

MINUTES

CITY COUNCIL-CLOSED SESSION TUESDAY, FEBRUARY 21, 2012- 6:30 P.M. CALISTOGA COMMUNITY CENTER

A) CALL TO ORDER

Mayor Gingles called the Regular Session to order at 6:30 p.m.

In attendance were the following: Councilmember Chris Canning, Councilmember Gary Kraus, Councilmember Karen Slusser, Vice Mayor Michael Dunsford, and Mayor Jack Gingles.

Also present was City Manager Richard Spittler.

B) ORAL COMMUNICATIONS:

No public comment.

C) ADJOURN TO CLOSED SESSION ON THE FOLLOWING MATTERS:

1. Conference with Legal Counsel, Anticipated Litigation
Significant exposure to litigation pursuant to subdivision (b) Government Code Section 54956.9: One potential case.

D) CONVENE TO OPEN SESSION TO REPORT FROM CLOSED SESSION

E) ADJOURNMENT

Mayor Gingles adjourned the Closed Session at 7:00 p.m. to the regular meeting of the Calistoga City Council, on Tuesday, February 21, 2012 Calistoga Community Center, 1307 Washington Street, 7:00 p.m.

Respectfully submitted:



Prepared by: Amanda Davis, Deputy City Clerk



Approved by: Jack Gingles, Mayor

MINUTES

CITY COUNCIL – REGULAR MEETING TUESDAY, FEBRUARY 21, 2012 - 7:00 P.M. CALISTOGA COMMUNITY CENTER

A) CALL TO ORDER

Mayor Gingles called the Regular Session to order at 7:03 p.m.

In attendance were the following: Councilmember Chris Canning, Councilmember Gary Kraus, Councilmember Karen Slusser, Vice Mayor Michael Dunsford, and Mayor Jack Gingles.

Also present were Planning & Building Manager Ken MacNab, City Manager Richard Spitler, and Deputy City Clerk Amanda Davis.

B) SALUTE TO THE FLAG

C) ACTION OUT OF CLOSED SESSION

Mayor Gingles announced that there was no reportable action out of Closed Session held this evening.

D) ORAL COMMUNICATION

None.

E) ADOPTION OF MEETING AGENDA

It was **MOVED** by **Councilmember Kraus** and **SECONDED** by **Councilmember Slusser** to approve the Council Meeting Agenda. The Motion was carried unanimously.

F) COUNCIL REQUESTS AND IDEAS FOR DISCUSSION (7:06 PM)

Councilmember Canning stated that there was some community interest as to whether Public Works could install some directional signs at the intersection of Silverado Trail and Lincoln Avenue, directing people to where downtown Calistoga is and the Napa County Fairgrounds.

Councilmember Slusser stated that Upper Valley Waste Management is going to put together a survey to put into the April newsletter. She stated that the survey will ask whether people are interested in having a hazardous waste event and also how much people are willing to pay to have one. She stated that it was previously paid for by the agency but they are unable to cover the costs at this time. It is her hope that the Green Committee will assist in distributing the newsletters locally and spreading the word of this survey.

Mayor Gingles gave an update on the lawsuits that the City of Calistoga has been going through. He stated that there have been three litigated cases that have gone through the court and the City prevailed on all of them. He thanked staff for their hard work and the community for their continued support while going through these matters.

G) PRESENTATION (7:12 PM)

- 1) **Presentation by Tom Roberts, Napa County Transportation and Planning Agency (NCTPA), regarding the proposed Calistoga Shuttle Expansion Plan.**

Tom Roberts, Manager of Public Transit for the Napa County Transportation and Planning Agency (NCTPA) gave a brief PowerPoint presentation on the proposed Calistoga Shuttle Expansion Plan. He discussed the proposed service improvements including the expansion of service hours, providing connectivity for commuters, expansion of service days to include Saturdays and Sundays and free ride coupons to visitors. He stated that the next steps include conceptual approval from Calistoga City Council, approval from the NCTPA, funding agreements with the City of Calistoga and C.T.I.B., wrap buses and marketing. He stated that their goal is to begin service in May 2012.

