

March 25, 2010
 Capitola, California

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

**5:15 P.M. - CLOSED SESSION - CITY MANAGER'S OFFICE
 CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL**

At 5:19 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 LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9:
 One Case
 Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9:
 Two Cases

CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)

Negotiator: Rich Hill, City Manager
 Employee Organizations: Association of Capitola Employees, Capitola Police Captains, Capitola Police Officers' Association, Confidential Employees, Mid-Management Group, City Manager, Community Development Director, and Public Works Director

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Govt. Code §54956.8)

Property: 2091 Wharf Road, APN 034-241-05
 City Negotiator: Rich Hill, City Manager
 Owner: Joseph K. and Debbie A. Genge
 Under Negotiation: Purchase of Property by City

Property: Rispin Mansion Property, 2000 & 2005 Wharf Road
 APN 035-371-01 & 02
 City Negotiator: Rich Hill, City Manager
 Under Negotiation: Real Property Lease/Sale

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Roberta Corrigan

Mayor/Chairperson Storey noted there was no one in the audience to speak at this time; therefore, the City Council/ Redevelopment Agency recessed at 5:20 p.m. to the Closed Session.

CAPITOLA REDEVELOPMENT AGENCY (See *Redevelopment Agency Minutes*)

REGULAR MEETING OF THE CITY COUNCIL

Mayor Storey called the Regular Meeting of the City Council to order at 7:24 p.m. on Thursday, March 25, 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, City Attorney John Barisone (*for the Closed Session and Report on Closed Session only*), Deputy City Attorney Celestial Cassman, Community Development Director Jamie Goldstein, Chief of Police Michael Card, Public Works Director Steve Jesberg, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

1. REPORT ON CLOSED SESSION [520-25]

City Attorney John Barisone reported that the City Council met in Closed Session on those items listed on the posted agenda. All Council Members were present, as were City Attorney Barisone, City Manager Hill, Community Development Director Goldstein, and by telephone, special legal counsel Henry Heater of Endeman, Lincoln, Turek, and Heater.

Conference with Legal Counsel – Existing Litigation

The Council had a discussion with City Attorney Barisone and outside counsel Henry Heater concerning the ongoing litigation between Surf and Sand, LLC and the City of Capitola. The Council received a status report on all existing litigation and took no reportable action in closed session.

City Attorney Barisone reported that there was no discussion in closed session regarding Vieira Enterprises vs. City of Capitola (Cabrillo Mobile Estates) or Los Altos/El Granada Investors vs. City of Capitola (Castle Mobile Estates).

Conference with Legal Counsel – Anticipated Litigation

Due to time constraints, there was no discussion regarding the one case of significant exposure to litigation.

The City Council received a status report and discussed with the city attorney, the city manager, and the community development director two cases where the city has to consider initiating litigation. No reportable action was taken.

Conference with Labor Negotiator – The Council received a status report from its labor negotiator, City Manager Hill, regarding ongoing labor negotiations with employee bargaining groups. No reportable action was taken in closed session.

Conference with Real Property Negotiator

City Attorney Barisone said the City Council was scheduled to discuss the property negotiations regarding property located at 2091 Wharf Road and the Rispin Mansion Property located at 2000 & 2005 Wharf Road; however, neither item was discussed in Closed Session.

Liability Claim of Roberta Corrigan – There was no discussion in closed session.

City Attorney Barisone announced that the Closed Session matter regarding Surf & Sand, LLC vs. City of Capitola was continued to an Adjourned Continued Closed Session to be held on Tuesday, March 30, 2010, at 5:30 p.m. in the City Manager's Office.

Following the Report on the Closed Session, City Attorney Barisone excused himself, and Deputy City Attorney Celestial Cassman was present for the remainder of the meeting.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Natasha Kowalski of the Santa Cruz County Health Services Agency commented on her prior attendance at the February 11 Council meeting when she presented an "Award of Recognition" on behalf of the Santa Cruz County Tobacco Education Coalition to congratulate and recognize the Council for prohibiting smoking in outdoor public places. Ms. Kowalski submitted a letter from Richard Salazar, Chair of the Tobacco Education Coalition, in response to the Council's request for information about what the city can do to improve its rating. She discussed the additional tobacco policies provided in the letter, particularly tobacco retailer licensing, which includes a licensing fee. She commented on how the fee would be used to help reduce illegal tobacco sales to minors and responded to questions of council members. [460-70]

2) Peter Nichols, Chair of the Santa Cruz County Alcohol and Drug Abuse Commission, said he was present to support the enactment of a tobacco licensing ordinance and fee in Capitola, as recommended by the Santa Cruz County Tobacco Education Coalition. He distributed copies of a letter and other information, including a commission resolution encouraging the County Board of Supervisors to enact such an ordinance. In closing, Mr. Nichols said he hopes the City Council will do their best to keep tobacco out of the hands of minors. [460-70]

3) Terre Thomas, Capitola resident, informed the council that the Capitola Commission on the Environment suggested she come to the Council to discuss her concerns regarding the eradication of evasive pests in the state. She explained her concerns and recommended the Council adopt a "no spray" ordinance in the City of Capitola. Mrs. Thomas understands that City Attorney Barisone is working on such an ordinance for the City of Santa Cruz, and she hopes the Council will consider such an ordinance once it has been completed. [430-05]

Council Member Norton said this is a good matter for the Capitola Commission on the Environment to review and then make a recommendation to the council, and he recommended that staff be directed to take this to the Capitola Commission on the Environment.

