

July 8, 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 5:38 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 Begun. 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
 City of Capitola vs. Soquel Union Elementary School District
 C. Lee Horstman vs. City of Capitola Police Department

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Surf & Sand, LLC

Mayor/Chairperson Storey noted there was no one in the audience; therefore, the City Council/Redevelopment Agency recessed at 5:39 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 7:11 p.m. on Thursday, July 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, , and Mayor Sam Storey
ABSENT: Council Member Robert "Bob" Begun
OTHERS: City Treasurer Jacques Bertrand
STAFF: City Manager Rich Hill, City Attorney John G. Barisone, Community Development Director Jamie Goldstein, Chief of Police Michael Card, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

***** PRESENTATIONS *****

**Recognition of City Manager Rich Hill
 on Occasion of his Retirement from the City of Capitola [120-40]**

Mayor Storey said it was truly an honor to take this opportunity to recognize City Manager Rich Hill at this, his last City Council meeting. Mayor Storey made several complimentary comments about the job Rich has performed as city manager and how much he, as a council member for the past four years, has learned about government from Rich.

Mayor Storey then read and presented a Mayor's Proclamation to Rich Hill for his Service to the Citizens of Capitola as City Manager from February 26, 2001, through July 10, 2010.

PRESENTATIONS (Continued)

City Manager Hill then addressed the City Council and the audience, saying it has been a distinct privilege to be the city manager. He commented on the Local Government Academy, which was mentioned in the proclamation.

The Council Members then paid tribute to Rich Hill's tenure as City Manager and wished him well in his retirement.

**Presentation on Dientes Community Dental Care
by Will Hahn, Executive Director [330-30]**

Using a PowerPoint Presentation, Will Hahn, Executive Director of Dientes Community Dental Care, discussed the comprehensive oral health services provide by Dientes. He reviewed the types of services provided, a breakdown of patient services for FY 08-09, and patient services provided to Capitola residents, including patient demographics. Mr. Hahn said the most common visits are for cleanings and restorative care. In closing, Mr. Hahn thanked the City Council for funding their organization to provide dental services to Capitola residents. He then responded to questions of council members.

**Presentation on Campus Kids Connection
by Barbara Griffin, Executive Director [330-30]**

Barbara Griffin provided a verbal report on the Campus Kids Connection. She explained that they are the only licensed day care provider in Capitola. They provide child care for Soquel, Main Street and Santa Cruz Gardens Elementary school students. Ms. Griffin thanked the City Council for its generous grant to support the program. She also responded to a question from Council Member Nicol regarding use of services by children other than students at those schools.

Mayor Storey thanked Will Hahn and Barbara Griffin for their presentations.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney John Barisone said the items discussed in Closed Session were those listed on the posted agenda. Although there were 7 items listed, there was no discussion on Existing Litigation items pertaining to Julie Talbert vs. City of Capitola or C. Lee Horstman vs. City of Capitola, nor was there discussion regarding the most recent tort claim from Surf & Sand, LLC.

City Attorney Barisone reported that he provided the City Council with a status report on the two lawsuits between Surf & Sand, LLC vs. City of Capitola, and that no reportable action was taken.

The City Council also received a status report pertaining to Vieira vs. City of Capitola (Cabrillo Mobile Estates). No reportable action was taken.

City Attorney Barisone provided a status report on the pending litigation in federal court regarding Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates). The City Council provided direction to staff regarding ongoing defense of that litigation. No reportable action was taken in Closed Session.

The City Council received a status report from staff regarding the ongoing litigation between the Soquel Union Elementary School District and the City of Capitola. City Attorney Barisone said the parties will be attempting to mediate that dispute and have tentatively selected a day in August for that mediation. Staff is still working on those arrangements.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Katharine Herndon, Santa Cruz resident, thanked the council for agendizing the Smart-Meter item for its next meeting. She hopes the city will join the litigation.

2) Sherry Jackson, La Selva Beach, expressed her concerns about the installation of SmartMeters by PG&E and believes it is invasion of privacy. She wished to protest the installation of the SmartMeters. Ms. Jackson said she has been happy with service she has received from PG&E; however, she is concerned about the SmartMeters.

