

October 14, 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 5:15 p.m. in the City Hall Council Chambers, Mayor/Chairperson Storey noted that all City Council Members/Redevelopment Agency Directors were present. Mayor/Chairperson Storey made an announcement regarding the items to be discussed in Closed Session, as follows:

CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)

Negotiator: Jamie Goldstein, City Manager

Employee Organizations: Association of Capitola Employees, Confidential Employees, Mid-Management Group, Community Development Director, and Public Works Director

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

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)

Save the Habitat vs. City of Capitola – Superior Court Case #CV 149983 (Rispin Mansion Project, Stipulated Judgment)

Mayor/Chairperson Storey noted there was no one in the audience; therefore, the City Council/ Redevelopment Agency recessed at 5:16 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 7:24 p.m. on Thursday, October 14, 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: City Treasurer Jacques Bertrand

STAFF: City Manager Jamie Goldstein, Deputy City Attorney Celestial Cassman, Community Development Director Derek Johnson, Public Works Director Steve Jesberg, Chief of Police Michael Card, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

***** PRESENTATIONS *******Presentations by Capitola Police Chief Mike Card and
Sergeant Mark Gonzalez Regarding the K-9 Program [480-53]**

Chief of Police Card introduced the presentation on the City's Canine (K-9) Program, which is administered by Sergeant Mark Gonzalez. Sergeant Gonzalez introduced Police Officers Leland Blankenship and Pedro Zamora, who handle the city's canines.

Using a PowerPoint Presentation, Sergeant Gonzalez discussed the purpose and scope of the K-9 Program, informing the Council that canines are used for officer safety and public safety, as well as narcotics detection, suspect apprehension, reducing crimes, and canines act as backup for an officer. He said using the canines generally reduces the amount of time spent on a call for service. Officer Gonzalez also discussed the training of handlers and canines and the costs involved.

Officer Blankenship introduced his K-9, Damein, into the Chambers and discussed his experience as a canine handler. Officer Zamora then introduced his K-9, Katie. He said Capitola hosts training locally, and council members are welcome to attend.

Chief of Police Card commented on the advantage of using canines, especially in a large department store, such as Sears, when someone has entered illegally.

Mayor Storey thanked the officers for their presentation and for the work they do for the city.

1. REPORT ON CLOSED SESSION [520-25]

Deputy City Attorney Cassman advised that the City Council/Redevelopment Agency met in Closed Session at approximately 5:20 p.m. in the City Manager's Office on the items listed on the City Council/Redevelopment Agency's posted agenda. All members were present, as were the city manager, the assistant to the city manager for the matter regarding Conference with Labor Negotiator, and Deputy City Attorneys Celestial Cassman and George Kovacevich. Ms. Cassman reported that the City Council received an update regarding the status of existing litigation on the following matters, provided direction to legal counsel, and took no reportable action in closed session:

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).

The city council then met with its labor negotiator, City Manager Jamie Goldstein, and with staff member Assistant to the City Manager Lisa Murphy, to discuss labor negotiations with the Association of Capitola Employees, Confidential Employees, Mid-Management Group, Community Development Director, and Public Works Director; the City Council provided direction to its negotiator and took no reportable action.

Deputy City Attorney Cassman said the other items listed on the agenda regarding anticipated litigation and existing litigation pertaining to Save the Habitat vs. City of Capitola were not discussed.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Marilyn Garrett, Aptos resident, commended the council on its Resolution demanding PG&E halt installation of SmartMeters. She said a local doctor, Randy Baker, prepared a paper calling for proof of safety prior to installing SmartMeters, and she submitted a copy of a document that was provided by Doctor Baker to the County Board of Supervisors. She also asked who at city hall to contact about SmartMeters in Capitola. City Manager Goldstein said she could contact him.

[565-30]

2. ORAL COMMUNICATIONS (Continued)

2) Molly Ording, Monterey Avenue, commented on the Porter pathway as it relates to the illegal removal of trees. She expressed concerns about the reluctance on the part of the city to act responsibly in addressing this issue. She urged the Council to send a message out to the community informing residents that if a tree is cut down illegally, there will be serious consequences - civil, criminal and financial. She urged the Council to protect the city's trees by enforcing the city's ordinances. **[1030-60]**

3) Dan Benvenuti, resident of Wesley Street, said the residents applaud the action to place a stop sign at Wesley Street and Orchid Avenue, Item 3.H. on the agenda. In addition, the residents in that area have been circulating two petitions to address other areas of concern around Park Avenue. He said each petition has almost 100 signatures, and the residents would like to have the city look at these areas of concern to see if something can be done.