4) A representative of Community Action Board informed the council of new services available to people who are homeless or are in danger of losing their homes. She said the Community Action Board has received a grant to provide these services through the Homeless Prevention and Rapid Re-housing Program. She provided a flyer that contains contact information for services provided. [750-20]

Mayor Storey asked if there were a phone number people could call to obtain more information. In Santa Cruz the number to call is 457-1741 x152, and in Watsonville the number is 728-4634 x3 for rental assistance.

C. Staff Comments

City Clerk Greninger announced that this Saturday, March 27, 2010, is **Passport Day in the USA**. An opportunity for residents interested in obtaining a passport or getting information about travel requirements for USA citizens will be held at the Simpkins Family Swim Center, 979 17th Avenue, Santa Cruz, from 10 am to 3 pm.

2. ORAL COMMUNICATIONS (Continued)

D. City Council/Treasurer Comments/Committee Reports

1) Mayor Storey said after hearing public comments about the potential retail tobacco license fee, he would like staff to schedule that matter for council consideration in the future and alert the Alcohol & Drug Commission of the meeting date when it is scheduled. [460-70]

2) Council Member Norton stated there was a significant slide on Soquel Creek a few days ago, and he asked if staff had information on the status of that slide. Public Works Director Jesberg commented on the actions being taken by public works and building staff, as well as the Department of Fish & Game.

3) City Treasurer Bertrand said at the direction of the Council he would be meeting with the City Manager on Friday at 3:30 p.m. to discuss the Finance Advisory Committee's expenditure reductions and revenue generating ideas. In addition, as a result of comments from the city's auditor regarding the lack of a finance director for the city, that item will be brought up at the next Finance Advisory Committee meeting for discussion.

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

Council Member Norton questioned Check #62513 to the Coastal Watershed Council and inquired when they would be making a presentation to the Council. Public Works Director Jesberg said they are finalizing their annual report and will come to the council once the report is completed.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to approve the Check Register Reports dated March 5 and 12, 2010, including checks numbered 62505 through 62552, in the amount of \$87,742.06, and checks numbered 62553 through 62595 in the amount of \$75,921.78, respectively; and payroll disbursements for the March 12, 2010 payroll, in the amount of \$174,717.92, for a Grand Total of \$338,381.76, 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.

City Clerk Greeninger noted that she was unable to finalize the minutes for the Regular Meeting of February 25, 2010, prior to this meeting as planned, and she requested that the Council continue those minutes to the next regular meeting.

Council Member Norton would like to receive a verbal report on Items 3.D. and 3.E., and he recommended they be heard immediately following action on the Consent Calendar rather than being placed at the end of the agenda.

Mayor Storey advised Items 3.D. and 3.E. would be discussed immediately following the Consent Calendar action (*See discussion and action on Page 11629.*)

CONSENT CALENDAR ACTION: Council Member Norton moved, seconded by Council Member Graves, to approve the Consent Calendar with exception of Items 3.D. and 3.E. and the removal of the Minutes of the Regular Meeting of February 25, 2010, from Item 3.B., to be continued to the next meeting, as recommended.

3. CONSENT CALENDAR (Continued)

Under discussion of the motion, Council Member Graves noted that he will abstain on the Minutes of March 11 and March 15, 2010, as he was absent.

Council Member Graves also commented on Item 3.H. regarding the city's Cape Seal Program, and he said he was happy to see the program being done in the Derby/Trotter neighborhood.

The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None. (NOTE: Council Member Graves abstained from voting on the Minutes of March 11 and March 15, 2010, under Item 3.B.)

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 Meeting of February 18, 2010, the Regular Meetings of February 25 and March 11, 2010, and the Adjourned/Special Joint Closed Session Meeting of the City Council/Redevelopment Agency of March 15, 2010.

Prior to action on the Consent Calendar, City Clerk Greeninger noted that she was unable to finalize the minutes for the Regular Meeting of February 25, 2010, prior to this meeting as planned, and she requested that the Council continue those minutes to the next regular meeting.