H) CONSENT CALENDAR (7:25 PM)

- 2) **Minutes of the January 24th, 2012 Special City Council meeting and the February 7, 2012 regular City Council meeting.**
- 3) **Adoption of Resolution No. 2012-010 Accepting Donations from Paul Coates and from Dan Takasugi.**

It was **MOVED** by Mayor Gingles and **SECONDED** by Councilmember Kraus to approve **Item Nos. 2 and 3** on the Consent Calendar. The Motion was carried unanimously.

I) PUBLIC HEARING (7:26 PM)

- 4) Consideration of text amendments to the Calistoga Municipal Code, initiated by the City of Calistoga, amending Title 17 (Zoning) to establish grape sourcing regulations for wineries and stand alone winery tasting rooms, clarify winery-related uses, and update winery-related land use definitions.**

Planning & Building Manager MacNab presented the item. He discussed the background of this item noting that in the summer of 2011 a request was brought forth to the Council by the wine/agricultural community and the Calistoga Chamber of Commerce to adopt regulations regulating grape sourcing similar to Napa County's ordinance already in place. At the various meetings held discussing this topic, staff, Commissioners, Council, the City Attorney and the community considered many different ideas and approaches that would be suitable for Calistoga. He stated that at the Council meeting held on December 6, 2011 Council gave direction to staff on how to proceed. He stated that what staff has brought before Council tonight meets their desired direction. He discussed in summary what the ordinance will include:

-For wineries, the proposed amendments would establish a 75% rule for wineries located in the rural residential zoning district and also for wineries located in a planned developed district that have an underlying general plan land use of rural residential. He stated that no sourcing requirement is proposed or would be established for wineries located in the community commercial, downtown commercial or industrial zoning districts.

- For stand alone winery tasting rooms, the proposed amendments would establish a 75% requirement that all wines poured for tasting in a stand alone tasting room be labeled Napa County or a legally recognized American viticultural area within Napa County. He stated that wine sold would not be subject to this requirement.

He stated that the amendments also include the clarification of home winery uses and establish and update some winery and winery related land use definitions. He noted that it is the Planning Commission's recommendation that 100% of wines poured in stand alone tasting rooms be from Napa County. Staff recommends that the Council proceed with introducing the ordinance as proposed and waive the first reading of the text.

Mayor Gingles opened the Public Hearing at 7:30 PM.

Peter Nissen, 3255 Bennett Lane, representing Napa County Farm Bureau, stated that they are in support of adopting this ordinance for grape sourcing requirements and in favor of moving forward with the strongest and strictest form of an ordinance.

Kathy Roach, spoke on behalf of the Bounsall family, discussed the memorandum received by the City Attorney, and stated that they agree with the conclusions reached by the City Attorney. She urged Council to approve what staff has brought forward for adoption.

Clarence Luvisi, 285 Rosedale Road, thanked staff for their efforts with this grape sourcing ordinance and also for including the legal opinion provided by the City Attorney. He stated that he agrees with the Planning Commission's recommendation to require that 100% of wines poured in stand alone tasting rooms be labeled from the Napa Valley.

Anne Steinhauser, Napa Valley Vintners, resident at 1800 Mora Avenue, stated that the Napa Valley Vintners group supports that the entire City, regardless of current zoning designations, require that all new wineries meet the 75% grape sourcing ordinance. She stated that they also support requiring any new tasting room to pour 100 % of Napa Valley wines.

Betty Abbott, 1281 Rocklin Road, spoke on behalf of the Napa Valley Grapegrowers. She read, for the record, a letter written by David Beckstoffer, President of the Board of Directors of the Napa Valley Grapegrowers. The letter stated their support of the Planning Commission's recommendation to require that 100% of wines poured in Calistoga winery off-site tasting rooms must be made from 75% Napa Valley grapes.

Lisa Salling, 15100 Hwy 128, spoke on behalf of August Briggs Winery, and stated that they do not support the Planning Commission's recommendation to require that 100% of wines poured in stand alone tasting rooms be from Napa Valley. They also request that Council does not pass the ordinance with the 75% production rule of Napa fruit having to be in each bottle.

Jeff Bounsall, 414 Foothill Blvd., stated that his family is interested in old vines and organic wine. He stated that he would like Council to take this idea into consideration with the 75%/100% requirement rules.

Colin MacPhail, 1620 Grant Street, referenced the City's Mission Statement, and discussed what attracts people to Napa Valley. He stated that he supports the 75% rule for wineries and the 100% rule for wines poured in stand alone tasting rooms must be made from 75% Napa Valley grapes.

