treasurer Comments/Committee Reports

1) Council Member Norton requested that today be memorialized as Capitola Theater Day. He discussed the demolition of the Capitola Theater and then relayed stories about the inception of the theater and his personal experiences there. He said the theater was a Capitola landmark, and it is sad to see it go. Carolyn Swift has suggested in the building of the new hotel the owner dedicate some themes within the hotel to the various users of the property, including the Capitola Theater, the old Capitola Hotel that burned, and the Saba nightclub. He said it is a wonderful community landmark, and he requested the Mayor dedicate tonight's meeting to the Capitola Theater. Mayor Storey said he would be happy to do so.

Council Member Graves also expressed the importance of recognizing the Capitola Theater tonight, and the Jacob's family that operated the theater. He shared stories about the theater and Audrey Jacobs.

Council Member Begun said the city has saved some parts of the building which may be available for sale through the Capitola-Soquel Chamber of Commerce.

2) Council Member Graves thanked the Recreation Department for getting back to him right away regarding his request about the use of the Monterey Park for soccer. He said the youth group is no longer using the field; therefore, he no longer needs to monitor the park on weekends. Council Member Graves said he had made another request during his comments about the check register as it relates to private lessons on the tennis courts. He wants to make sure that the City is charging something for the overhead and for the use of the facility for those lessons.

3) Council Member Graves said he had one more oral communication. He said this is a really special day because it is Pam's birthday today. The council members and others then joined in singing Happy Birthday to City Clerk Pam Greeninger.

4) Council Member Graves announced that he would miss tomorrow's METRO Board meeting which will be held in Capitola's City Hall Council Chambers beginning at 9 am.

E. Committee Appointments - NoneF. Approval of Check Register Report [300-10]

Staff responded to questions regarding payments to consultant Daniel Kostelec for building official services while Mark Wheeler was out during the month of April, and to Endeman, Lincoln, Turek & Heater pertaining to mobile home park rent control.

Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to approve the Check Register Reports dated May 7 and May 14, 2010, including checks numbered 63006 through 63047 in the amount of \$83,679.79, checks numbered 63048 through 63088 in the amount of \$66,930.73, respectively; and payroll disbursements for the May 7, 2010, payroll in the amount of \$187,762.31, for a Grand Total of \$338,372.83, 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.

Council Member Graves announced that he would be recusing himself on Item 3.I. as he lives within 500 feet of the Beulah House property. He also commented on Item 5.K. pertaining to the parking structure, saying he believes it is located outside of the 500-foot conflict of interest area. He was told he could participate in that discussion.

Council Member Begun pulled Item 3.K. pertaining to a Traffic Impact Analysis related to the proposed Pacific Cove parking structure.

Council Member Norton pulled Item 3.F. regarding the Capitola Village and Wharf Business Improvement Area and Item 3.I. regarding the Beulah House demolition.

Council Member Nicol pulled Item 3.M. regarding a budget amendment for City Attorney Contract Services.

Mayor Storey advised Items 3.F., 3.I., 3.K. and 3.M. would be discussed at the end of the meeting following Other Business Item 5.D. (*See discussion and action beginning on Page 11689.*)

CONSENT CALENDAR ACTION: Council Member Graves moved, seconded by Council Member Norton, to approve the Consent Calendar with the exception of Items 3.F., 3.I., 3.K. and 3.M., 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 – The Special Joint Budget Study Session of the City Council/Redevelopment Agency of May 12, 2010, and the Regular Meeting of May 13, 2010

ACTION: Council Member Graves moved, seconded by Council Member Norton, to approve the Minutes of the Special Joint Budget Study Session of the Redevelopment Agency/City Council of May 12, 2010, and the Regular Meeting of May 13, 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. Approve Request from the Capitola Begonia Festival Committee for a Special Event Permit including Encroachment Permit, Entertainment Permit, Public Address System Permit, and Sign Permit to hang a Banner for the 58th Annual Capitola Begonia Festival to be held from Friday, September 3 through Monday, September 6, 2010; Authorize the Capitola Police Department to issue Permits; and Provide a City Grant to the Begonia Festival Committee in the Amount of \$6,208. [1050-70]

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

3. C. CONSENT CALENDAR (Continued)

- 1) Approved the Special Event Permit, including Encroachment Permit, Entertainment Permit, Public Address System Permit, and Sign Permit to hang a banner for the 58th Annual Capitola Begonia Festival to be held from Friday, September 3 through Monday, September 6, 2010, as submitted, and to authorize the Capitola Police Department to issue the permits; and
- 2) Provided the Capitola Begonia Festival Committee with a City Grant in the amount of \$6,208 for costs associated with permits and Police and Public Works Department Fees.

