

## MINUTES

### **CITY COUNCIL – REGULAR MEETING TUESDAY, JULY 17, 2012 - 7:00 P.M. CALISTOGA COMMUNITY CENTER**

#### **A) CALL TO ORDER**

**Mayor Gingles called the Regular Session to order at 7:00 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 Spitler, Planning & Building Manager Ken MacNab, Public Works Director/City Engineer Dan Takasugi, City Attorney Karen Murphy, Executive Secretary Claudia Salada, and Deputy City Clerk Amanda Davis.

#### **B) SALUTE TO THE FLAG**

#### **C) ORAL COMMUNICATION ON CONSENT ITEMS OR NON-AGENDA ITEMS**

(7:01 p.m.)

**Don Scott, 4281 Scott Way**, spoke regarding loud noise along Highway 29 coming from motorcycles. He will be contacting the Sheriff's Department and feels the City has the manpower to enforce the problem.

**Norma Tofanelli, 1001 Dunaweal Lane**, said the community is becoming divided and cited evidence of failed leadership. She spoke regarding the General Plan.

#### **D) ADOPTION OF MEETING AGENDA**

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

#### **E) COUNCIL REQUESTS AND IDEAS FOR DISCUSSION (7:10 p.m.)**

Councilmember **Canning** reminded everyone that the Concerts in the Park continue to be held Thursday evenings from 6:30 to 8:30 p.m. He gave a shuttle program update, stating that ridership for June 2012 increased to 1,261 as compared to 447 in June of 2011. He also welcomed his cousin Kieron Canning who is visiting from Scotland.

Mayor **Gingles** recognized the enhanced use and benefits of the shuttle for transportation which also helps towards the downtown's TOT and business vibrancy. He reported receiving a flyer from ABAG regarding a meeting on Thursday. He stated that the allocation of RHNA numbers will remain at 27 new homes for the period 2014-2022. Lastly, he cited a nice article in the Press Democrat entitled, "Toxic Algae Hits Spring Lake" which highlights Clayton Creager, a former Planning Commissioner and now a Senior Scientist with the North Coast Regional Water Quality Control Board. He also welcomed Karen Murphy, Partner of Burke, Williams & Sorensen, LLP to the meeting.

**City Manager Spittler** introduced Claudia Salada who is the new Executive Secretary to the City Manager.

**F) PRESENTATIONS/ PROCLAMATIONS/ AWARDS - None**

**G) CONSENT CALENDAR (7:14 p.m.)**

- 1) **Adoption of Resolution No. 2012-046 confirming the Mayor's appointments of a Voting Delegate and Alternate Delegate for the 2012 League of California Cities Conference.**
- 2) **Adoption of Resolution No. 2012047 authorizing a two-year agreement in the amount of \$30,000 per year with the Housing Authority of the City of Napa to provide affordable housing services.**
- 3) **Adoption of Resolution No. 2012-048 approving a Joint Powers Agreement to Fund and Administer the Napa County Stormwater Management Program**

It was **MOVED** by Vice Mayor **Dunsford** and **SECONDED** by Councilmember **Kraus** to approve the Consent Calendar. The Motion was carried unanimously.

**H) PUBLIC HEARINGS**

- 4) **Adoption of Resolution No. 2012-049 authorizing the Levying and Collection of Assessments for the Silverado Place Landscape Maintenance District for Fiscal Year 2012-13.**

Councilmember **Kraus** recused himself from participating on Items 4 and 5 and left the Council Chambers.

**Public Works Director/City Engineer Dan Takasugi** gave the staff report and overview of the request to authorize the levying and collection of assessments for the Silverado Place Landscape Maintenance District.

**Mayor Gingles** opened the public hearing at 7:17 p.m.. He confirmed there were no public speakers and closed the public hearing at 7:18 p.m.

It was **MOVED** by Vice Mayor **Dunsford** and **SECONDED** by Councilmember **Slusser** to adopt Resolution No. 2012-049 authorizing the Levying and Collection of Assessments for the Silverado Place Landscape Maintenance District for Fiscal Year 2012-13. The Motion was carried unanimously (Kraus recused).