3) Marilyn Garrett thanked the council for scheduling a public hearing for the SmartMeter issue. She asked that professionals be allowed to speak about the effects of SmartMeters, and she also urged the Council to place this as the first item on the agenda. Mayor Storey asked that staff agendize this matter as the first public hearing.

4) Mavel Armijo said she has been diagnosed with essential tremors and that electromagnetic fields exacerbate that condition. She urged the Council to do everything they can to stop the installation of SmartMeters in Capitola.

5) Carol Prettie also commented on the SmartMeter issue and requested equal time for medical professionals to present information on the potential impacts of SmartMeters.

6) Capitola resident Ron Lorenzo, on behalf of several people in Capitola Village, requested that the city place a plaque for Peter Hubback on the Hubback Family bench located near Soquel Creek.

Council Member Norton asked how much a plaque would cost. Assistant to the City Manager Murphy responded the cost is about \$555 for a plaque. Council Member Norton would like staff to check into this and get back to the council

C. Staff Comments - None

D. City Council/Treasurer Comments/Committee Reports

Mayor Storey commented that we have had a tremendous loss in the community with the passing of Peter Hubback. He was a very active part and a major figure within Capitola Village. Much of what we enjoy and experience in the Village today is a result of Peter's efforts. Mayor Storey said there will be a special proclamation recognizing Peter scheduled at the City Council's next meeting on July 22. He said he would like to adjourn this meeting in recognition and in memory of Peter Hubback.

Council Member Graves said he contacted the public works department about a plaque on the Hubback Family bench. He thought the cost included the bench and since the bench is already there, he would like staff to investigate the cost of the plaque itself.

Mayor Storey said he also wanted to recognize Carol Girvetz for her contributions as Assistant County Administrative Officer for Santa Cruz County, and would adjourn tonight's meeting in her memory, as well.

2. ORAL COMMUNICATIONS (Continued)

E. Committee Appointments1) **Appointment/Reappointment of Four Members to the Capitola Historical Museum Board of Trustees for 3-Year Terms Ending the second Thursday in June, 2013. [240-40/110-10]**

City Clerk Greeninger provided a brief verbal report on this item and informed the council that all the current members are seeking reappointment and that no new applications were received in the recruitment.

ACTION: Council Member Graves moved, seconded by Council Member Norton, to accept the recommendation of the Capitola Historical Museum Board and reappointed Bob Anderson, Tom McGranahan, Niels Kisling, and Gordon van Zuiden to fill the expiring terms on the Capitola Historical Museum Board for three (3) years to expire the second Thursday in June 2013. The motion carried unanimously.

2) **Appointment by Mayor Storey of his Appointee to the Capitola Finance Advisory Committee to fill the Unexpired Term Ending December 31, 2010. [330-40/110-10]**

Under oral communications, City Treasurer Bertrand informed the Council that he reviewed the resumes for the open position on the Finance Advisory Committee and that both applicants have excellent credentials.

Mayor Storey introduced this item. He said the Council has received applications from two highly qualified candidates, and he wished he could appoint both of them; however, he is compelled to make a choice. He thanked both Gary Wetsel and T.J. Welch for their applications and interest in serving on the Finance Advisory Committee. After reviewing the applications, looking at the make-up of the committee, and the fact that the city does not have a finance director, he felt that Gary Wetsel's experience as a chief financial officer would best fill that void.

ACTION: Mayor Storey appointed Gary Wetsel to fill the unexpired term ending December 31, 2010, on the Finance Advisory Committee. Council Member Graves moved, seconded by Council Member Norton, to confirm the Mayor's appointment of Gary Wetsel. The motion carried unanimously.

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

Council Member Norton asked about check 63379 to Energy Resource Conservation. Public Works Director Jesberg said the check is for the LED lights that have been put in the city's traffic signals.