Karen Cakebread, spoke on behalf Calistoga Winegrowers, and stated that they agree with the 75 % rule for wineries, regardless of the zoning districts. She stated that they support the Planning Commission's recommendation that 100% of wines poured in stand alone tasting rooms be from Napa County.

Robert Pecota, 1010 Cedar Street, stated that he has winery property located on Bennett Lane. He encouraged the Council to harmonize the 75% rule for wineries along with the rest of the County.

Mayor Gingles closed the Public Hearing at 7:56 PM reserving the right to open it again at a later time.

Vice Mayor Dunsford stated that he supports the winery definition ordinance and tasting room ordinance as presented by staff. He stated that he opposes the Planning Commission's recommendation that 100% of wines poured in stand alone tasting rooms be from Napa County. He questioned how the 100% rule will be enforced.

Councilmember Canning stated that he supports the winery definition ordinance and opposes the tasting room ordinance as presented by staff. He stated that he supports the Planning Commission's recommendation that 100% of wines poured in stand alone tasting rooms be from Napa County.

Councilmember Kraus stated that he supports the winery definition ordinance as presented by staff. He stated that he is undecided on the tasting room ordinance.

Councilmember Slusser stated that she supports the 75 % rule as it applies to the winery definition ordinance and the tasting room ordinance.

Mayor Gingles stated that he supports the Napa County grape sourcing ordinance. He discussed the concerns that were raised regarding the constitutionality of the proposed ordinance. He stated that he supports the winery definition ordinance and is undecided on the tasting room ordinance.

It was MOVED by Mayor Gingles and SECONDED by Vice Mayor Dunsford to introduce an Ordinance and waive the first reading amending Chapters 17.04 (Definitions), 17.14 (R-R Rural Residential District), 17.21 (Home Occupations), 17.22 (Commercial Land Use Districts), 17.24 (PD Planned Development District), and 17.26 (I Light Industrial District) of Title 17 (Zoning) establishing 75% grape sourcing requirements for wineries and stand alone winery tasting rooms with the direction to amend the winery tasting room portion of the ordinance to include properties within the 94515 Zip Code. Motion was carried by the following roll call vote:

AYES: Mayor Gingles, Vice Mayor Dunsford, Councilmembers Canning, Kraus and Slusser

NOES: None

ABSTAIN: None

ABSENT: None

- 5) **Solicitation and discussion of possible applications for funding under the 2012 State Community Development Block Grant (CDBG) Program.**
(8:17 PM)

Planning & Building Manager MacNab presented the item. He stated the Community Development Block Grant (CDBG) program provides communities like Calistoga with a source of funding to address a wide range of community needs and interests. He stated that it is now time for the initiation of the 2012 funding cycle. He stated that staff does not have any recommended projects for the Council to consider, however, Larry Kromann of Calistoga Affordable Housing is interested in the City sponsoring an application to study senior needs locally. He stated that two public hearing are required to be held for this item, one for consideration of application ideas, and the second for review of the application prior to submitting it.

Mayor Gingles opened the public hearing at 8:19 PM.

Larry Kromann, President/CEO of Calistoga Affordable Housing (CAH) expressed his support for obtaining grant money from the CDBG program. He stated that one of the eligible activities for the CDBG program is a planning and technical assistance activity, which includes a maximum of two planning activity studies. He stated that it is CAH's recommendation to do the work under the auspices of the City for applying for the grant to study the current and future situation of the low income residents of Calistoga senior mobile home parks. He discussed the importance and positive effects this will have on this senior community.

Mayor Gingles closed the public hearing at 8:24 PM.

The consensus of the Council is to proceed with the grant application produced by CAH that addresses the low income residents of Calistoga senior mobile home parks.

It was MOVED by Councilmember Canning and SECONDED by Councilmember Kraus to proceed with the grant application to obtain grant money to fund studies or programs targeted at addressing the needs of Calistoga seniors, including those who live in a mobile home park. Motion was carried unanimously.

