

January 28, 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. 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
 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

PUBLIC EMPLOYMENT (Govt. Code §54957)

Title: City Manager

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

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Karine Karczewski

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 5:32 p.m. to the Closed Session.

At 7:04 p.m. Mayor/Chairperson Storey welcomed everyone to the Special Meeting of the Capitola Financing Authority and the Regular Meetings of the Capitola Redevelopment Agency and the City Council of January 28, 2010.

SPECIAL MEETING OF THE CAPITOLA FINANCING AUTHORITY

(See Capitola Financing Authority Minutes)

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, January 28, 2010, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Mayor Storey announced that tonight's meetings are being broadcast live on Charter Communications Cable Community Channel 8 and are being recorded for rebroadcast at 12 noon on Saturday, January 30, by Community Television of Santa Cruz County.

ROLL CALL AND PLEDGE OF ALLEGIANCE

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

ABSENT: City Treasurer Jacques Bertrand

STAFF: City Manager Rich Hill, City Attorney John G. Barisone, Community Development Director Jamie Goldstein, Chief of Police Michael Card, Public Works Director Steve Jesberg, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

1. REPORT ON CLOSED SESSION [520-25]

City Attorney John Barisone reported on the items discussed in Closed Session as follows:

- The City Council received an update on pending litigation regarding Surf and Sand Mobile Home Park from the City Attorney and Community Development Director. There was discussion, but no reportable action was taken.
- He announced that there was nothing to report on Existing Litigation matters Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates) and Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates). Those items were not discussed in Closed Session.
- The City Council met with the city's labor negotiator, City Manager Hill, regarding all employee organizations. Mr. Hill provided the Council with an update, and the council gave Mr. Hill directions regarding continued negotiations.
- The Council met with City Manager Hill regarding the City Manager Employment Agreement with Jamie Goldstein and provided instructions to Rich Hill regarding that agreement.
- The City Council did not discuss the 2091 Wharf Road property.
- There were no questions about the claim of Karine Karczewski. City Attorney Barisone stated the claim is on the City Council's Regular Meeting Agenda under Consent Calendar for denial.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

City Manager Hill said he had an update regarding City Manager negotiations and asked if the council wanted to continue Closed Session discussions following the regular agenda.

ACTION: It was the consensus of the City Council to add a Continued Closed Session at the end of the meeting.

B. Public Comments

1) Sandra Williams, Chairperson of the Advisory Council of the Area Agency on Aging, announced that they are having their 4th Annual fundraiser for the Meals on Wheels Program. During the month of February all branches of Bay Federal Credit Union will have a coin machine where members of the community may drop off coins which will be used to supplement the Meals on Wheels Program to help provide food to disabled seniors. She encouraged everyone to donate coins for this good cause.

2. ORAL COMMUNICATIONS

2) Amy McKenna addressed the council on the following items: a) she is concerned about the condition of 38th Avenue between Capitola Road and Brommer Street; b) she expressed concern about the safety of pedestrians and bicyclists on Hill Street going toward the Post Office where there are no sidewalks and suggested the city consider making it one-way; and c) she discussed the yellow bumpy material that has been installed at curb cuts located at various intersections. Mayor Storey suggested she speak with Public Works Director Steve Jesberg, who is available at the back of the Chambers.

C. Staff Comments – None

D. City Council/Treasurer Comments/Committee Reports

1) Council Member Begun asked about signature gathering for the League of California Cities initiative measure to protect local funds from state take-away. Mayor Storey said that item would be on the council's next agenda to consider whether the city council would like to approve an endorsement. There was discussion regarding signature gatherers.

2) Council Member Begun said he attended a meeting of the League of California Cities Revenue and Taxation Policies Committee.

3) Council Member Graves commented that there have been reports in local publications regarding his appointment to the Santa Cruz County Regional Transportation Commission. He clarified that he was appointed by the METRO Board to represent the Santa Cruz Metropolitan Transit District on the Regional Transportation Commission. **[1170-10]**

4) Council Member Norton said there is a petition going around to "Save California State Parks." He discussed the petition which is necessary to place an initiative measure on the ballot. He said the measure is to raise money to fund state parks through DMV registration fees in California and discussed the benefits to California residents.