Ann Wilson, Wesley Street resident, submitted and discussed the petitions referred to by Mr. Benvenuti, as follows: one petition to implement the general plan and construct continuous sidewalks along Park Avenue from Monterey Avenue to Coronado Street, and the other petition to add crosswalks for pedestrians to cross from the sidewalk located on both sides of Park Avenue at Wesley Street and Cabrillo Street. **[940-15: Sidewalks/Crosswalks on Park Ave]**

C. Staff Comments – NoneD. City Council/Treasurer Comments/Committee Reports

1) Council Member Nicol announced that the Santa Cruz County Regional Transportation Commission put finishing touches on the purchase of the rail trail from Pajaro to Davenport. The vote was 10-2. He explained that this means an agreement to purchase the property from Union Pacific and have a recreational train has been approved.

2) Council Member Norton followed up on comments made by Molly Ording about tree removal issues. He expressed concern that the ordinance is not working, and the penalty is not great enough. He believes the city needs to take immediate measures to deter illegal tree removal.

Community Development Director Johnson reported on the trees removed on Pine Street and along Soquel Creek and commented on measures being taken by staff to address this issue. He said education is critical and that an article would be included on the front page of the next City Newsletter.

Mayor Storey asked if the fines are adequate in our ordinance. Community Development Director Johnson discussed the mechanisms available pursuant to our ordinance.

Council Member Begun asked about the fine for the illegal tree removal on Pine Street. Community Development Director Johnson said there are a host of remedies available to staff and that he will look at the base fine for removal of a tree to determine if it is adequate. **[1030-60]**

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

ACTION: Council Member Begun, moved, seconded by Council Member Nicol, to approve the Check Register Reports dated September 17, September 24, and October 1, 2010, including checks numbered 64279 through 64329 in the amount of \$88,221.36, checks numbered 64330 through 64401 in the amount of \$127,504.06, and checks numbered 64416 through 64483 in the amount of \$362,031.74, respectively; and payroll disbursements for the September 24, 2010, payroll in the amount of \$189,811.14, for a Grand Total of \$767,568.30, 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 noted that he would be abstaining on Item 3.B., the Minutes of September 23, 2010, as he was absent.

Council Member Begun commented on Item 3.L., the Quarterly Departmental Financial Report, and Mayor Storey commented on Item 3.H. regarding the stop sign at Wesley Street and Orchid Avenue. See comments under those items.

CONSENT CALENDAR ACTION: Council Member Nicol moved, seconded by Council Member Graves, to approve the Consent Calendar 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: Council Member Graves abstained from voting on Item 3.B., Minutes of the September 23, 2010 meeting only.*)

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 Regular Meetings of September 9 and 23, 2010.

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to approve the City Council Minutes of the Regular Meetings of September 9 and 23, 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: *Council Member Graves abstained from voting on the Minutes of September 23, 2010, only, as he was absent.

C. Receive Planning Commission Action Minutes for the Regular Meeting of October 7, 2010. [740-50]

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to receive the Planning Commission Action Minutes for the Regular Meeting of October 7, 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.

D. Receive City Treasurer's Report for the Month Ended August 31, 2010 (Unaudited). [380-30]

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to accept the City Treasurer's Report for the Month Ended August 31, 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.

E. Adopt Resolution Authorizing the City Manager to Settle Certain Claims Brought Before the City Pursuant to the Government Claims Act. [530-10]

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to adopt **Resolution No. 3832, Resolution Authorizing the City Manager to Settle Certain Claims Brought Against the City Pursuant to the Government Claims Act**, 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 (Continued)

F. Receive and File the Fourth Quarter 2009-2010 Sales Tax and Transient Occupancy Tax Status Report (Unaudited) for the City of Capitola. [390-70]

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to receive and file the Fourth Quarter 2009-2010 Sales Tax and Transient Occupancy Tax Status Report (Unaudited) for the City of Capitola, as submitted.