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

- D. Approve Request from the Capitola-Soquel Chamber of Commerce for a Special Event Permit for the 5th Annual Vintage Motorcycle Show “Bikes on the Bay” with DJ Music to be held on Sunday, June 27, 2010, from 9:00 a.m. to 4:00 p.m. at the Capitola Mall; and Approve a Grant for Permit Fees in the Amount of \$119. [1050-70]**

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

- 1) Approved the Special Event Permit, including all other permits, for the 5th Annual Vintage Motorcycle Show to be held on Sunday, June 27, 2010, from 9 a.m. to 4 p.m. at Capitola Mall, and authorized the Capitola Police Department to issue said permits; and
- 2) Approved a grant in the amount of \$119 for permit fees.

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

- E. Approve Request from the Capitola-Soquel Chamber of Commerce for a Special Event Permit, Encroachment Permit and Entertainment Permit for the 28th Annual Art & Wine Festival in Capitola Village and Live Music in Esplanade Park on Saturday and Sunday, September 11 and 12, 2010; and Approve Grant for Permits and Police and Public Works Department Fees in the Amount of \$2,368.00. [1050-70]**

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

- 1) Approved the Special Event Permit, including all other permits, for the 28th Annual Capitola Art & Wine Festival to be held Saturday and Sunday, September 11 and 12, 2010, and authorized the Capitola Police Department to issue said permits; and
- 2) Approved a grant in the amount of \$2,368.00 for permits and Public Works fees.

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 of Intention to Levy Business Improvement Assessments for FY 2010/2011, which Receives the Capitola Village and Wharf Business Improvement Area Annual Report and the Proposed FY 2010/2011 Budget, Sets a Public Hearing to Receive Oral or Written Protests on the Levy of Assessments for FY 2010/2011 for Thursday, June 10, 2010, after the Hour of 7 p.m., and Directs required Noticing of the Public Hearing by the City Clerk and the Capitola Village and Wharf Business Improvement Area.**

This item was pulled for separate discussion. (See discussion and action on Page 11689.)

- G. **Approve Request from the Capitola Art & Cultural Commission for a Special Event Permit for the 2010 Movies at the Beach on Friday, August 27 and Friday, September 10, 2010, at the Main Beach Near Esplanade Park; and Authorize the Capitola Police Department to Issue the Permit. [1010-10]**

ACTION: Council Member Graves moved, seconded by Council Member Norton, to approve the Special Event Permit for the 2010 Movies at the Beach on Friday, August 27 and Friday, September 10, 2010, at the Main Beach near Esplanade Park and authorize the Capitola Police Department to issue said permit. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

- H. **Approve Special Event Permit, including Entertainment Permit, Encroachment Permit, Banner Permit and Bandstand Rental for the 30th Celebration of Capitola Junior Lifeguards to be held on Friday, July 9, 2010, from 10 a.m. to 8 p.m., at Capitola Beach and Bandstand, and Provide Grant in the Amount of \$806. [1050-70]**

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

- 1) Approved the Special Event Permit, including Entertainment Permit, Encroachment Permit, Banner Permit and Bandstand Rental for the 30th Year Celebration of Capitola Junior Lifeguard Program to be held Friday, July 9, 2010, from 10 a.m. to 8 p.m. at Capitola Beach and Bandstand and authorized the Capitola Police Department to issue said permits; and
- 2) Approved Grant in the amount of \$2,368.00 for permits and Public Works fees.

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

- I. **Adopt Resolution Amending the FY 2009-2010 Budget Allocating \$25,000 of General Fund Undesignated Fund Balance to Public Works Contract Services for Beulah House Demolition; and Award a Contract to Chris Wortman Excavation in the Amount of \$18,188 for the Demolition of the Beulah House Including Rough Grading, Storm Water Protection Measures, and Hazardous Materials Disposal.**

This item was pulled for separate discussion. (See discussion and action on Page 11692.)