- 5) **Adoption of Resolution No. 2012-050 Authorizing the Levying and Collection of Assessments for the Palisades Landscape Maintenance District for Fiscal Year 2012-13.**

**Public Works Director/City Engineer Dan Takasugi** gave the staff report and overview of the request to authorize the levying and collection of assessments for the Palisades Landscape Maintenance District.

**Mayor Gingles** opened the public hearing at 7:18 p.m. He confirmed there were no public speakers and closed the public hearing at 7:19 p.m.

It was **MOVED** by Vice Mayor **Dunsford** and **SECONDED** by Councilmember **Slusser** to adopt Resolution No. 2012-050 Authorizing the Levying and Collection of Assessments for the Palisades Landscape Maintenance District for Fiscal Year 2012-13. The Motion was carried unanimously (Kraus recused).

Councilmember **Kraus** returned and was noted present to participate in the remainder of the meeting.

- 6) **Consideration of an Ordinance amending the approved Development Agreement for the Vineyard Oaks Subdivision project to extend the term of the agreement to July 18, 2014 and to change the timeframe for payment of required development impact fees. (7:19 p.m.)**

Mayor **Gingles** and Councilmember **Slusser** recused themselves from participating in the matter and left the Council Chambers.

**Planning & Building Manager Ken MacNab** gave the staff report and overview of the request for the Council to consider an Ordinance amending the approved development agreement for Vineyard Oaks Subdivision and modifying a timeframe for payment of required development impact fees totaling \$1.5 million. He indicated that there are no other changes to the project being requested.

Vice Mayor **Dunsford** opened the public hearing at 7:22 p.m.

**Steve Carter, 1090 Wellsona Road, Paso Robles**, representing his parents and said he appreciates the Council's consideration of their request. He thinks the subdivision plan is well thought out and they are in negotiations with a new developer.

Vice Mayor **Dunsford** closed the public hearing at 7:25 p.m.

Councilmember **Canning** asked what consequences would occur if the Council did not approve the request. **Mr. MacNab** replied that the Carter's would be in default of the agreement, the City Manager would make a determination of the status of the agreement which would no longer be valid, and the Carter's would most likely lose their entitlements.

Councilmember **Canning** asked and confirmed with the City Manager that if after the one year extension, the Carter's could apply for another amendment.

Councilmember **Kraus** said when the matter first came to the Council there was concern about drainage along Centennial and the possibility of damaging the bridge on Grant Street. Certain language was adopted into the development agreement and he confirmed with **Mr. MacNab** that these provisions are still in place and included in the agreement.

It was **MOVED** by Councilmember **Canning** and **SECONDED** by Councilmember **Kraus** to introduce and waive first reading of an Ordinance amending the approved Development Agreement for the Vineyard Oaks Subdivision project to extend the term of the agreement to July 18, 2014 and to change the timeframe for payment of required development impact fees. The Motion was carried by the following roll call vote (3-0-2): Ayes: Canning, Kraus, Dunsford. Noes: None. Recused: Slusser and Gingles.

Mayor **Gingles** and Councilmember **Slusser** returned to the dais and were noted present for the remainder of the meeting.

- 7) **Accept the County Elections Division Certification that the Referendum Petition Against Ordinance 681 Approving the Silver Rose Planned Development District Has the Requisite Number of Signatures; and Reconsider Ordinance 681 and either (a) Introduce an Ordinance to Repeal Ordinance 681, or (b) Adopt a Resolution Submitting the Ordinance to the Voters at the Next General Election and Requesting the Board of Supervisors of Napa County to Consolidate said Election with the November 6, 2012 Consolidated General Election, and to Consider a Resolution Providing for the Submittal of Rebuttal Arguments and the Appointment of a Subcommittee to Prepare Arguments in Favor of the Ordinance.**

**City Manager Spittler** gave an overview of the matter, stating Ordinance 681 was adopted that established a Planned Development Zone for the Silver Rose project. The Council approved the project and under state law, residents have the right to circulate a petition for a referendum to challenge the Council's decision, which did occur. He and the City Attorney reviewed it and found it acceptable, as well as the County Elections Officer.