G. Approve Contract with Safety Striping Service, Inc. for the 2010 Street Striping Project for an amount not to exceed \$25,726.80 and Authorize the Director of Public Works to Sign the Contract on Behalf of the City; Adopt Resolution Amending the FY 2010-2011 Gas Tax Budget Designating \$20,000 from Undesignated Fund Balance to Street Painting. [940-40/330-10/500-10 A/C: Safety Striping Service, Inc.]

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

1. Awarded a contract to Safety Striping Service, Inc., for the 2010 Street Striping Project in the amount of \$25,726.80 and authorized the Director of Public Works to sign the contract on behalf of the City; and
2. Adopted Resolution No. 3833, Resolution Amending the FY 2010-11 Gas Tax Fund Budget by Designating \$20,000 from Undesignated Fund Balance to Street Painting in the Street Maintenance Portion of the Gas Tax Fund, 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. Adopt Resolution Making Warrant Findings for the Installation of a Stop Sign on Wesley Street at Orchid Avenue. [490-60]

Prior to action being taken on the Consent Calendar, Mayor Storey questioned the stop sign warrants on Attachment 2 of the staff report. He pointed out conflicting information under Stop Sign Applications, paragraph D, which says stop signs should be used if "High speeds, restricted view, or crash records indicate a need for control;" however, in the middle of the page under the word "Guidance" it states, "Stop signs should not be used for speed control." Public Works Director Jesberg said he would provide written clarification in response to the Mayor's question to the council members off agenda.

Council Member Norton said the city needs to limit the speed on Park Avenue to 25 miles per hour.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to adopt **Resolution No. 3834, Resolution Ordering the Placement of a Stop Sign on Wesley Street at Orchid Avenue**, 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. Declare the City Hall Copier as Surplus Property and Direct the City Manager's Department to Donate or Dispose of the Property. [370-10]

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to declare the City Hall Copier (Sharp Copier ARMA620U Digital Imager, Serial Number 4500504X) as surplus property and directed the City Manager's Department to donate or dispose of the property, 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 (Continued)

- J. Authorize the City Manager to Send a Letter to the Director of Santa Cruz Public Libraries to Request an Increase in Hours of Operation at the Capitola Branch Library through an Expanded Volunteer Program. [230-10]**

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to authorize the City Manager to send a letter to the Director of Santa Cruz Public Libraries to request an increase in hours of operation at the Capitola Branch Library through an expanded volunteer 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.

- K. Receive and File the “Cities Financial Transactions Report” to the State Controller’s Office and Direct the City Clerk to Publish the City of Capitola’s 2009-2010 “Summary Report of Annual Financial Transactions” in the Santa Cruz Sentinel Newspaper. [380-05]**

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to receive and file the “Cities Financial Transactions Report” to the State Controller’s Office and directed the City Clerk to publish the City of Capitola’s 2009-2010 “Summary Report of Annual Financial Transactions” in the Santa Cruz Sentinel Newspaper, 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.

- L. Receive the Quarterly Departmental Financial Report for First Quarter Ending September 30, 2010. [380-05]**

Prior to action on the Consent Calendar, Council Member Begun asked about “animal services” on page 3 of the report. Assistant to the City Manager Murphy said the Animal Services Division was established when the city broke away from the JPA, and that division is included in the Police Department.

Council Member Begun then referred to the City Attorney’s budget and said he would like a breakdown of fees. Assistant to the City Manager Murphy said for future reports she would break down regular city attorney fees and special attorney fees.

Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to receive the Quarterly Departmental Financial report for the First Quarter Ending September 30, 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.

- M. Approve the First Amendment to the Franchise Agreement with GreenWaste Recovery, Inc., for Refuse, Recycling, and Yard Waste Services to Include a Two-Year Pilot Program for Food Waste Composting. [565-25/500-10 A/C: Green Waste Recovery, Inc.]**

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to approve the 1st Amendment to the Franchise Agreement with GreenWaste Recovery, Inc., for Refuse, Recycling and Yard Waste Services to include a Two-Year Pilot Program for Food Waste Composting, 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 to Consider Extending Conditional Use Permit and Architectural and Site Review Permit #97-95 and Coastal Development Permit #05-005 for a 25-Room Inn at Rispin Mansion Project located at 2000 and 2005 Wharf Road in the AR/VS/PD (Automatic Review/Visitor Serving/Planned Development) Zoning District. APN(s): Rispin Property 035-371-01 and -02; Clares Street/Wharf Road Property 034-541-34. Presentation: Community Development Department. [730-10]**

Community Development Director Johnson summarized the written agenda report utilizing a PowerPoint Presentation and discussed the recommended action.