5) Mayor Storey reported that he has been reappointed by the City Selection Committee to the Monterey Bay Unified Air Pollution Control District. **[430-50]**

E. Committee Appointments

1) **Appointment of a "Village Resident" Member to the Traffic & Parking Commission. [470-60]**

City Clerk Greeninger summarized the written agenda report and informed the Council Members that the vacancy is for a "Village Resident" member. She said only one of the applicants, Ed Bottorff, qualifies for the vacancy. The other applicants live outside the village area.

ACTION: Council Member Norton moved, seconded by Council Member Begun, to appoint Ed Bottorff as a "Village Resident" Member to the Traffic & Parking Commission to fill the unexpired term ending December 31, 2010. The motion carried unanimously. Staff was also directed to send letters to all applicants thanking them for their interest in serving on the commission.

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

ACTION: Council Member Nicol moved, seconded by Council Member Begun, to approve the Check Register Reports dated January 8 and 15, 2010, including checks numbered 62097 through 62142 in the amount of \$88,519.13, and checks numbered 62143 through 62192 in the amount of \$90,230.91, respectively; and payroll disbursements for the January 15, 2010, payroll in the amount of \$185,514.16, for a Grand Total of \$364,264.20, 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 Nicol referred to Item 3.F. pertaining to acceptance of Homeland Security Grant Program funds and asked for clarification regarding the "Voter Receiver" Emergency Communications System. *(See comments under that item.)*

Glenn Hanna asked that the City Council pull Item 3.K. pertaining to the Capitola Financing Authority 1998 Reassessment Revenue Bonds.

Council Member Norton stated that he wished to pull the Planning Commission Action Minutes, Item 3.C. Mayor Storey announced that item would be discussed after Item 3.K.

There were several questions of Council Members pertaining to Item 3.H., Acceptance of the Comprehensive Annual Financial Report for FY Ended 6/30/09. After limited discussion it was decided to continue that item. *(See action under Item 3.H.)*

Mayor Storey advised that Items 3.K. and 3.C. would be discussed at the end of the meeting following Other Business Item 5.D. *(See discussion and action on Pages 11572 and 11573.)*

CONSENT CALENDAR ACTION: Council Member Norton moved, seconded by Council Member Nicol, to approve the Consent Calendar, with the exception of Items 3.C., H., and K., 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. *(*NOTE: At the end of the meeting Council Member Graves clarified that his vote on Item 3.G. pertaining to adoption of an ordinance amending the membership on the Art & Cultural Commission, is "No," as it was on the first reading of the ordinance.)*

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 Special Closed Session Meeting of January 8, 2010.

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to approve the Minutes of the Special Closed Session Meeting of January 8, 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. Receive Planning Commission Action Minutes for the Regular Meeting of January 21, 2010. This item was pulled for separate discussion. (See discussion and action on Page 11573.)

D. Deny Claim of Karine Karczewski in the amount of \$6,862.00 and Forward the Claim to the City's Liability Insurance Carrier. [Claims Binder]

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to deny the claim of Karine Karczewski in the amount of \$6,862.00 and to forward the claim to the City's Liability Insurance Carrier. 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)

E. Approve Budget Calendar for 2010-2011 Fiscal Year. [330-10]

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to approve the proposed Budget Calendar for Fiscal Year 2010-2011, 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.

F. Adopt Resolution Accepting a Homeland Security Grant in the Amount of \$14,328 and Amending the FY2009-10 General Fund Operating Budget by Increasing both Revenues and Expenditures by \$14,328. [330-10]

Prior to action being taken on the Consent Calendar, Council Member Nicol asked for clarification regarding the "Voter Receiver" Emergency Communications System being purchased with Homeland Security Grant funds. City Manager Hill said the system upgrades the police radios to communicate better. Chief of Police Card explained how a voter repeater radio system functions and responded to questions of council members.

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to adopt **Resolution No. 3800, Resolution Amending the General Fund FY2009-10 Operating Budget to Accept Homeland Security Grant Program Funds in the Amount of \$14,328 and Authorizing Budget Expenditures of \$14,328 for a "Voter Receiver" Emergency Communications System and Portable Radios**, 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.