- J. **Accept the 2010 Cape Seal Program Project as Completed at a Final Cost of \$35,000 and Authorize the Release of the Contract Retention of \$3,500 in 35 Days Following the Recordation of the Notice of Completion. [940-40/500-10 Graham Contractors]**

3. CONSENT CALENDAR (Continued)

ACTION: Council Member Graves moved, seconded by Council Member Norton, to accept the 2010 Capitola Cape Seal Program project as completed and at a final cost of \$35,000 and authorize the release of the contract retention of \$3,500 in 35 days following the recordation of the Notice of Completion. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

- K. Adopt Resolution Amending the FY 2009-2010 Budget Allocating \$17,000 of Designated Parking Funds to Public Works Contract Services for a Traffic Impact Analysis for Circulation and Congestion Relief Related to the Proposed Pacific Cove Parking Structure; and Award a Contract to RBF Consulting in the Amount of \$16,886 for the Analysis.**

This item was pulled for separate discussion. (See discussion and action on Pages 11690 and 11691.)

- L. Approve Eighth Amendment to Employment Agreement for the City Manager. [600-10/500-10 A/C: Hill, Rich]**

ACTION: Council Member Graves moved, seconded by Council Member Norton, to approve the Eighth Amendment to the City Manager Employment Agreement with Richard Hill, 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.

- M. Adopt Resolution Amending the FY 2009-2010 Budget by Transferring \$112,300 from Fund Balance to the City Attorney Contract Services Budget, and Increasing the City Attorney Department Budget by \$112,300 to Fund Current Litigation and Anticipated Future Litigation.**

This item was pulled for separate discussion. (See discussion and action on Pages 11691 and 11692.)

- N. Receive City Treasurer's Report for the Month Ended April 30, 2010 (Unaudited). [380-30]**

ACTION: Council Member Graves moved, seconded by Council Member Norton, to approve the Treasurer's Report for the Month Ended April 30, 2010 (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.

4. PUBLIC HEARINGS

- A. Continued Public Hearing on Application #10-008 to Consider Proposed Changes to Title 17 of the Capitola Municipal Code related to the Parking Requirements and Allowed Uses in the CC (Community Commercial) Zoning District, and the Addition of Definitions for "Floor Area Available for Dining" and "Restaurant." If approved, the Proposed Changes require an Amendment to the City's Certified Local Coastal Plan, which must be reviewed by the California Coastal Commission. Environmental Determination: Categorical Exemption. Applicant: City of Capitola. [Ordinance 1st Reading] Presentation: Community Development Department. [730-85 Zoning Amendments-General/740-30 LCP Amendment]**

Community Development Director Goldstein advised this matter is a continuation of the public hearing from May 13, 2010, regarding proposed zoning ordinance amendments that came out of the ADE study recommendations.

4. A. PUBLIC HEARINGS (Continued)

Utilizing a PowerPoint Presentation (*copy on file with the record for this item*), Community Development Director Goldstein summarized the written agenda report and discussed the proposed modifications to the draft ordinance which was presented at the last meeting.

Council Member Graves believes some language is missing from the revised ordinance and explained. Community Development Director Goldstein agreed, and stated that both subsections E. and F. should have the additional language contained in the PowerPoint. He apologized for that omission.

After discussion, Mayor Storey then specified the correct language to be added for clarification of the first reading.

Community Development Director Goldstein also noted that on the second page of the draft ordinance, both subsections D. and E. would not be deleted, and each would include the addition of wording highlighted in yellow, "that occupy more than three thousand square feet of building area," following the word "buildings" in the first sentence of each of those subsections.

Mayor Storey opened the public hearing at 8:15 p.m. Seeing no one, the public hearing was closed.