ACTION: Council Member Norton moved, seconded by Council Member Graves, to approve the Minutes of the Special Meeting of February 18, 2010, the Regular Meeting of March 11, 2010, and the Adjourned/Special Joint Closed Session Meeting of the City Council/Redevelopment Agency of March 15, 2010, as submitted. The minutes to the Regular Meeting of February 25, 2010, were continued to the Council's next regular meeting on April 8, 2010. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None. (NOTE: Council Member Graves abstained from voting on the Minutes of March 11 and March 15, 2010, since he was absent.)

C. Receive City Treasurer's Report for the month ended February 28, 2010 (Unaudited). [380-30]

ACTION: Council Member Norton moved, seconded by Council Member Graves, to receive the City Treasurer's Report for the month ended February 28, 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.

D. Approve No Smoking/No Bird Feeding Signs for the Esplanade and Stockton Avenue Bridge.

This item was pulled for separate discussion. (See action on Page 11629.)

E. Approve Special Event Permit Request by the Capitola Art & Cultural Commission for the 17th Annual Art at the Beach Series and Jazz Band at the Bandstand in Esplanade Park on Six (6) Sundays from June 6 to August 22, 2010, and the Hanging of Banners prior to each Event. [1010-10]

This item was pulled for separate discussion. (See action on Page 11629.)

3. CONSENT CALENDAR (Continued)

F. Deny Claim of Roberta Corrigan and Forward to the City's Liability Insurance Carrier. [Claims Binder]

ACTION: Council Member Norton moved, seconded by Council Member Graves, to deny the claim of Roberta Corrigan for an undetermined amount and 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.

G. Adopt Resolution Authorizing Submittal of an Application to the California Department of Transportation (Caltrans) for Funding under the Community-Based Transportation Planning Grant Program; the Commitment of Matching Funds and In-Kind Contributions for the Proposed Transportation Planning Study in the Amount of \$50,000; and Authorizing the Community Development Director to Execute the Application, the Standard Agreement, and all other Documents Required by Caltrans for Participation in the Program. [770-05]

ACTION: Council Member Norton moved, seconded by Council Member Graves, to adopt Resolution No. 3805, Resolution Authorizing the Submittal of an Application to the California Department of Transportation (Caltrans) for Funding under the Community-Based Transportation Planning Grant Program; the Commitment of Matching Funds and In-Kind Contributions for the Proposed Transportation Planning Study in the Amount of \$50,000; and Authorizing the Community Development Director, in the Name of the City of Capitola, to Execute the Application, the Standard Agreement, and all other Documents Required by Caltrans for Participation in the Grant Program, 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.

H. Approve Plans, Specifications, and Engineer's Estimate for Construction of the 2010 Capitola Cape Seal Program on Derby Avenue, Preakness Avenue, Trotter Street, and 42nd Avenue; and Authorize Advertising the Project to Receive Bids. [940-60]

Prior to action being taking on the Consent Calendar, Council Member Graves said he was happy to see the Cape Seal Program being scheduled for this neighborhood.

ACTION: Council Member Norton moved, seconded by Council Member Graves, to approve the Plans, Specifications, and Engineer's estimate for construction of the 2010 Capitola Cape Seal Program and authorize advertising the project to receive bids, 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.

I. Receive Information regarding the City's 2010 Municipal Election. [560-10]

ACTION: Council Member Norton moved, seconded by Council Member Graves, to receive information regarding the City's 2010 Municipal Election as an informational item. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

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Following action on the Consent Calendar, the City Council immediately discussed and took action on Consent Calendar Items 3.D. and 3.E., as follows:

3. CONSENT CALENDAR (Continued)

D. Approve No Smoking/No Bird Feeding Signs for the Esplanade and Stockton Avenue Bridge. [460-70]

Public Works Director Jesberg summarized the written agenda report and showed pictures of the proposed signs.

Council Member Norton wished to acknowledge Karen Nevis, the artist member on the Art & Cultural Commission, for the artwork on this project.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to approve the proposed "No Smoking/No Bird Feeding Signs" for the Esplanade and Stockton Avenue Bridge that were developed by members of the Capitola Art and Cultural Commission, 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.

E. Approve Special Event Permit Request by the Capitola Art & Cultural Commission for the 17th Annual Art at the Beach Series and Jazz Band at the Bandstand in Esplanade Park on Six (6) Sundays from June 6 to August 22, 2010, and the Hanging of Banners prior to each Event. [1010-10]

Chief of Police Card summarized the written agenda report and responded to questions of council members.

Council discussion was followed by this action:

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

1) Approved the use of Esplanade Park and the Bandstand on Sundays, twice a month from June through August for a total of 6 shows (June 6 & 27, July 11 & 18, and August 8 & 22) from 11 a.m. to 6 p.m., with live jazz or classical music on the Bandstand from 2 to 4 p.m.; and

2) Approved the Special Event Permit for the 17th Annual "Art at the Beach" series and authorized the Capitola Police Department to issue the Special Event Permit and Public Works to hang the banners, 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 - None

5. OTHER BUSINESS

A. Wharf Road Mural Public Art Project – Call to Artists. [1010-10]

Michael Termini, Chair of Art & Cultural Commission, provided a verbal report based on the written agenda report and responded to questions of council members regarding the cost, anti-graffiti coating, and call to artists.

