

MINUTES
CITY COUNCIL – REGULAR MEETING
TUESDAY, JULY 21, 2009 - 7:00 P.M.
CALISTOGA COMMUNITY CENTER

CALL TO ORDER

Mayor Gingles called the Regular Session to order at 7:00 p.m.

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

Also present were, City Manager James McCann, Deputy City Attorney Rafael Mandelman, Public Works Director/City Engineer Dan Takasugi, Planning and Building Director Charlene Gallina, Building Official Brad Cannon, Senior Civil Engineer Jim Smith, Associate Planner Erik Lundquist and Administrative Secretary Lorie Goldbeck.

ACTION OUT OF CLOSED SESSION

Mayor Gingles announced that the closed session meeting will be continued following the adjournment of the regular meeting.

Mayor Gingles apologized to the City Manager and staff for any misinterpretations on his comments at the previous City Council meeting.

ORAL COMMUNICATION

Sue Mauro, 1313 Silver Street, Calistoga stated that she is representing a group of local citizens that would like to request that the pool remain open through October.

Elizabeth Hammond, 304 Foothill Blvd., Calistoga noted that she is disappointed that she has not been notified about the meetings and outcomes of the Council's Sub-committee working on the Memorandum of Understanding related to the Bounsall property. She believes the meetings are suspicious and in violation of the California Public Records Act.

Mayor Gingles questioned whether or not minutes are being kept for the sub-committee meetings.

City Manager McCann stated that the meetings of the sub-committee are not public meetings and minutes are not kept. The outcome from the sub-committee meetings will be brought to Council for formal consideration. He stated that he would communicate with Mrs. Hammond on progress and keep her informed on when the item will be brought to Council for consideration.

ADOPTION OF MEETING AGENDA

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

COUNCIL REQUESTS AND IDEAS FOR DISCUSSION

Councilmember Slusser stated that her cat recently passed away from poisoning and believes that people may be baiting for raccoons. She noted that there is a program through the County for the purpose of trapping unwanted wild life and pleaded that citizen's use this service rather than setting out poison. She noted that information on this service will be available at City Hall.

CONSENT CALENDAR

- 1) **Accounts payable for the period ending Thursday, July 16, 2009. (\$808,693.52)**
- 2) **Minutes of the June 29, 2009 City Council Special Budget Meeting and July 7, 2009 regular City Council meeting.**
- 3) **Adoption of Resolution No. 2009-056 approving a Consultant Services Agreement with Larry Walker Associates in the amount of \$50,080 relating to renewal of the City's Wastewater Treatment Plant NPDES Permit (Authorizing Agreement No. 370).**
- 4) **Adoption of Resolution No. 2009-057 approving Amendment No. 2 to the Professional Services Agreement with Larry Walker and Associates for ongoing permit assistance services related to the Wastewater Treatment Plant NPDES Permit and the state's general water reuse permit (Authorizing Agreement No. 0288-02).**

It was **MOVED** by **Vice Mayor Dunsford** and **SECONDED** by **Councilmember Garcia** to approve **Items No. 1, 2 3, and 4** on the Consent Calendar.

PUBLIC HEARING

- 5) **Conduct a public hearing and consider a Resolution regarding the levy of a Special Assessment and Lien to recover costs associated with the abatement of the Public Nuisance Abatement authorized by City Council Resolution 2007-084 on a 32.10-acre property located off of Kortum Canyon Road, further described as APN 011-310-023, currently owned by Mr. John D. Busk.**

Continued from the July 7, 2009 Council Meeting

Associate Planner Erik Lundquist noted that this item was continued from the July 7, 2009 City Council meeting at the request of Mr. Busk's legal counsel. He reported that upon review of the invoices, some mischarges were discovered and corrected. He gave a brief background on the item and reported that physical improvements on the property were completed in February of 2009 with costs to be recovered totalling \$197,121.66.

Mayor Gingles opened the public hearing.

David Whitman, 405 14th Street, Suite 1011, Oakland, legal counsel for Mr. Busk, expressed his concerns about excessive charges for attorney's fees and the engineer's report.

Deputy City Attorney Rafael Mandelman commented that this was not a standard abatement case as cooperation from Mr. Busk was minimal. He stated that he has reviewed the invoices and feels that the charges are appropriate due to the specific issues and the complicated nature of this abatement process.