Mayor Storey opened the public hearing at 8:18 pm. Seeing no one, the public hearing was closed.

Community Development Director Johnson responded to various questions of council members during their discussion and deliberation on this item.

Considerable Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Begun, to approve the recommended action to adopt **Resolution No. 3835, Resolution to Extend for One-Year, Coastal Development Permit #05-005 and Conditional Use Permit and Architectural and Site Review Permit #97-95 for the Rispin Development Project based on and with the Findings, Conditions and Approval and the Mitigation and Monitoring Program as approved by Resolution No. 3393, as Amended by Resolution Nos. 3443 and 3723 approved on September 1, 2004, March 24, 2005, and October 9, 2008, Respectively; Approving Findings that No Substantial Change of Circumstances has occurred and that such Extension would not be Detrimental to the Purpose of the Certified Coastal Program and Zoning Ordinance; and Accepting the Environmental Impact Report (EIR) Certified and as Revised in March 2005 as Adequate Environmental Review Pursuant to Section 15162 of the State Guidelines for Implementation of the California Environmental Quality Act**, with an additional provision, Item 4., that it is the intent of this Council that the extension of the Coastal Development Permit does not provide the ability to develop or operate a bed and breakfast or a hotel on the site. Any future use of the site must be analyzed, reviewed and approved by the City Council. The motion carried on the following vote: AYES: Council Members Norton, Begun, and Mayor Storey. NOES: Council Members Graves and Nicol. ABSENT: None. ABSTAIN: None.

5. OTHER BUSINESS

- A. Agreement for Rental of Capitola Beach Villas. [730-10: 1066 41st]**

Utilizing a PowerPoint Presentation, Community Development Director Johnson summarized the written agenda report, providing background information on the project and discussing the proposed agreement. Following his report, Community Development Director Johnson responded to questions of Council Members.

James Porch, President of Macquarie Capitola Villas Inc., discussed the proposed agreement and responded to questions of council members pertaining to the lease agreement, parking concerns, rental of units not to exceed six years, the rent-to-own program, a breakdown of the number and types of units (1 bedroom/2 bedroom), etc.

Mayor Storey opened the matter to the public for comments at 9:28 p.m.

5. A. OTHER BUSINESS (Continued)

The following people spoke in opposition to the proposed agreement allowing rental of the Capitola Beach Villas units:

Randall Leonard, resident on Nova Drive (Mr. Leonard submitted his comments in writing for the record)

Dean Cutter, resident of Nova Drive

Robert Nunn, resident of Nova Drive

Bernice Anderson, 20-year resident of Bain Avenue

John Jeffries, Bain Avenue resident

Stephanie Harlan, Capitola resident, said at the time this project was approved she was on the City Council and voted against the project, as she had concerns about the variances. She urged the council not to back down and to just say “no” to the proposed agreement.

Jim Porch responded to comments made during the public testimony and answered further questions of council members pertaining to the agreement.

At 10:08 p.m., Mayor Storey asked if there were any other questions.

Bernice Anderson commented on the parking stipulations agreed to by the original developer. She urged the council to please vote “no” to rentals.

An unidentified man commented on rental vs. owner-occupied units. He has been involved in two major rental projects in Santa Cruz County, the Farm project in Soquel and Parker’s Terrace on Freedom Boulevard. He said in both cases the same argument was made about renters. He explained the benefit of having one company deal with the parking of the units, rather than dealing with 55 separate owners.

An unidentified woman expressed her concerns about the potential threat to our community as it relates to drug and gang problems in the area. She also commented about the city agreeing to a cash match of \$25,000.

Greg Gomon, owner of the Frame Studio located on Capitola Road, expressed concern about the quality of the building, and said he feels it would be obscene for the city to approve spending \$25,000 to assist potential buyers if 28 or more units remain unsold after 3 years.

Randall Leonard spoke again and expressed concerns about comments from Mr. Porch regarding the occupancy by renters as opposed to owners.