Debbie Hale, member of a subcommittee of the Art & Cultural Commission who has been working on this project, said they are excited to bring the project forward.

Council discussion was followed by this action:

5. A. REGULAR BUSINESS (Continued)

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

1. Approved the Art & Cultural Commission's recommendation to issue a Call for Artists to paint a mural on the Wharf Road retaining wall; and
2. Approved funding this Public Art Project in the FY2010-2011 Public Art Fund Budget in the amount of \$28,000, 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.

B. Countywide Single-Use Bag Reduction. [930-30]

Assistant to the City Manager Murphy summarized the written agenda report and responded to questions of council members regarding the fiscal impact relating to preparation of an EIR, the position of other jurisdictions, and the next steps.

Mayor Storey opened this item to the public for comments at 8:21 p.m.

The following people addressed the Council in support of the City's participation with other jurisdictions in reducing single-use bags:

Laura Kasa, Executive Director of Save Our Shores and member of the County Commission on Environment

Alexander Thompson, volunteer for Save our Shores

Molly Lautamo, resident of Santa Cruz County and member of Save our Shores

Nancy Wilson, Capitola resident, expressed concern about spending money on an Environmental Impact Report

Dave Marshall, volunteer with Save our Shores

Michelle Clausen passed out a picture of a baby otter trapped in a plastic bag

Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Begun, to approve the recommended action to join with the County of Santa Cruz and other local governments to take appropriate actions to reduce the use of single-use bags by retailers and consumers.

There was further discussion under the motion prior to calling for the vote. The motion carried on the following vote: AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey. NOES: None. ABSENT: None. ABSTAIN: None.

C. Consideration of a Resolution Supporting the California State Parks Initiative. [580-40]

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

Council Member Graves asked how the funds collected by DMV for State Parks will not be taken by the State.

Mayor Storey opened this item to the public for comment at 8:40 p.m.

5. C. REGULAR BUSINESS (Continued)

The following people spoke in favor of the proposed California State Parks Initiative and urged the council to adopt the proposed resolution supporting this initiative.

Patricia Matejcek

Bonny Hawley, Executive Director, Friends of Santa Cruz State Parks, commented on her letter encouraging the council to support the initiative. She also submitted a letter from Ross Hutchings, Executive Director/CEO of the California Travel Industry Association, supporting this measure. She commented on the importance of tourism to the local economy.

Peg Anderson, Friends of State Parks

Council members discussed their individual positions regarding the proposed initiative prior to the following action being taken:

ACTION: Council Member Norton moved, seconded by Council Member Graves, to adopt **Resolution No. 3806, Resolution Supporting the California State Parks Initiative**, 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.

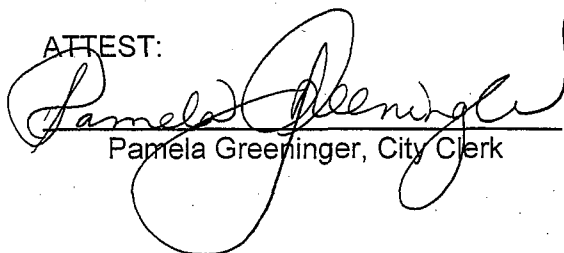
6. COUNCIL/STAFF COMMUNICATIONS

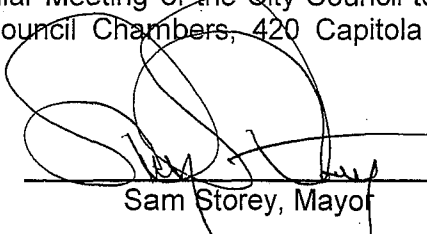
Council Member Nicol announced that the "Shop Capitola" sign at the western end of the upper Cliff Drive parking lot has been stolen.

7. ADJOURNMENT

The City Council adjourned at 9:00 p.m. to an Adjourned Continued Closed Session of the City Council on Tuesday, March 30, 2010, at 5:30 p.m. in the City Manager's Office, then to a Special Meeting of the City Council for the Continued Public Hearing pertaining to the Surf and Sand Mobile Home Park Subdivision Application to be held on Wednesday, April 7, 2010, at 6:00 p.m., and to the next Regular Meeting of the City Council to be held on Thursday, April 8, 2010, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ATTEST:


Pamela Greeninger, City Clerk MMC


Sam Storey, Mayor

MINUTES WERE UNANIMOUSLY APPROVED AS SUBMITTED BY THE CITY COUNCIL ON 4/8/2010