He presented options for Council consideration to introduce an ordinance to rescind Ordinance 681 wherein the project would no longer be in existence. If the developer wanted to return and undergo a similar project, they would have to wait one year. The second option is for the Council to send the referendum onto the November 6, 2012 election which would become subject to voters. The first action would be to adopt a resolution for the filing of rebuttal arguments and then to adopt a resolution submitting the ordinance to the voters at the next General Election which would be November 6, 2012.

The **City Manager** then presented the Measure's wording as it would appear on the ballot which reads: *"Shall Ordinance No. 681 approved by the City Council be adopted to establish certain planned development regulations for the property located on and near 400 Silverado Trail, Calistoga, which will allow the development of the Silver Rose resort and residential project?"* A resolution allows for arguments for and against adoption of the resolution, as well as a resolution allowing for rebuttal to each argument. Staff recommends the Council prepare the argument for adoption of this ordinance and appointing a subcommittee of Councilmembers **Kraus** and **Slusser**. Proponents can also write their argument against the ordinance as well as additional arguments back and forth. Staff recommends the second option to send the Measure to a vote of the people which is a simple majority vote.

**John Tuteur, Napa County Assessor/Recorder**, presented the petition that County staff reviewed which has been found to be sufficient numbers of signatures based on signature verification on their picture affidavits of registration and registered address checks. He provided it back to the City Clerk. He clarified revisions made to the resolution which state that the ordinance will be published and date changes for the arguments by 4:30 p.m. on Friday, August 17<sup>th</sup> and rebuttals by 5:00 p.m. on August 24<sup>th</sup>. He explained that the City Attorney writes an impartial analysis and the County has asked that this be filed by August 10, 2012.

Councilmember **Canning** asked if those who write rebuttals are identified ahead of time. Mr. Tuteur said each rebuttal is submitted to the City Clerk who makes sure there is the correct 300 word count (arguments); 250 word count (rebuttals) and they are done by August 24<sup>th</sup> so County staff can submit them to the vendor to print them in the ballot materials. He said there is a statement of the truth of the argument that must be submitted with the argument which identifies the person and any group, and there can be up to five signatures. If

the Council writes the arguments others can sign as well, or up to five signatures. For rebuttals, they can be signed by up to five additional or different authors.

**City Attorney Murphy** stated anyone can submit an argument, and if the Council desires to submit an argument/rebuttal, that decision should be made tonight.

**Mr. Tuteur** said if the Council submits an argument it takes precedence over any other argument, as well as a rebuttal. He said only one argument for and against and one rebuttal for and against can be submitted. If the City writes it, the City gets precedence.

**Ms. Murphy** added that State law sets the precedence and the Council has first priority, then any proponents would have precedence, then city groups would have third priority, and then residents.

**Mayor Gingles** opened the public hearing at 7:48 p.m.

**Larry Kromann, 19 Rockrose Lane**, spoke of decreasing census numbers which means decreased City funding. He spoke of Yountville and Calistoga demographics which have many retirees and ones that thrive on TOT. He asked for adequate housing, flourishing businesses, excellent schools, and a caring and responsive program for the aging senior population.

**Dawnine Dyer, 1501 Diamond Mountain Road**, urged the Council to rescind the zoning change, given the opposition to the zoning change at the Silver Rose property.

**Ron Golden, 3750 Silverado Trail**, read comments from Robert Kukota who thinks that the developers and the Silver Rose project will benefit citizens, improve the town's ability to market the town and its vineyards, as well as business. He urged Council to uphold its decision.

**Carlene Moore, 2271 Grant Street, Calistoga Chamber of Commerce**, urged the Council to consider the Chamber's mission which is to maintain and enhance economic viability. The Chamber has considered the project and she cited the many benefits the Chamber believes the project will bring.

**James Anzalone, 1900 Cedar Street**, business owner, said he recently hired a second employee and the project will help his business succeed.