Mayor Gingles asked if there was further public comment. Being none, the public hearing was closed.

There was **Council discussion** on the appropriateness of the attorney's fees and the basis for the charges.

Councilmember Kraus expressed his concern with the extent of redactions on the invoices.

Deputy City Attorney Mandelman stated that their office did not want to disclose any information that would breach the attorney-client privilege and that members of the Council are welcome to review the original invoices. He also noted that the invoices have been reviewed by him and the City Attorney and both believe the charges are appropriate.

City Manager McCann stated that the invoices are reviewed by staff for appropriateness prior to approval for payment.

It was **MOVED** by **Mayor Gingles** and **SECONDED** by **Councilmember Kraus** to adopt **Resolution No. 2009-058** regarding the levy of a **Special Assessment and Lien** to recover costs associated with the **abatement of the Public Nuisance Abatement** authorized by **City Council Resolution 2007-084** on a **32.10-acre property** located off of **Kortum Canyon Road**, further described as **APN 011-310-023**, currently owned by **Mr. John D. Busk**.

The Motion carried by the following vote:

AYES: Mayor Gingles, Councilmembers Kraus, Garcia, Slusser, and Vice Mayor Dunsford.

NOES: None

ABSTAIN/ABSENT: None

- 6) **Consideration of the introduction of an Ordinance to amend Title 15, Chapter 15.50 titled Board of Appeals, specifically, 15.50.010 and 15.50.040 of the Calistoga Municipal Code to clarify, streamline and improve program implementation.**

Building Official Brad Cannon gave a brief background on the currently established Building-Fire Code Board of Appeals and stated that staff is requesting a name change to Building Standards Advisory & Appeals Board to better serve the public as an advisory body and promote participation in the development of policies, procedures and interpretations. He also noted that the California Building Code Section 109.1.5 requires "appeals action ratification" when dealing with unreasonable hardship as it relates to accessibility of existing buildings and that staff is recommending a change of one of the required qualifications of the Board from a "general industry or business representative" to a "certified access professional" to better meet this requirement.

Mayor Gingles opened the public hearing.

Building-Fire Code Board of Appeals Chairman Paul Coates commented that an advisory component will be a critical issue for the Board as there will be questions and issues surrounding green building standards and it is imperative to have a Board that understands the issues and is able to help the community without going through the appeals process.

Mayor Gingles asked if there was further public comment. Being none, the public hearing was closed.

Councilmember Kraus expressed his concern about staff's ability to disregard recommendations from an advisory committee.

Chairman Coates noted that the code decision process remains the responsibility of the Board of Appeals.

City Manager McCann pointed out that the Board hears and decides appeals of orders and decisions made by the Building and Fire Code Officials. Once the Board makes a decision, it is final unless appealed through the proper process and staff must abide by the decision.

Councilmember Kraus stated that he has no issue with the addition of a certified access professional, but feels that the requirement for a general business and industry member or a community member at large should remain a requirement for the Board. He noted that this would create an even numbered Board.

City Manager McCann noted that the Code could be modified to increase the Board's membership to seven members.

It was MOVED by Vice Mayor Dunsford and SECONDED by Councilmember Garcia to adopt Ordinance No. 661 to amend Title 15, Chapter 15.50 titled Board of Appeals, specifically, 15.50.010 and 15.50.040 of the Calistoga Municipal Code to clarify, streamline and improve program implementation and waive the first reading with a modification to increase the Board's membership to seven members.

The Motion was carried as follows by a roll call vote:

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

NOES: None

ABSENT: None

7) Consideration of a Resolution authorizing the levying and collection of assessments for the Silverado Place Subdivision Landscape Maintenance District for Fiscal Year 2009-2010.

Councilmember Kraus stated that he will not be partaking in the discussion of **Items No. 7 and 8** as he lives within 500 feet of the two Silverado and Palisades Subdivision and it would be a conflict of interest.

Councilmember Kraus abstained from participation of **Items No. 7 and 8** in this item and stepped away from the dias due to conflict of interest.