G. Adopt Ordinance Amending Capitola Municipal Code Sections 2.56.010 and 2.56.030 pertaining to the Addition of Two At-Large Member Positions to the Capitola Art & Cultural Commission. [2nd Reading] [1010-60]

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

1. Adopted **Ordinance No. 944, Ordinance Amending Sections 2.56.010 and 2.56.030 of the Municipal Code to Add Two At-Large Member Positions to the Capitola Art and Cultural Commission**, as submitted; and
2. Directed staff to recruit for the two new At-Large Member seats on the Art & Cultural Commission and return to the City Council's March 11, 2010, meeting for appointments; and
3. Directed staff to provide a copy of the City Council's Ordinance and necessary bylaw amendments to the Art & Cultural Commission for review and approval prior to bringing the Art & Cultural Commission Bylaws to the City Council for approval.

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

H. Accept Comprehensive Annual Financial Report for Fiscal Year Ended 6/30/09. [310-20/760-25 RDA/335-20 CFA]

Prior to action on the Consent Calendar there were a number of questions from council members pertaining to the report. City Manager Hill suggested those council members meet with him to discuss their questions.

Mayor Storey asked if the council would like to continue this item.

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to table Item 3.H. to be brought back as an Other Business item for discussion at a future meeting. The motion carried unanimously.

3. CONSENT CALENDAR (Continued)

- I. **Accept the 2008-09 Street Resurfacing Project as Complete at a Final Cost of \$296,871.32 and Authorize the Release of the Contract Retention of \$29,687.14 in 35 days following the Recordation of the Notice of Completion. [940-40]**

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to accept the 2008-09 Street Resurfacing Project as complete at a final cost of \$296,871.32 and authorized the release of the contract retention of \$29,687.14 to Granite Construction 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.

- J. **Approve Plans and Specifications for the Capitola Road Improvement Project and Authorize the Public Works Department to Advertise the Project for Bidding, Setting the Bid Date for March 17, 2010. [940-40]**

ACTION: Council Member Norton moved, seconded by Council Member Nicol, to approve the plans and specifications for the Capitola Road Improvement Project as submitted and authorized the Public Works Department to advertise the project for bidding, setting the bid date for Wednesday, March 17, 2010. 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 Approving the Closeout Analysis and Findings Report prepared by NBS for the Capitola Financing Authority 1998 Reassessment Revenue Bonds; Authorizing Application of Excess Investment Earnings of \$36,719.16 Against Unreimbursed City Finance Staff Time from 7/1/05-12/31/09; Authorizing Transfer of Funds in the Amount of \$36,719.16 to the City of Capitola General Fund; and Authorizing FY 2009/10 Budget Amendment for receipt of revenue in the amount of \$36,719.16.**

This item was pulled for separate discussion. (See discussion and action on Page 11572.)

4. PUBLIC HEARINGS

- A. **Public Hearing on Conceptual Review to Convert an Existing Vacant Office Space (Previously Occupied by the County Office of Education) located at 809 Bay Avenue, in the CC (Community Commercial) Zoning District, into a Self-Storage Facility. Project Application #09-144; APN 035-021-28 & 43. Property Owner: Bay Creek, LLC. Representative: Craig French. [730-10]**

Community Development Director Goldstein summarized the written agenda report on behalf of Associate Planner John Akeman. He said the purpose of tonight's hearing is to receive direction from the council regarding the concept of a self storage facility located in the existing vacant office space at 809 Bay Avenue. He reviewed the comments of the Planning Commission and summarized items identified by staff which the Council may wish to consider when providing direction on this project.

The City Council heard from Craig French, Managing Director of Redtree Properties, regarding the difficulty they have had finding a tenant to replace the County Office of Education. Mr. French reviewed the project description and their interest in pursuing a self storage facility use for the site. He responded to questions of council members regarding the proposed plans.

The following members of the public addressed the council on this item:

4. A. PUBLIC HEARINGS (Continued)

Pamela Whittington, owner Classic Cleaners, expressed her concern about the impacts the proposed use would have on the current businesses. She also commented on increased traffic and the potential for large trucks in that area.