**Charlotte Williams, 59 View Road**, asked the Council that in the case that the Council rescinds the ordinance, if the developer were to return with a significant change such as removal of the 21 two story houses, would it still require an entire year.

**City Attorney Murphy** said the year-long restriction is only for the same or similar ordinance. The City would have to make a determination as to whether it is substantially similar. Councilmember **Kraus** asked if this means one year until the applicant can submit. **Ms. Murphy** said it is one year to its adoption of an ordinance. During that one year timeframe the City could work with a developer on alternatives, but the same or similar ordinance could not be brought forward for adoption.

**Ms. Williams** asked whether the developer could immediately re-submit their project if the measure goes to the ballot and they return with something within the zoning regulations. Mayor **Gingles** said he believes that if defeated, the developer cannot re-apply for at least one year if it is substantially the same as presented. **City Manager Spitler** noted that if the application is substantially different or similar, staff would have to make such a determination.

Councilmember **Canning** confirmed that the project includes 3, two-story homes and not 21 two-story homes.

**Norma Tofanelli, 1001 Dunaweal Lane**, voiced concern that the resolution that was presented this evening was revised and it has not been reviewed by the proponents of the referendum.

**Clarence Luvisi, 285 Rosedale Road**, spoke regarding long-term expenses and obligations of the City, as there is still no information or facts about development impact fees, reimbursement and future infrastructure replacement fees.

**Don Scott, 4281 Scott Way**, said he went door to door and 80% of the people who answered their door wanted to sign the petition and were not in favor of the project.

Mayor **Gingles** closed the public hearing at 8:17 p.m..

Vice Mayor **Dunsford** supported staff's recommendation to place the measure on the ballot and voiced support for the Council writing the rebuttal.

Councilmember **Kraus** said he would serve on the subcommittee if the Council votes in this way. He recognizes there are 500 people who signed the petition, but he was not sure they heard both sides of the argument and supported placing the measure on the ballot.

Councilmember **Canning** said he makes his decisions based upon all input and has not seen a compelling argument presented to alter his decision in support of the project. He sees no reason to rescind his previous decision, recognized some people feel the Council is not listening to residents, and

placing it on the ballot allows people to vote. He also believes that clear information should be presented on both sides. Regarding who writes the argument in support of (Measure B), he understands the City has the ability to write the argument, but in other situations the applicant can write it as well and it is up to the Council.

**City Attorney Murphy** said if the Council does not desire to draft an argument, she recommended that Section 5 be deleted in the resolution and arguments would be set in accordance with the Elections Code which sets the order of precedence. She clarified that the developer could fall under this and submit their argument.

Councilmember **Canning** suggested the City do a pro forma going out 5-10 years and address impacts the project would cause to expenses and services of the City, as well as what the proposed income to the City would be.

Councilmember **Slusser** questioned and confirmed with **City Attorney Murphy** that if there is a subcommittee of the Council, it would need to consist of two members to work with the developer to draft language. The subcommittee would draft the argument which would come back to the Council depending on the timing. She recommended delegating authority for the subcommittee to draft the argument or to bring it back to the Council. **The City Manager** noted that the August 6<sup>th</sup> meeting would meet the timelines of the County.

Councilmember **Canning** commented that he believes that placing it on the August 6<sup>th</sup> Council meeting would provide fairness and time.

Mayor **Gingles** reported that the Council received a letter in opposition from Dawnine Dyer and three letters in favor from Ken Peterson, Ron Kukotas and Karen Cakebread.

Councilmember **Slusser** said she believes that a decision needs to be made for the good of all and it is unfortunate people are not pleased with some Council actions. She believes that if the Council goes forward with the referendum, some people have suggested holding workshops which she supported, but the decision will be up to voters.

Councilmembers **Canning** and Vice Mayor **Dunsford** voiced their support for the Council to write the argument. Mayor **Gingles** said he has supported the project, the referendum, and said he is not going to rescind his vote and asked that it be placed on the ballot. He would also support the resolution for the Council to submit the initial arguments.