ACTION: Council Member Nicol moved, seconded by Council Member Norton, to approve the Check Register Reports dated June 18 and 25, 2010, including checks numbered 63361 through 63413 in the amount of \$60,300.35, and checks numbered 63414 through 63511 in the amount of \$160,038.46, respectively; and payroll disbursements for the June 18, 2010, payroll in the amount of \$184,761.14, for a Grand Total of \$405,099.95, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, and Mayor Storey. NOES: None. ABSENT: Council Member Begun. ABSTAIN: None. (NOTE: Mayor Storey abstained from voting on Check #63436 to Community Bridges, only.)

3. CONSENT CALENDAR

Mayor Storey asked if there were any items on the Consent Calendar that members of the council or the public wished to pull for separate discussion. No items were pulled for separate discussion.

CONSENT CALENDAR ACTION: Council Member Graves moved, seconded by Council Member Nicol, to approve the Consent Calendar as recommended. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, and Mayor Storey. NOES: None. ABSENT: Council Member Begun. 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 Regular Meeting of July 1, 2010. [740-50]

ACTION: The City Council unanimously received the Planning Commission Action Minutes for the Regular Meeting of July 1, 2010, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, and Mayor Storey. NOES: None. ABSENT: Council Member Begun. ABSTAIN: None.

D. Deny Claim of Surf & Sand, LLC, and forward the Claim to the City's Liability Insurance Carrier. [Claims Binder]

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to deny the claim of Surf & Sand, LLC, for an undetermined amount and forward the Claim to the City's Liability Insurance Carrier, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, and Mayor Storey. NOES: None. ABSENT: Council Member Begun. ABSTAIN: None.

E. Accept Quarterly Sales Tax Status Report for the Third Quarter of FY 2009-2010. [390-70]

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to accept the Quarterly Sales Tax Status Report for the Third Quarter of FY 2009-2010, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, and Mayor Storey. NOES: None. ABSENT: Council Member Begun. ABSTAIN: None.

4. PUBLIC HEARINGS - None

5. OTHER BUSINESS

A. Long-Term Agreement with Monterey Regional Waste Management District for Waste Disposal. [930-10/500-10 A/C: Monterey Regional Waste Management District]

Assistant to the City Manager Murphy summarized the written agenda report and discussed various options for potential uses of the projected savings, including a composting program. She responded to questions of council members regarding the proposed agreement, customer savings, garbage rates, CPI increases, locking into a composting program, need for a letter from the city's waste hauler, GreenWaste, acknowledging provisions of the City's agreement, concern about intentional delivery of hazardous waste, etc.

5. A. OTHER BUSINESS (Continued)

Mayor Storey opened this item to the public for comment at 8:50 p.m.

Ted Burke, owner of Shadowbrook Restaurant, addressed the Council from a business perspective and commented on what he has heard discussed tonight, which has caused him concern. Mr. Burke said he would hope that in the contract any cost of living clause would have a cap to it, explaining it is important for budgeting purposes of a business. He is also not completely sure why there is a CPI adjustment and a tipping fee adjustment. He feels they would need to be integrated, and expressed concern that it sounds as though they are doubling up on increases, and that might be something the Council should investigate.

Mr. Burke discussed a composting program they pursued at Shadowbrook Restaurant; since they do have extensive gardens. He explained that the composting program became unmanageable as it required more space than they had, and it was smelly.

Mr. Burke went on to say he hopes that whatever the Council decides with respect to composting, it follows along with the same concept as recycling of bottles, cans, and cardboard, where there is no additional fee for extra recycling. He hopes the council will give serious consideration to an overall blended rate where there is composting available and no additional fee for picking it up. He said this is not just a commercial venture, but for residential customers as well, and if the City has a fee for composting for commercial properties, it would need to charge the residents, as well.

Gary Wetsel first thanked Mayor Storey for his appointment to the Finance Advisory Committee. He then discussed the matter of commercial composting and said this is a very complex issue. Mr. Wetsel said he appreciated learning about this from Assistant to the City Manager Murphy. He acknowledged composting would be beneficial; however, as the owner of Paradise Beach Grill, he has no idea where he could locate composting at his business. He also said the city has a responsibility to pass on savings to the consumer. Mr. Wetsel suggested working with members of the community to discuss different ideas in trying to address this issue.