Brett Graessle, Capitola resident, commented on the aesthetics of such a use in the building. He expressed his concern about a self storage facility at the gateway to the City, and he suggested signage should be kept to a minimum. He said there are already 10 self storage facilities in the Live Oak area, and he questions the need for that use at this location.

Kate Arrieta, Center Street resident, expressed her support of the self-storage concept for this location, saying it is a good idea. Ms. Arrieta suggested that motion sensor lights be installed alongside the building at Center Street, and she would like to see the white picket fence continued down the street to replace other fencing on Center Street.

There was Council discussion regarding the loss of potential retail space and sales tax revenue by allowing a self storage use and whether the city should consider a fee in-lieu of sales tax. Council input regarding a fee in-lieu of sales tax was split, with Council Members Nicol and Graves not supporting such a fee, and Council Member Norton supporting a fee in-lieu of sales tax.

Considerable Council discussion was followed by this action:

ACTION: Council Member Graves moved to approve the idea, in concept, of a self storage facility at 809 Bay Avenue and to direct the applicant to take all of the comments made at both the Planning Commission and City Council meetings into consideration, including aesthetics, limitations on hours of operations, improving the Center Street frontage, noise impacts, signage, and other considerations, when the applicants designs this particular use for the property. Council Member Norton seconded the motion.

Mayor Storey said he would like to direct staff to use the most limited approval process the city can so we do not end up with a proliferation of storage units in the CC Zoning District. He expressed the need to have the ability to control this use in other parts of the community.

Council Member Nicol commented that this is an opportunity for the Planning Department to send a message to the business community that Capitola is sympathetic to and supportive of good business and that we want to help businesses be successful in our community.

The motion carried unanimously.

5. OTHER BUSINESS

A. Community Grant Applications for FY2010-2011. [330-30]

Mayor Storey introduced this item, but since he is the Executive Director of Community Bridges, one of the Community Grant recipients, he recused himself. After Mayor Storey left the room, Vice Mayor Norton asked for staff's report on this item.

Assistant to the City Manager Murphy summarized the written agenda report and responded to questions of council members.

Vice Mayor Norton asked if anyone from the public wished to address the council on this item. There was no public comment.

5. A. OTHER BUSINESS (Continued)

ACTION: Council Member Begun moved, seconded by Council Member Nicol, not to allow a new agency or organization to apply for a Community Grant for FY2010-2011 due to the current economic climate.

There was further council discussion of the motion prior to the following vote being taken. The motion carried on the following vote: AYES: Council Members Graves, Nicol, and Begun. NOES: Vice Mayor Norton. ABSENT: None. ABSTAIN: None. DISQUALIFIED: Mayor Storey.

The City Council took a short break at 8:48 p.m. and reconvened at 8:54 p.m.

B. Presentation of the CDBG-Funded City Hall Site Re-Use Study. [700-10]

Community Development Director Goldstein provided a brief staff report. He said that the City Hall Site Reuse Study was prepared with CDBG Grant Funds applied for in 2007 and awarded to the City in April of 2008. He said Doug Svennson and Peter Cheng would be making a presentation of the study prepared by Applied Development Economics of Walnut Creek.

Utilizing a PowerPoint Presentation, Doug Svennson reviewed various aspects of the study which explored potential uses of the Capitola City Hall Site. He said the Economic Development Strategic Plan identified this site as the gateway to Capitola Village. Mr. Svennson advised that analysis of the city hall facility shows it to be undersized. He said their ultimate recommendation is that this is a good site for City Hall, but with additional retail space and parking.

Peter Cheng then discussed potential site configurations, including an additional parking structure at the current Pacific Cove Parking Lot, as well as another configuration that could include an additional building over the parking structure for approximately 30,000 to 35,000 sq ft of building space. He went on to discuss possible alternative uses, including hotel use and commercial/retail uses such as restaurants, retail or entertainment uses. Mr. Cheng then discussed City Hall location options, including rebuilding on the existing site or moving off-site. He reviewed various potential funding sources, including development impact fees, grants, Redevelopment Agency funds, and the sale of property.