Public Works Director Takasugi gave a brief background on the items. He noted that this is an annual process required by the Landscaping And

Lighting Act for the maintenance of Lake County Highway State Route 29 passed Silverado and Lake Street.

Mayor Gingles opened the public hearing.

Dennis Gamble 2019 Urbani, Calistoga, stated his concern with the lack of maintenance and questioned why the residents of the subdivision are responsible for the cost of maintenance there as it is a State Highway.

Mayor Gingles affirmed that the original project approval states that the residents are responsible for the maintenance regardless of whether the State or County owns the Highway and asked staff to provide a copy of the original conditions of approval to Mr. Gamble.

Mayor Gingles asked if there was further public comment. Being none, the public hearing was closed.

It was **MOVED** by Vice Mayor Dunsford and **SECONDED** by Councilmember Slusser to adopt **Resolution No. 2009-059** authorizing the levying and collection of assessments for the Silverado Place Subdivision Landscape Maintenance District for Fiscal Year 2009-2010.

The Motion was carried by the following vote:

AYES: Vice Mayor Dunsford, Councilmembers Slusser and Garcia, and Mayor Gingles

NOES: None

ABSTAIN/ABSENT: Councilmember Kraus

- 8) Consideration of a Resolution authorizing the levying and collection of assessments for the Palisades Landscape Maintenance District for Fiscal Year 2009-2010.

Mayor Gingles opened and closed the public hearing with no comments.

It was **MOVED** by Councilmember Garcia and **SECONDED** by Vice Mayor Dunsford to adopt **Resolution No. 2009-060** authorizing the levying and collection of assessments for the Palisades Landscape Maintenance District for Fiscal Year 2009-2010.

The Motion was carried by the following vote:

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

NOES: None

ABSTAIN/ABSENT: Councilmember Kraus

Councilmember Kraus returned to the dias.

GENERAL GOVERNMENT

9) Presentation of the City of Calistoga's new Bicycle Facilities Map.

Associate Planner Erik Lundquist introduced the item and gave a brief description. He reported that the Bicycle Facilities Map was originally built in as an action of the Bicycle Transportation Plan adopted by City Council in 2007 and is part of the work program for fiscal year 2008-09. He noted that upon Council's approval, approximately 4,000 maps will be produced for display and handouts to the public. He introduced Curtis Winslow, the design consultant hired to create the map, to give the presentation.

Curtis Winslow, 1001 Myrtle Street, Calistoga, gave a presentation on the new City Bicycle Facilities Map. He reported that the intent of the map is to present Calistoga as a primary bicycle destination. He stated that the map will be accessible online with links to many local points of interest for visitors. He explained the many features and functions of the interactive map. He requested that any comments or suggestions from Council be addressed by July 31st.

Councilmember Kraus commented on the outstanding efforts of the Bicycle Advisory Committee and Mr. Winslow.

Councilmember Slusser suggested that "expert riders only" caution be added to dangerous areas on the map.

10) Consideration of a Resolution Re-Approving Amendment No. 9, and rescinding Resolution No. 2009-020, to the Water Supply Contract with the Napa County Flood Control and Water Conservation District Agreement No. 1926 to Participate in Funding Certain Costs Related to the North Bay Aqueduct Alternate Intake Project.

Senior Civil Engineer Jim Smith reported that this issue was originally brought to Council as an introductory item in March of 2009. He noted that all of the other Counties have approved this project and reported a delay in the implementation and funding of the Proposition 84 grant that was previously identified for this project. This has resulted in the participating cities being required to pay the first years' costs rather than spreading the cost over three fiscal years as previously stated. He explained that Calistoga's share of costs for planning, environmental analysis, and conceptual design for the project are estimated at \$93,331 for fiscal year 2009/10. He noted that if Proposition 84 gets funded, the City can anticipate receiving that grant money in subsequent years. He pointed out that this is the preliminary work for feasibility and conceptual

design on the project and that actual construction will be very costly but will help secure the quality and reliability of Calistoga's water supply.

There was **Council discussion** regarding the costs, impact and environmental benefits of the project.

Councilmember Slusser expressed her concern with the costs and how it will be passed down to the customers through their monthly water bills.

Councilmember Kraus commented that if there is another Earthquake the levy system could be destroyed allowing saltwater intrusion into our water supply which would be catastrophic. He noted that this project is essential to secure the long-term reliability of the City's water system.