There being no further Council discussion, the following action was taken:

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to approve the recommended action, finding that the proposed project is exempt from CEQA Guidelines 15301, and passed the proposed ordinance to a second reading with modifications to Section 17.27.040 to add the language, "...that occupy less than three thousand square feet of building area" at the end of Subsections E and F as was done to Subsections G and H, and not to delete Subsections D and E of Section 17.27.060, but to add the same language "that occupy less than three thousand square feet of building area" after the word "buildings" in the first sentence of each of those Subsections. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

5. OTHER BUSINESS

A. Report on 2009 Monitoring of Soquel Creek by the Coastal Watershed Council and Award of Two Contracts for 2010. [450-10/500-10 A/C: Coastal Watershed Council]

Public Works Director Jesberg provided a brief introduction regarding the monitoring programs of Soquel Creek and staff's recommendation to continue the contract with the Coastal Watershed Council for monitoring the creek, as well as a second contract with them for educational and outreach services.

After his verbal report, Public Works Director Jesberg introduced Greg Pepping, Executive Director of the Coastal Watershed Council, who provided a report on the 2009 monitoring programs and results using a PowerPoint Presentation. Mr. Pepping commented on the Council's first summer camp and discussed the activities students would be undertaking; he reviewed a chart of the 2009 First Flush results and responded to questions of council members regarding the counts; he shared results of the Urban Watch Program for 2009 and provided responses to the findings; he discussed the Stewardship Toolkit and portal available on their website: www.coastal-watershed.org.

5. A. OTHER BUSINESS (Continued)

Each council member offered comments about the report and the importance of monitoring Soquel Creek. There was interest expressed in receiving a year-to-year comparison in order to see if the creek is improving and a request for a chart showing 4 to 5 years worth of statistics, if possible. The council expressed interest in working with the Coastal Watershed Council to address issues relating to Soquel Creek in order to be proactive in working toward improving the creek.

Mayor Storey asked if the Coastal Watershed Council has reported to the city's Capitola Commission on the Environment. He suggested having the first readings taken to the Commission on the Environment where strategies could be developed prior to the final report.

There was interest from Council Member Graves to include a monitoring station at Nobel Gulch where it enters Soquel Creek to verify the difference in samplings between that location and the monitoring station located at Nobel Gulch Park near Monterey Avenue.

Considerable Council discussion was followed by this action:

ACTION: Council Member Norton moved to approve the recommended actions contained in the written agenda report and with the additional recommendation that the Coastal Watershed Council report to the Council again next year, at which time a yearly comparison will be provided comparing data on major issues, along with the Coastal Watershed Council's analysis and recommendations as to what the city could be doing to improve the system. Council Member Graves seconded the motion, as follows:

- 1) Accepted the 2009 Urban Watch-First Flush Storm Drain Monitoring Program Report presented by Greg Pepping, Executive Director of the Coastal Watershed Council;
- 2) Awarded a two-year contract to the Coastal Watershed Council in the amount of \$19,885 annually for continuation of the Urban Watch-First Flush Storm Drain Monitoring Program for 2010 and 2011 as required in our Storm Water Management Plan; and
- 3) Awarded a contract to Coastal Watershed Council in the amount of \$14,590 for Storm Water Education and Outreach Services as required in our Storm Water Management Plan; and
- 4) Added direction that the Coastal Watershed Council report to the City Council again next year, at which time a yearly comparison will be provided comparing data on major issues, along with the Coastal Watershed Council's analysis and recommendations as to what the city could be doing to improve the system.

Under discussion of the motion, Mayor Storey suggested a friendly amendment that the Coastal Watershed Council report at least once to the Capitola Commission on the Environment in a monitoring study session where they could discuss long-term analysis and practical solutions.

Mayor Storey also questioned the request for a 2-year contract for Urban Watch-First Flush. Public Works Director Jesberg discussed problems staff has encountered with the timing of the program and said staff has found a 2-year contract gives more flexibility.

Mr. Pepping thanked the council members for their kind remarks and suggestions. He said the Watershed Council is interested in working with the city, and he shares the frustration in meeting the challenges.

5. A. OTHER BUSINESS (Continued)

Council Member Begun asked why the comparison data couldn't be provided to the Council sooner than next year. Council Member Norton said the First Flush data is not available until after the first rainfall after summer each year. Mr. Pepping commented on the monitoring process and said he could work on providing comparison information to staff for distribution to the council members in the next month or so.

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

After the vote was taken on this item, Council Member Norton commented on the percentage of groundcover within urban areas. He would like to give direction to staff to look at other local ordinances and how they control lot coverage as to permeable and non-permeable area within the building on property.