- 6) **Consideration of a Resolution and introduction of an Ordinance proposing an amendment to the PERS Contract to establish a second tier formula for miscellaneous and safety employees.** (8:24 PM)

Administrative Services Director Leon introduced the item. She discussed the draft resolution and ordinance which proposes amendments to the PERS contract, establishing a second tier formula for miscellaneous employees. She stated that this amendment only applies to new employees, not existing employees. She stated that once the resolution is passed, there will then be a waiting period and then the ordinance will be adopted. She stated that the ordinance will take effect May 1, 2012 for any new employees coming on board. She discussed the details of the amendments to the PERS Contract and what the second tier formula includes. She stated that the amendments to the contract will provide significant savings to the City.

Mayor Gingles opened the public hearing at 8:30 PM.

There was no public testimony.

Mayor Gingles closed the public hearing at 8:31 PM.

It was **MOVED** by Vice Mayor Dunsford and **SECONDED** by Councilmember Kraus to adopt Resolution No. 2012-011 approving an Amendment to the contract between the Board of Administration California Public Employees' Retirement System and the City Council of the City of Calistoga to implement a second tier retirement benefit for new miscellaneous and safety members. Motion was carried by the following roll call vote:

AYES: Vice Mayor Dunsford, Councilmembers Kraus, Canning, Slusser and Mayor Gingles

NOES: None

ABSTAIN: None

ABSENT: None

It was **MOVED** by Vice Mayor Dunsford and **SECONDED** by Councilmember Kraus to introduce an Ordinance and waive the first reading authorizing an amendment to the contract between the City Council of the City of Calistoga and the Board of Administration of the California Public Employees' Retirement System to implement a second tier retirement benefit for new miscellaneous and safety employees. Motion was carried by the following roll call vote:

AYES: Vice Mayor Dunsford, Councilmembers Kraus, Canning, Slusser and Mayor Gingles

NOES: None

ABSTAIN: None

ABSENT: None

J) GENERAL GOVERNMENT (8:34 PM)

- 7) **Determination to summarily deny or set a hearing date for an appeal received from Tom Faherty regarding the Planning Commission's decision to uphold a determination by the Planning and Building Manager that the addition of a third residential unit on property located at 1411 Fourth Street (APN 011-201-008) is not permissible under the R-1 (Single-Family Residential) Zoning District regulations.**

Mayor Gingles introduced the item.

Vice Mayor Dunsford asked staff to verify that the only reason it would be worth hearing an appeal on this item is if Council felt that it was possible or conceivable that they would support a spot zoning at this property, and if they do not then he does not see a purpose in listening to the appeal.

Planning & Building Manager MacNab stated that in the past four years that he has worked for the City, spot zoning has not been allowed. He stated that not only would it require spot zoning it would also require a General Plan amendment to allow for a third unit of density on this particular property. He stated that the General Plan sets the City's vision for our neighborhoods and that this would be a dangerous precedent to set should they allow this third residential unit.

Council discussion ensued.

Planning & Building Manager MacNab stated that if Tom Faherty was able to locate and provide records or documentation indicating that this property once served as three-family unit then this request could be reconsidered. He stated that Tom Faherty has been unable to locate any records indicating this. He stated that if Mr. Faherty does produce evidence, then this would not have to come back to the Planning Commission or City Council, staff could approve the request.

It was MOVED by Mayor Gingles and SECONDED by Councilmember Slusser to set a date to hear the appeal received from Tom Faherty.

The Motion failed by the following roll call vote:

AYES: Mayor Gingles and Councilmember Slusser

NOES: Vice Mayor Dunsford, Councilmember Canning, Councilmember Kraus

ABSENT: None

ABSTAIN: None

It was **MOVED** by Vice Mayor Dunsford and **SECONDED** by Councilmember Kraus to deny the appeal hearing request received from Tom Faherty.

The Motion was passed by the following roll call vote:

AYES: Vice Mayor Dunsford, Councilmembers Kraus and Canning

NOES: Mayor Gingles and Councilmember Slusser

ABSENT: None

ABSTAIN: None

City Manager Spitler clarified that the Planning Commission's decision stands as is, until such time that evidence is shown that this was a legal, non-conforming third unit.