It was **MOVED** by Councilmember Kraus and **SECONDED** by Councilmember Garcia to adopt the Resolution No. 2009-061 re-Approving Amendment No. 9, and rescinding Resolution No. 2009-020, to the Water Supply Contract with the Napa County Flood Control and Water Conservation District Agreement No. 1926 to Participate in Funding Certain Costs Related to the North Bay Aqueduct Alternate Intake Project (Authorizing Agreement No. 371).

The Motion was carried by the following vote:

AYES: Councilmembers Kraus and Garcia, Vice Mayor Dunsford and Mayor Gingles
NOES: Councilmember Slusser
ABSTAIN/ABSENT: None

- 11) Presentation and consideration of the adoption of the outcomes from the Council's Strategic Planning effort: Vision and Mission Statements, the City Council's Goals and Objectives and Key Priority Projects for FY 2009/2010, and a Strategic Planning Action Plan tracking matrix.

City Manager McCann reported that this item follows Council's Strategic Planning meetings and includes the new Vision and Mission Statements, the City Council Goals and Objectives and Key Priority Projects for the current fiscal year as well as a tracking matrix. City Manager McCann thanked the Council on this successful and worthwhile process. He specifically thanked Councilmember Kraus for his efforts and support through this process.

Councilmember Kraus thanked the Council, staff and citizens for their participation.

It was **MOVED** by Vice Mayor Dunsford and **SECONDED** by Councilmember Slusser to adopt the Council's Strategic Planning

effort: Vision and Mission Statements, the City Council's Goals and Objectives and Key Priority Projects for FY 2009/2010, and a Strategic Planning Action Plan tracking matrix.

The Motion was carried unanimously by the following vote:

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

NOES: None

ABSTAIN/ABSENT: None

CITY MANAGER REPORTS

City Manager McCann reported on the following:

- The Low Vision Group Meeting will be held on Thursday, July 23rd (1:30 PM, Rancho de Calistoga Club Room).
- The application for the ARRA Grant for the Fire Station Renovation was filed on July 9th requesting \$990,000. Staff will monitor and update Council.
- The Stewardship Council Grant application has been submitted, with the help of Carrie Domogalla, requesting \$200,000 for geothermal energy use at the Pool.
- The City is currently recruiting members for the Water and Wastewater Rate Structure Advisory Committee. Applications are available online and at City Hall.
- Charlene Gallina and Erik Lundquist are working with the Chamber of Commerce to update the Bed & Breakfast Inn zoning ordinance regulations which will be brought forward to the Planning Commission and then to City Council for recommendation.
- Staff continues to work on environmentally sustainable practices. A draft of the Climate Action Plan is available on the City's website. A Planning Commission meeting is scheduled to introduce the document with a joint meeting of the Planning Commission and Community Resources Commission on August 5th. Both groups will make a recommendation to City Council on August 18th.
- Chief Mills is reinstating his regular meetings with the Hispanic community. The first meeting will be held at the Community Center on August 11th at 6:00 pm. The topic will address issues about gang activity in the community. A Spanish announcement has been posted on the website and throughout town.
- As expected, it appears that the State will look to balance their budget using Proposition 1A funds which will allow them to borrow up to 8% of the City's Property Tax money. The potential effect on Calistoga is approximately \$250,000, which is a combination of Highway User Tax and Property Tax monies. A vote is expected later this week.

Mayor Gingles asked the Councilmembers if they would like to continue the closed session meeting following the adjournment of the Calistoga Public Facilities Corporation.

IT WAS AGREED to continue the closed session meeting.

CITY COUNCIL ADJOURNMENT

Mayor Gingles adjourned the meeting at 8:43 p.m. to the continued closed session meeting following the Annual Meeting of the Calistoga Public Facilities Corporation to the next scheduled regular meeting of the Calistoga City Council, on Tuesday, August 4, 2009, Calistoga Community Center, 1307 Washington Street, 7:00 p.m.

There was no reportable action following the conclusion of the closes session at 9:45 p.m.

Respectfully submitted:

Prepared by: Lorie Goldbeck, Administrative Secretary

Approved by: Jack Gingles, Mayor