Ted Burke discussed another item on this issue relating to implementation of the reduced fee. He suggested adjusting the contract to say that the fee remain at \$46 rather than dropping fee from \$46 to \$28 on August 1. That way, in January of 2011 there would be a credit that would come back to the City for \$18 per ton for the number of tons that has been tipped from August 1 to December 31, so that the city gets the money on the back end.

Lu Anne Keller, New Leaf Community Market in Capitola, said their Mission Statement is to "sustain and nourish the community." In that regard, she said they are interested in assisting in a composting program not only for the community but for businesses within the community as well.

Mayor Storey noticed there is a cap of 6%, but remarked that the fee would never be reduced based on the CPI, which indicates that if there was deflation in the economy, the City would not benefit from a deflationary era.

5. A. OTHER BUSINESS (Continued)

Council Member Graves asked what caused reduction in the tipping fee. Assistant to the City Manager Murphy said there is less garbage, and they are looking to shore up their revenues.

Considerable Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Graves, to take the following actions:

1. Approved a 30-year Agreement with Monterey Regional Waste Management District for Waste Disposal;
2. Provided direction to staff to come back to the City Council within 60 days with a proposal regarding the future implementation of a composting program for residential and commercial properties, which would be conducted on a trial basis and would be assessed by the City Council after two years; and
3. Directed the City Attorney's Office to write a letter to the City's local waste hauler, GreenWaste, informing them of what the new contract with Monterey Regional Waste Management District means to them and then acknowledging and accepting those responsibilities in a letter agreement.

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

B. Designation of Voting Delegate and Alternate for the League of California Cities Annual Conference in San Diego, California, from September 15 to 17, 2010. [150-50]

City Clerk Greeninger provided a brief report and informed the council members that Council Member Begun plans to attend the conference, and he would be happy to serve as the city's voting delegate. There was discussion amongst members regarding an alternate and if another council member would be attending the conference. No one else was planning to attend.

Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Graves, to designate Council Member Begun as the City's Voting Delegate for the 2010 League of California Cities Annual Conference to be held in San Diego. The motion carried unanimously.

6. COUNCIL/STAFF COMMUNICATIONS

- 1) Community Development Director Goldstein announced that the SmartMeter hearing would be held on July 22, 2010.
- 2) Council Member Norton thanked the community and the Police Department for a safe and sane 4th of July. He then went on to express his concerns about increased fireworks in the neighborhood. He also discussed measures put in place at Seacliff Beach to keep people off the beach with fireworks.


Council Member Graves also commented on efforts of other jurisdictions to keep individuals off neighboring beaches to keep them from shooting fireworks, and he is also concerned about increased fireworks in the neighborhoods.

6. COUNCIL/STAFF COMMUNICATIONS (Continued)

3) Assistant to the City Manager Murphy wished to take this opportunity to publicly thank Rich Hill for the eight years she has worked with him. She said he has been a terrific mentor, he has recognized special needs she has had raising a family, and he gave her the opportunity to further her career. Ms. Murphy said that she is going to miss him.

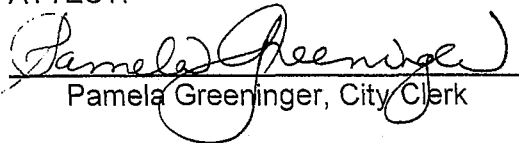
7. ADJOURNMENT

Mayor Storey adjourned the meeting at 9:18 p.m. in memory of Peter Hubback and Carol Girvetz, and he announced that the City Council will honor Peter at its next Regular Meeting to be held on Thursday, July 22, 2010, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Sam Storey, Mayor

ATTEST:



Pamela Greeninger, City Clerk MMC

MINUTES WERE APPROVED AS SUBMITTED BY THE CITY COUNCIL ON 8/12/2010, WITH COUNCIL MEMBER BEGUN ABSTAINING SINCE HE WAS ABSENT