Public Works Director Jesberg said staff is in the process of drafting a storm water ordinance which will address that issue.

B. Long Term Options for the Pacific Cove Mobile Home Park. [260-10]

Council Member Graves said he would be recusing himself from this item since he lives within 500 feet of the mobile home park property; however, since it will be a short item, he would remain at his seat.

Public Works Director Jesberg provided a brief staff report.

ACTION: After Council discussion regarding a date that would work for all members, it was the consensus of the City Council to set a date for a Special Meeting to discuss Long Term Options for the Pacific Cove Mobile Home Park on Wednesday, August 11, 2010, at 6 p.m. in the City Hall Council Chambers.

Council Member Norton commented on noticing for this public hearing, suggesting that notices be hand-delivered to everyone at the park and also posted at various locations within the mobile home park.

Council Member Begun suggested including the hearing date in the City's next newsletter.

C. 38th Avenue Reconstruction Project – Consideration of Parking Removal and Bike Lane Installation. [940-40]

Public Works Director Jesberg summarized the written agenda report and responded to questions of council members. Council Member Nicol asked if staff has heard from any of the residents in the area regarding the loss of parking on the street.

ACTION: Council Member Norton moved, seconded by Council Member Begun, to authorize the removal of 19 parking spaces along the eastern side of 38th Avenue between Brommer Street and Capitola Road to allow for the installation of bike lanes along this street segment.

Under discussion of the motion, Council Member Graves said he is concerned about who is parking on the east side. He believes employees of the shopping center park along that street, and he is not sure enough outreach has been made to the businesses of Kings Plaza. He thinks elimination of the parking is going to speed up traffic on the street; although sight visibility will be better.

5. C. OTHER BUSINESS (Continued)

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

Public Works Director Jesberg said he would do additional outreach to the businesses at Kings Plaza and the neighborhoods.

D. Consideration of an Ordinance Adding Chapter 1.40 to the Capitola Municipal Code Pertaining to Limitations on Campaign Contributions. [1st Reading] [560-10]

City Clerk Greeninger summarized the written agenda report and recommended action. She and City Manager Hill responded to questions of council members pertaining to the proposed ordinance as it relates to the proposed contribution limit of \$250 and paragraph D which provides for increasing the contribution limits in subsequent years.

Mayor Storey asked if anyone from the public wished to address the council on this item. No one spoke.

Council Member Nicol moved to pass the proposed Ordinance Adding Chapter 1.40 to the Capitola Municipal Code pertaining to Limitations on Campaign Contributions with deletion of paragraph D. The motion was seconded by Mayor Storey.

Prior to voting on the motion, Council Member Begun offered a substitute motion to accept the recommended action, including paragraph D. The motion failed for lack of second.

Staff responded to further questions of council members.

ACTION: Council Member Graves offered a substitute motion to move the proposed ordinance to a second reading with the following changes: 1) That the contribution limit amount in Subsection A of Section 1.40.020 not exceed \$200, and that Subsection D be removed in its entirety.

Mayor Storey added a friendly amendment that when the ordinance comes back for a second reading, staff verify that the previous restriction on self-funding a campaign is preempted by state law and that this is just a ministerial act to bring our ordinance in conformance with state law. If that were not the case, he would take a different vote on the motion. He does not want members of the public viewing this as changing the rules of the game when entering into the city's election season.

Council Member Nicol seconded the motion.

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

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

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

F. Adopt Resolution of Intention to Levy Business Improvement Assessments for FY 2010/2011, which Receives the Capitola Village and Wharf Business Improvement Area Annual Report and the Proposed FY 2010/2011 Budget, Sets a Public Hearing to Receive Oral or Written Protests on the Levy of Assessments for FY 2010/2011 for Thursday, June 10, 2010, after the Hour of 7 p.m., and Directs required Noticing of the Public Hearing by the City Clerk and the Capitola Village and Wharf Business Improvement Area. [140-05]

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

Council Member Norton said he is in favor of doing this but would be interested in designating a portion of the CVC monies to the Capitola Village and Wharf Business Improvement Area. City Manager Hill said the council could do that as part of the budget discussions that will occur at the Budget Study Session next week.