Mayor Storey commented that the property is not located in the Redevelopment Agency project area. Mr. Cheng said it may be possible to make a finding that it benefits the Redevelopment Agency.

Following his presentation, Mr. Cheng responded to questions of Council Members regarding the report.

Mayor Storey opened this item to the public for comment at 9:26 p.m.

Gary Wetsel, Chairperson of the Traffic & Parking Commission, discussed the work of the commission. At their meeting last night the commission reviewed the consultant's study and asked him to inform the Council they are dedicated to attacking the traffic and parking problems in the city; however, the commission has concerns about introducing the reuse of City Hall at this time. Mr. Wetsel said the commission requests that the council table the part of the consultants' recommendations pertaining to relocation and/or reuse of the City Hall and Library until we can find a resolution with traffic and parking issues. The commission is concerned that relocation and/or reuse of the City Hall site could derail the commission's recommendations and possibly derail the current consideration of a Village hotel at the theater site.

5. B. OTHER BUSINESS (Continued)

Glenn Hanna seconded what Mr. Wetsel reported. He said this is not something the city should consider, particularly in light of the current financial situation. He called attention to compensated absence funds and pension obligations and said there are many financial considerations that need to be addressed than to consider reconstruction of City Hall.

There was considerable council discussion and responses from staff prior to the following action being taken:

ACTION: Council Member Begun moved, seconded by Council Member Graves, to accept the CDBG-Funded "City Hall Site Reuse Study" dated January 28, 2010, prepared by Applied Development Economics, as submitted. The motion carried on the following vote: AYES: Council Members Graves, Norton, Begun, and Mayor Storey. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.

C. **Signing and Striping of Southbound Bike Lane on Monterey Avenue. [940-18]**

Public Works Director Jesberg summarized the written agenda report and responded to questions of council members.

Mayor Storey asked if anyone from the public would like to comment on this item. There was no public comment.

ACTION: Council Member Norton moved, seconded by Council Member Begun, to approve the permanent removal of ten parking spaces on southbound Monterey Avenue between Younger Avenue and Bay Avenue as part of the previously approved bike lane striping on Monterey Avenue, as recommended.

Under discussion of the motion, Council Member Graves believes the bike lane on Monterey Avenue should be a two-way bike lane similar to that in Santa Cruz near the Boardwalk.

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

D. **Request from the Capitola Public Safety and Community Service Foundation for Approval of a Special Event Permit for the 5th Annual Capitola Rod & Custom Classic Car Show in Capitola Village on Saturday and Sunday, June 12 and 13, 2010, and Approval of a Grant in the Amount of \$1,106. [1050-70]**

Chief of Police Card summarized the written agenda report and request for the 5th Annual Capitola Rod & Custom Classic Car Show. Fire Chief Bruce Clark, representing the Capitola Public Safety and Community Service Foundation, responded to questions of council members regarding the event. Chief Clark said there would be no cars parked on Lawn Way and that cars would not be parked as close together on San Jose Avenue as they were last year.

Council Member Graves said his concern in the past was that the show on Saturday is great, but on Sunday there are not as many cars. He thought they might want to consider not giving out the awards until the second day in order to keep the cars there.

Council discussion was followed by this action:

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

5. D. Other Business (Continued)

1. Approved the Special Event Permit for the 5th Annual Capitola Rod and Custom Classic Car Show to be held in Capitola Village on Saturday and Sunday, June 12 and 13, 2010, including approval of an Encroachment Permit, an Entertainment Permit, and authorization to serve beer and wine to select guests and sponsors (VIP's) on the city property located in Esplanade Park behind the Bandstand during the event, and to Hang Banners prior to the Event, and
2. Approved a grant in the amount of \$1,106.00 for permit fees, 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.

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

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

- K. Adopt Resolution Approving the Closeout Analysis and Findings Report prepared by NBS for the Capitola Financing Authority 1998 Reassessment Revenue Bonds; Authorizing Application of Excess Investment Earnings of \$36,719.16 Against Unreimbursed City Finance Staff Time from 7/1/05-12/31/09; Authorizing Transfer of Funds in the Amount of \$36,719.16 to the City of Capitola General Fund; and Authorizing FY 2009/10 Budget Amendment for receipt of revenue in the amount of \$36,719.16. [330-10]**

City Manager Hill summarized the written agenda report and responded to questions of council members.