Seeing no further speakers, Mayor Storey closed this item to the public at 10:20 p.m.

Further Council discussion resulted in the following action:

ACTION: Council Member Norton moved, seconded by Council Member Begun, to continue this item to the next meeting with direction to staff to return with additional information. The Council directed staff to clarify a number of points in the proposed agreement, to provide information regarding the number of units, types of units and parking spaces, to provide clear information regarding parking enforcement, and to coordinate with Macquarie representatives a facilitated meeting with the neighbors who live near the project to address the concerns raised at tonight’s meeting.

5. A. OTHER BUSINESS (Continued)

Under discussion of the motion, council members raised the following additional questions for response by staff at the next meeting:

Council Member Begun said he heard the representative say that they could rent the units even if the council does not approve the agreement. He requested an opinion from the City Attorney in that regard.

Council Member Norton expressed concern about transition of title and said he would like to see the agreement recorded with the title on the property. Council Member Norton asked if after 6 years all the original conditions of approval would become effective. He also asked if the original CC&Rs for the project will stay in place. Community Development Director Johnson said the proposed agreement does not modify the CC&Rs.

Council Member Norton said he would like staff to look into the City's safeguards in the event the property is transferred before the expiration of the agreement.

Mayor Storey recommended that the questions raised be answered for the next meeting and that staff try to facilitate a meeting with residents and the property owners prior to the next City Council meeting.

The motion carried unanimously.

The City Council took a short break at 10:34 and reconvened at 10:40 p.m.

B. Capitola Road Traffic Calming Project. [940-40]

Public Works Director Jesberg summarized the written agenda report and, utilizing a photo on the overhead projector, discussed the direction given to staff by the council at its meeting on September 9, 2010. He reviewed two alternatives, one providing full access, and one modifying south side access. Public Works Director Jesberg said both alternatives would cost approximately \$60,000, and he would recommend Alternative 2. After his presentation, Public Works Director Jesberg responded to questions of council members pertaining to the proposed alternatives.

Mayor Storey opened this item to the public for comment at 10:53 p.m. The following people spoke:

Greg Gomon, owner of the Frame Studio on Capitola Road, said he discussed this matter with the public works director, and he agrees with his recommendation for Alternative 2.

Sherrie Pinkerton, manager of the Chevron Station, said she is happy about the ability to turn left into the business from Capitola Road. She commented on the turning radius at the left/U-turn turning lanes and the difficulty of a U-turn maneuver. Ms. Pinkerton also expressed her support of the two left turn lanes on Capitola Road onto 41st Avenue southbound.

Stephanie Harlan, 42nd Avenue resident, said her neighbors on 42nd Avenue asked that she request no U-turns at 42nd Avenue.

There being no further public comments, Mayor Storey closed the matter to the public at 11:04 p.m.

5. B. OTHER BUSINESS (Continued)

Limited discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Nicol, to authorize the Director of Public Works to negotiate a contract change order with the contractor for the reconstruction of the medians utilizing Alternative 2, with installation of a “No U-turn” sign on westbound Capitola Road and return to the Redevelopment Agency for funding for the additional costs, as submitted.

Speaking from the audience, Nels Westman urged the council to retain the U-turn for access to the Chevron Station.

Council Member Graves amended his motion to allow a U-turn movement from the left turn pocket on westbound Capitola Road to go eastbound on Capitola Road. Council Member Nicol accepted the amendment to his second.

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

C. Budget Amendment Resolution for Mobile Home Rent Control Litigation Services. [330-10/750-25 MHP Litigation]

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

Council Member Nicol commented on the fiscal impact of this litigation and the possible use of Emergency Reserve funds.

Rick Halterman, resident of Castle Mobile Estates, asked if the Administrative Service Fee for mobile home owners has been scheduled for the meeting of December 9. City Manager Goldstein said that matter would be on the Council’s agenda for December 9, 2010.

Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Mayor Storey, to adopt **Resolution No. 3836, Resolution Amending the 2010/2011 Budget by Transferring \$350,000 from Fund Balance to the City Attorney Department Contract Services Account and Increasing City Attorney Contract Expenditures by an Additional \$350,000 for Litigation Expenses Related to Defending the Mobilehome Park Litigation**, 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. Letter of Support to the Senior Legislature for Assembly Proposal 23 which would give Local Jurisdictions Guidance and Assistance in Prohibiting Mobile Home Park Owners from Taking Any Action that will Result in an Equity Loss in a Tenant’s Home. [750-25 MHP Legislation]

Mayor Storey provided a verbal report on this item.