It was **MOVED** by Councilmember **Kraus** and **SECONDED** by Councilmember **Canning** to adopt Resolution No. 2012-051 accepting the County's certification. The Motion was carried unanimously.

It was **MOVED** by Vice Mayor **Dunsford** and **SECONDED** by Councilmember **Canning** to adopt Resolution 2012-052 providing for the filing of rebuttal arguments for City Ballot Measures submitted at municipal elections. The Motion was carried unanimously.

It was **MOVED** by Mayor **Gingles** and **SECONDED** by Vice Mayor **Dunsford** to adopt Resolution 2012-051, as revised, submitting the Ordinance to the voters at the next General Election and requesting the Board of Supervisors of Napa County to consolidate said election with the November 6, 2012 Consolidated General Election, and to consider a Resolution providing for the Council authoring and signing/submittal of Rebuttal Arguments, but that it makes no designation to do this. The Motion was carried unanimously.

It was **MOVED** by Mayor **Gingles** and **SECONDED** by Councilmember **Canning** to nominate and appoint Vice Mayor **Dunsford** and Councilmember **Kraus** to serve on a subcommittee to prepare the arguments and submit them to the Election Official. The Motion was carried unanimously.

**I) GENERAL GOVERNMENT (8:37 p.m.)**

- 8) Adoption of a Resolution awarding a one-year contract with either the Calistoga Tribune or the Napa Valley Register in an amount not to exceed \$10,000 for publication of City of Calistoga legal advertisements for the period ending June 30, 2013, and authorizing the City Manager to execute the contract.**

**City Manager Spitler** gave the staff report and explained the requirement for the City to submit bids of adjudicated newspapers for publication of legal advertisements. He discussed RFP criteria, consideration of the submittals from both newspapers and options for the Council to consider, stating staff has no recommendation.

Mayor **Gingles** called for public comments.

**Pat Hampton, Calistoga Tribune, 2005 Highwalks Road**, spoke about their becoming adjudicated 6 years ago and challenged other newspapers on their low bids.

Councilmember comments ensued.

It was **MOVED** by Mayor **Gingles** and **SECONDED** by Councilmember **Canning** to adopt a **Resolution 2012-053** awarding a one-year contract with

the Calistoga Tribune in an amount not to exceed \$10,000 for publication of City of Calistoga legal advertisements for the period ending June 30, 2013, and authorizing the City Manager to execute the contract. The Motion was carried unanimously.

9) **Receipt of 2011/2012 Grand Jury Final Report on Measure A and Authorization of the City of Calistoga's Response.** (8:53 p.m.)

**City Manager Spitler** gave a background of the Grand Jury Final Report on Measure A, noted the City needs to provide a response and asked for authorization of the draft letter.

**Public Works Director/City Engineer Dan Takasugi** said staff prepared a draft letter which disagrees with Finding 3 and Recommendation No. 11. In addition, the letter elaborates on the history of Measure A expenditures, on the Mt. Washington Water Tank, and on expenditure of legal fees and expenses. Mayor Gingles referred to page 7, he asked that the word "even" be deleted where it states "...even with zero growth..."

Councilmembers indicated that the Grand Jury report states that all Councilmembers were interviewed which did not occur.

Mayor **Gingles** called for public comment.

**Norma Tofanelli, 1001 Dunaweal Lane**, said the proposed response repeats what the Council has already told the Grand Jury and feels the response will be rejected at election time.

Council discussion ensued and Councilmembers voiced support for the revision made by Mayor **Gingles**.

It was **MOVED** by Mayor **Gingles** and **SECONDED** by Councilmember **Canning** to receive the report and authorize the response letter, as revised. The Motion was carried unanimously.

J) **ADJOURNMENT/CONVENE CALISTOGA PUBLIC FACILITIES CORPORATION**

**Mayor Gingles** adjourned the meeting at 9:20 p.m. to the annual meeting of the Calistoga Public Facilities Corporation on Tuesday, July 17, 2012, Calistoga Community Center, 1307 Washington Street, 7:00 p.m.

Respectfully submitted:

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

  
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Approved by: **Jack Gingles, Mayor**