Glenn Hanna informed the council that he was the City Treasurer when this was refinanced. He explained the process that occurred and the reason for the reassessment. He said this was done before 1998 when the city refunded all the issues; this was a reissue of a former bond. Mr. Hanna then went on to express his concerns about the recommendation to put the excess funds into the city's general fund. He believes funds should be reserved for street maintenance for the Auto Center and Brookvale Terrace.

City Manager Hill said he does not believe the streets in Brookvale Terrace are city streets. He also informed the council that the recommended action is legal, and it is appropriate to put the money into the general fund.

Glenn Hanna reiterated his concerns, saying the assessments were levied against specific sites, and those sites should receive the excess.

City Clerk Greeninger noted that this item was also on the Capitola Financing Authority agenda and was approved.

Considerable Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to continue this item to obtain a legal opinion from bond counsel pertaining to the use of these funds.

Mayor Storey said he would hope the council would consider the ethical points raised by Glenn Hanna as to whether or not the intentions of what the payers of these funds were paying for and what these funds should be dedicated to, and a possible decision to earmark funds for capital improvements.

After further discussion, 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 *(Items pulled for separate discussion.)***C. Receive Planning Commission Action Minutes for the Regular Meeting of January 21, 2010. [740-50]**

Council Member Norton discussed Consent Item 5.A. on page 2 of the Action Minutes pertaining to Project Application #09-132 located at 100-200 Kennedy Drive. He expressed concern about splitting this into a condominium project where there would be 4 different owners. He mentioned several other concerns regarding the project. Other council members also discussed concerns they had regarding this application.

Council Member Norton said he would like to appeal Project Application #09-132, and he would submit a letter of appeal to the Planning Department.

ACTION: The City Council unanimously approved the Planning Commission Action Minutes for the Regular Meeting of January 21, 2010, noting the appeal by Council Member Norton of Project Application #09-132, Major Land Division to convert an existing two-building light industrial complex into six commercial condominium units in the IP (Industrial Park) Zoning District, located at 100-200 Kennedy Drive.

6. **COUNCIL/STAFF COMMUNICATIONS**

Council Member Graves stated he would like to clarify that his vote on Item 3.G. regarding adoption of an Ordinance Amending the Municipal Code pertaining to the Art & Cultural Commission on the consent agenda should be "No" as it was for the first reading at the last meeting.

7. **ADJOURNMENT**

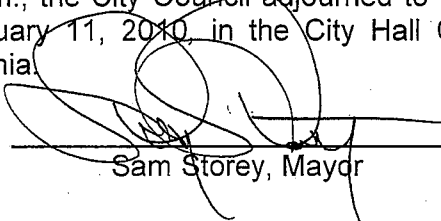
At 10:34 p.m. Mayor Storey announced that the City Council would be convening in the City Manager's Office for continuation of the Closed Session. Prior to adjourning to the Closed Session, Mayor Storey said he would like to adjourn tonight's meeting in Memory of Georgette Dufresne who recently passed away. Georgette served on Capitola Museum Board from July 1992 to March 2007 and was a vital member of the community.

Mayor Storey also announced that after the Continued Closed Session the Council would be adjourning to its next Regular Meeting to be held on Thursday, February 11, 2010.

REPORT ON CONTINUED CLOSED SESSION [520-25]


At 10:45 p.m. in the City Hall Council Chambers, Mayor Storey reported that the City Council discussed the Public Employment item pertaining to the new City Manager's contract in Closed Session. City Manager Hill provided an update on negotiations, and the Council provided direction regarding those ongoing negotiations.

Following the Closed Session at 10:45 p.m., the City Council adjourned to its next Regular Meeting to be held on Thursday, February 11, 2010, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Sam Storey, Mayor

ATTEST:



Pamela Greeninger, City Clerk, MMC

MINUTES WERE UNANIMOUSLY APPROVED AS SUBMITTED BY THE CITY COUNCIL ON 2/11/2010