Rick Halterman expressed his opposition to the council’s support of this Senior Legislature proposal. He urged the council to wait and see if there is an Assembly or Senate bill.

5. D. OTHER BUSINESS (Continued)

ACTION: Council Member Norton moved, seconded by Council Member Graves, to direct staff to prepare a letter of support to the Senior Legislature for Assembly Proposal 23 for the Mayor's signature.

Under discussion of the motion, Council Member Nicol said he believes this is not an appropriate action to take in light of the city's litigation, and he agrees with the speaker encouraging opposition to sending a letter.

Council Member Begun asked if the council should vote on this or not. Deputy City Attorney Cassman said she was reluctant to opine. Council Member Begun asked if the Council could put this off until a legal opinion is obtained.

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

E. Resolution Opposing Proposition 23 which Suspends Implementation of Air Pollution Control Law (AB 32) requiring Major Sources of Emissions to Report and Reduce Greenhouse Gas Emissions that cause Global Warming, until Unemployment Rate Drops to 5.5 Percent or Less for Full Year. [580-40]

City Manager Goldstein summarized the written agenda report on this item and responded to questions of council members. He said this item was on the agenda at the request of Council Member Norton.

Council Member Norton discussed his reasons for placing this matter on the agenda for Council consideration of a resolution Opposing Proposition 23. He said this is a big Texas oil issue that will only benefit big oil companies, not the community.

Council Member Nicol stated he believes this is out of order, and the City Council should not be addressing ballot issues such as this.

Council discussion was followed by this action:

ACTION: Council Member Norton moved, seconded by Council Member Begun, to adopt **Resolution No. 3837, Resolution Opposing Proposition 23 which would Suspend Implementation of Air Pollution Control Law (AB 32) on the November 2, 2010, State Ballot**, as submitted.

Under discussion of the motion, Council Member Graves explained his position on this item and said he would be abstaining.

There was discussion regarding Council Member Graves' abstention. Council Member Nicol said his understanding was that an abstention would count as a positive vote. Mayor Storey suggested Deputy City Attorney Cassman research that item and provide council members with her findings.

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

6. COUNCIL/STAFF COMMUNICATIONS

There was council discussion regarding comments made by Council Members Nicol and Norton pertaining to the Capitola Road project.

Council Member Nicol said the council has a policy about ending Council meetings by about 11 p.m.; however, the council meetings seem to be going much later than that. Council Member Graves believes there needs to be better coordination in scheduling of agenda items and having items that can be continued placed at the end of the agenda.

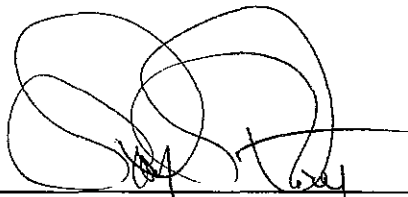
Council Member Norton commented on the closed sessions that occur prior to the regular meeting. He said perhaps the Council should consider having closed sessions on another day or evening.

City Manager Goldstein responded to the council members' comments and said staff does recognize and consider items that can be lengthy.

Mayor Storey commented that as mayor he has the responsibility of managing the meeting. He also said there are agenda items and communications which are beyond staff's control in scheduling and beyond the council's control at a meeting. If there is a concern, perhaps the council should discuss possible time limits for council discussion of items as well.

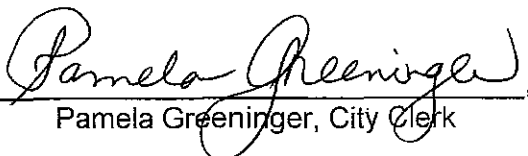
7. ADJOURNMENT

The City Council adjourned at 11:40 p.m. to its next Regular Meeting to be held on Thursday, October 28, 2010, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Sam Storey, Mayor

ATTEST:


_____, MMC
Pamela Greeninger, City Clerk

MINUTES WERE UNANIMOUSLY APPROVED AS SUBMITTED BY THE CITY COUNCIL ON 11/10/2010