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to adopt **Resolution No. 3814, Resolution of Intention of the City Council of the City of Capitola to Levy Business Improvement Assessments for Fiscal Year 2010/2011.** The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

K. Adopt Resolution Amending the FY 2009-2010 Budget Allocating \$17,000 of Designated Parking Funds to Public Works Contract Services for a Traffic Impact Analysis for Circulation and Congestion Relief Related to the Proposed Pacific Cove Parking Structure; and Award a Contract to RBF Consulting in the Amount of \$16,886 for the Analysis. [260-10/330-10/500-10 A/C: RBF Consulting]

Council Member Begun expressed his concerns about the timing of this analysis. He thinks it should be part of a plan when the city is actually talking about building a structure.

Public Works Director Jesberg responded to Council Member Begun's concerns and discussed the work that would be done.

Council Member Norton believes this analysis is important right now if the city is planning to build a parking structure. There is a need to know how people will get there and get out of there, as well as its correlation to the Village. He expressed the importance of defining what questions are going to be asked of the consultants.

Council Member Norton requested that the following questions be included in the record and have the consultant answer when the analysis returns to the council. *(He referred to tasks included under the Scope of Work in the proposal from RBF Consulting.)*

1) Task 2: Build out Traffic Patterns Without and With Pacific Cove Parking Garage. Should the City have the consultant study this as if the garage is not there and is there? Public Works Director Jesberg answered, yes, the City is looking for the difference the parking structure will make.

2) Task 4: Analyze Alternate Traffic Configurations. The proposal lists intersections, but there is no mention of entrance or exit to/from the proposed parking garage. Council Member Norton believes that is extremely important: circulation from entrance points in Capitola to the garage; i.e., Bay Avenue, Park Avenue, and Monterey Avenue, as well as feeder-streets that would go into the structure (which streets would be entrances and which would be exits).

Council Member Norton questioned if there would be a design for the building before the analysis is completed.

Public Works Director Jesberg said the design of the parking structure would be done in conjunction with the analysis, and they will be addressing ingress and egress to the structure. Council Member Norton believes that needs to be clear in the scope of work.

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

Council Member Norton then asked what direction the study will give the City.

Public Works Director Jesberg replied that the goal is to help identify ways to get people into the parking structure without having to go through the Village. It would also address impacts the garage will have in that location, including increased traffic, impacts to intersections, etc., and how to mitigate those impacts. It will also focus on the Village and how to get vehicles out of the Village. Public Works Director Jesberg would like the consultant to look into turning San Jose Avenue traffic around, and the impacts changing the direction of the street would have on San Jose and Capitola Avenues.

Council Member Norton said he would like the consultant to consider the possibility of using half of the Esplanade in the summer months as the loop and having the cars turn off the Esplanade at San Jose Avenue under the scenario that the parking garage is built.

Council Member Graves plans to vote against this item, as he does not see anything new, other than the change to San Jose Avenue, and he is not sure it is necessary. He commented that Task 4 was addressed in a previous report. He would like to see such proposals go out as an RFP to see if a better price could be possible.

Council Member Nicol believes the experts on traffic circulation in Capitola are the people of Capitola, and he doesn't think the timing is right.

Community Development Director Goldstein said part of his and Public Works Director Jesberg's thinking on this was to work toward a decision point; since this is a project that has been going on for some time. Staff thought it would be advantageous to coordinate these efforts.

Council Member Norton said it would help if the consultant brings the hotel scenario into their discussion and traffic analysis.

Mayor Storey emphasized that the Traffic & Parking Commission has unanimously recommended that the Council take this step, and he appreciates staff's efforts in bringing this together.

Considerable Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Begun, to adopt **Resolution No. 3815, Resolution Amending the FY2009/10 Budget Allocating \$17,000 in the Dedicated Parking Fund for a Traffic and Congestion Analysis Increasing the Contract Expenses by \$17,000**, as submitted. The motion carried on the following vote: AYES: Council Members Norton, Begun, and Mayor Storey. NOES: Council Member Graves and Nicol. ABSENT: None. ABSTAIN: None.

M. Adopt Resolution Amending the FY 2009-2010 Budget by Transferring \$112,300 from Fund Balance to the City Attorney Contract Services Budget, and Increasing the City Attorney Department Budget by \$112,300 to Fund Current Litigation and Anticipated Future Litigation. [330-10]

Council Member Nicol pulled this item to express concern that this item was on the consent calendar. He would like a report on what has been spent and what staff anticipates being spent.