8) Consideration of a Resolution approving the Calistoga Family Center's request for \$3,150 for senior outreach services. (8:46 PM)

City Manager Spitler presented the item. He gave a brief background of the item stating that previously in October, 2011 the Council provided a grant of \$7,000 in Community Development Funds to the Calistoga Family Center to set up a senior assistance outreach program at an existing office building located at 1705 Washington St. He stated that this was to address the emerging crisis with senior citizens with the overall economy and rent increases in the mobile home parks and the stress on them both financially and emotionally. He stated that the program has been a success and momentum is building. He stated that the funding that was provided runs out in March, 2012 and they have requested additional funds in the amount of \$3,150 to bring it through to the end of the fiscal year to stay at this site. He recommends approval for the Calistoga Family Center's request for an additional \$3,150 for senior outreach services.

There was Council consensus that this is a valuable program.

It was **MOVED** by Mayor Gingles and **SECONDED** by Councilmember Slusser to adopt **Resolution No. 2012-012** authorizing the City Manager to provide up to \$3,150 in additional funds to the Calistoga Family Center for its Senior Outreach Program. Motion was carried by the following roll call vote:

AYES: Mayor Gingles, Councilmembers Slusser, Kraus, Canning, and Vice Mayor Dunsford

NOES: None

ABSTAIN: None

ABSENT: None

9) Presentation of citizen proposal for temporary use of Logvy Park for a City of Calistoga Dog Park. (8:51 PM)

Recreation Services Manager Lemen introduced the item.

Scott Atkinson, representative for Cal Dog Groups (Cal Dogs), 2103 Oat Hill Court, gave a brief presentation of the item. He presented and discussed their proposal for a dog park, to be located on a section of Logvy Park. He clarified that they are not looking for money; they are only requesting approval for this dog park.

Council discussion ensued.

City Manager Spitler is asking whether Council would like staff to put time into this item in looking at the feasibility and the liability exposure. He stated that he will then report back to the Council with his findings and if Council would like to proceed an agreement can be drawn up and executed.

There was Council consensus to direct staff to return with a dog park agreement with Cal Dog.

10) Periodic report on Growth Management System Program allocations for the 2010 to 2014 program cycle and update on available water supply and wastewater treatment capacity. (9:01 PM)

Planning & Building Manager MacNab presented the item. He stated that with several large resort projects on the horizon, staff felt it was important to do provide a report on our water and wastewater availability and growth management. He stated that the staff report outlines in great detail what the water and wastewater availability is and hopes that this will offer an open and complete accounting of where we are to date. He stated that the City does have enough water resource available and enough wastewater treatment capacity to serve what is on the horizon and projected uses for this growth management period. He referenced the tables included in the staff report, which provide summaries of activity, available water supply and demand and available wastewater treatment capacity and demand.

Council discussion ensued and Council accepted the report.

11) Consideration of a Resolution to authorize the City Manager to enter into a settlement agreement over a community pool construction claim by Page Construction Company and subcontractors in the amount of \$800,000. (9:06 PM)

City Manager Spittler presented the item. He discussed the background of the item noting that the pool construction project did not go as planned. He stated that the General Contractor Page Construction was pulled off of the job and that the City was responsible for finishing it. He stated that the City withheld from Page Construction over \$900,000 in retainers and Page Construction in turn withheld payment from their subcontractors. He stated that Page Construction filed a claim against the City for \$1.77 million dollars stating that they were not properly compensated for the extra work they had done. He stated that this would then go into arbitration. He stated that Page Construction asked for mediation, and Council gave direction to do so. He stated that a tentative agreement was reached that the City would pay \$800,000 to settle all claims with both Page Construction and the subcontractors. He stated that the City has the funds in the 2007 Capital Lease Fund to settle this matter.

It was **MOVED** by Mayor Gingles and **SECONDED** by Vice Mayor Dunsford to adopt **Resolution No. 2012-013** authorizing the City Manager to enter into a settlement agreement over a community pool construction claim by Page Construction Company and subcontractors in the amount of \$800,000. The Motion was carried unanimously by the following vote:

AYES: Councilmember Kraus, Vice Mayor Dunsford, Councilmember Slusser, and Mayor Gingles

NOES: one

ABSENT: None

ABSTAIN: None

K) ADJOURNMENT

Mayor Gingles adjourned the meeting at 9:10 p.m. to the next scheduled regular meeting of the Calistoga City Council, on Tuesday, March 6, 2012, Calistoga Community Center, 1307 Washington Street, 7:00 p.m.

Respectfully submitted:



Prepared by: **Amanda Davis, Deputy City Clerk**



Approved by: **Jack Gingles, Mayor**