Mayor Storey said the increased expenditures are for mobile home park litigation.

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

Assistant to the City Manager Murphy said a portion of the increase (\$60,000) was for new litigation between the City and the Soquel Union Elementary School District.

Mayor Storey commented on the language contained in the proposed resolution.

City Manager Hill said the resolution will be changed to reflect that the money will be used for litigation settlement, for City of Capitola vs. Soquel Union Elementary School District and for anticipated future litigation.

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to adopt **Resolution No. 3816, Resolution Amending the FY2009/10 Budget by Transferring \$112,300 from the Fund Balance to the City Attorney Department Contract Services Account Increasing City Attorney Department Contract Services Expenditures by \$112,300 to Fund Existing and Anticipated Litigation**, with modifications to reflect that the money will be used for litigation settlement for City of Capitola vs. Soquel Union Elementary School District and for anticipated future litigation as articulated by City Manager Hill. 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 recused himself from participating on the next item, Item 3.I., pertaining to the Beulah House Demolition due to a conflict of interest in that he lives within 500 feet of the property. Council Member Graves left the meeting at 9:56 p.m.

I. Adopt Resolution Amending the FY 2009-2010 Budget Allocating \$25,000 of General Fund Undesignated Fund Balance to Public Works Contract Services for Beulah House Demolition; and Award a Contract to Chris Wortman Excavation in the Amount of \$18,188 for the Demolition of the Beulah House Including Rough Grading, Storm Water Protection Measures, and Hazardous Materials Disposal. [260-10/500-10 A/C: Wortman, Chris, Excavation]

Council Member Norton said he is not so sure about placing a structure in that location once the building is demolished.

Council Member Begun said he spoke to Robert Deacon about the rent at the Annex and Mr. Deacon informed him that he had offered the city a discount on the rent at one time. Council Member Begun questioned what the payout is for the removal. City Manager Hill said staff followed up with Mr. Deacon regarding the rent; however, they discovered they had not been charging us the pro-rated share of property taxes pursuant to the agreement.

Council discussion was followed by this action:

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

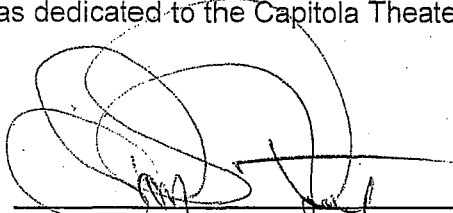
- 1) Adopted **Resolution No. 3817, Resolution Amending the FY2009-10 Budget Designating \$25,000 from Undesignated Fund Balance for Beulah House Demolition in the Public Works Facilities Budget and Increasing the Contract Expenses by \$25,000**, as submitted; and
- 2) Awarded a contract to Chris Wortman Excavation in the amount of \$18,188 for the demolition of the Beulah House, including rough grading, storm water protection measures, and hazardous materials disposal.

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

6. COUNCIL/STAFF COMMUNICATIONS - None

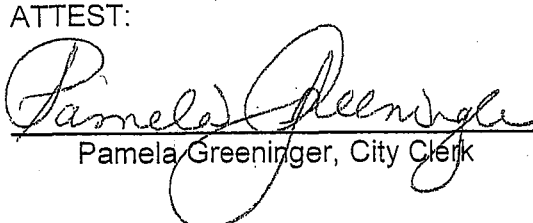
7. ADJOURNMENT

Mayor Storey adjourned the City Council's meeting at 10:00 p.m. recognizing May 31 through June 6, 2010, as "Traffic Safety Week" and memorializing today, May 27, as "Capitola Theater Day." He announced that the City Council would adjourn to a Special Joint Budget Study Session of the City Council/Redevelopment Agency to be held on Wednesday, June 2, 2010, at 6:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California. Tonight's meeting was dedicated to the Capitola Theater.



Sam Storey, Mayor

ATTEST:



Pamela Greeninger, City Clerk MMC

MINUTES WERE UNANIMOUSLY APPROVED AS SUBMITTED BY THE CITY COUNCIL ON 6/24/2010