

MINUTES
CITY COUNCIL
TUESDAY, JANUARY 19, 2010 - 6:45 P.M.
CALISTOGA COMMUNITY CENTER
CLOSED SESSION

CALL TO ORDER

Mayor Gingles called the Closed Session to order at 6:45 p.m. In attendance were the following: Councilmember Placido Garcia, Councilmember Gary Kraus, and Councilmember Karen Slusser, Vice Mayor Michael Dunsford, and Mayor Gingles. Also present was City Manager James McCann.

1. Conference with Legal Counsel, Existing Litigation pursuant to Government Code Section 54956.9(a):

**City of Calistoga v. Grant Reynolds, Napa County Superior Court
Case No. 26-46826.**

ADJOURNMENT

Mayor Gingles adjourned the **Closed Session** at 7:00 p.m. to the Regular Meeting of the Calistoga City Council, Tuesday, January 19, 2010, 7:00 p.m., Calistoga Community Center, 1307 Washington Street.

Respectfully submitted:

Prepared by: Susan Sneddon, City Clerk

Approved by: Jack Gingles, Mayor

**MINUTES
CITY COUNCIL – REGULAR MEETING
TUESDAY, JANUARY 19, 2010 - 7:00 P.M.
CALISTOGA COMMUNITY CENTER**

CALL TO ORDER

Mayor Gingles called the Regular Session to order at 7:10 p.m.

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

Also present were Planning and Building Director Charlene Gallina, Senior Planner Ken MacNab, City Manager James McCann, and City Clerk Susan Sneddon.

ACTION OUT OF CLOSED SESSION

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

ORAL COMMUNICATION

None provided.

ADOPTION OF MEETING AGENDA

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

COUNCIL REQUESTS AND IDEAS FOR DISCUSSION

PRESENTATION

- 1. Presentation by David Whitmer, Agricultural Commissioner, regarding exotic and invasive pests.**

Agricultural Commissioner Whitmer provided a report on various exotic pests with the potential of effecting vineyards in the County; he provided

handouts and an update on the European Grapevine Moth which has become a raising concern county wide.

2. Presentation by Mr. Chris Canning, Calistoga Chamber of Commerce Interim Chief Executive Officer, regarding leadership transition.

Calistoga Chamber of Commerce Interim Chief Executive Officer Canning stated that he recently accepted the position as the Chamber's Interim Chief Executive Officer and is pleased to assist in the transition. He noted that the Chamber continues to perform the services outlined in the contract with the City regarding marketing and promotional effort. He announced that there will be a Chamber General Membership meeting on January 28th at 6:30 PM at Solage Resort at which time the membership will discuss Chamber strategy, direction, etc.

COUNCIL REQUESTS AND IDEAS FOR DISCUSSION

Councilmember Kraus requested that the City get the word out about sand and sandbags being available at Public Works and the Police Station. He suggested a community-wide event to raise disaster relief funds for Haiti. He requested that staff continue (and perhaps increase) efforts to monitor and address mobilehome rent stabilization (RSO) issues, and to include updates of activities and emerging issues of concern regarding mobilehome park matters to the Council in the City Manager's weekly memorandums. He requested that the Mayor allow public comments regarding the draft Urban Design Plan item to exceed the three minute rule.

City Manager McCann confirmed that sandbags are available at Public Works and the Police Station. He urged the public look regularly at the City's website for updates on weather conditions and other emergency updates. He also suggested that the public sign up for Nixle which is a communication system providing the public with public safety information; for more information contact the City Clerk.

Mayor Gingles stated that he and **Vice Mayor Dunsford** will be attending the January 20th Napa County Transportation and Planning meeting at which time the sustainability/green program and VINE Route 11 will be discussed.

CONSENT CALENDAR

- 3. Accounts payable for the period ending Thursday, January 14, 2010 (\$503,400.08).**
- 4. Minutes of the December 15, 2009 and January 5, 2010 regular City Council meetings; and minutes of the January 13, 2009 Special Joint Planning Commission and City Council meeting.**

5. Adoption of a **Resolution No. 2010-002** authorizing the acceptance of a donation in the amount of \$250 from Roman Spa Hot Springs Resort.

Councilmember Garcia requested that **Item No. 4** be pulled because he was absent at the January 13, 2010 Special Joint Planning and City Council Meeting.

It was **MOVED** by **Vice Mayor Dunsford** and **SECONDED** by **Councilmember Kraus** to approve **Items No. 3 and 5** on the Consent Calendar. The Motion was carried unanimously.

It was **MOVED** by **Vice Mayor Dunsford** and **SECONDED** by **Councilmember Kraus** to approve **Items No. 4** on the Consent Calendar. The Motion was carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: Councilmember Garcia

Mayor Gingles requested that **Item No. 8** be move prior to Public Hearing.

GENERAL GOVERNMENT

8. Consideration of a request by Yasmin Ali for Council to set a date certain for hearing an appeal regarding the Planning Commission's approval of a Design Review Application to install canopies over the existing fuel pump islands at Shell gas located at 1108 Lincoln Avenue (APN 011-254-003).

Mayor Gingles introduced this item and asked for Council consensus to set February 16, 2010 as the Council meeting date to hear Yasmin Ali's appeal.

There was Council consensus to set February 16, 2010 as the date for an appeal regarding the Planning Commission's approval of a Design Review Application to install canopies over the existing fuel pump islands at Shell gas located at 1108 Lincoln Avenue (APN 011-254-003).

Yasmin Ali (Appellant) thanked the Council.

PUBLIC HEARING

6. Consideration of an appeal of the Planning Commission's decision to approve a Conditional Use Permit Amendment (U 2000-06(A)) to allow indoor live entertainment at La Prima Pizza, 1923 Lake Street (APN 011-535-010).

Mayor Gingles introduced this item.

Councilmember Kraus stated that he will not be partaking in the discussion of this item as he lives within 500 feet of La Prima Pizza, and it would be a conflict of interest. He stepped away from the dais.

Mitch Hawkins (appellant), 1910 Carli Drive, presented his objection to the Planning Commission's action and basis of his appeal. He quoted a section of Condition No. 2 of Use Permit U2000-6 — "any changes to the use are subject to provisions of the zoning ordinance as it exists now or may be amended in the future." He stated that live music and intensification of use qualifies as a change. He stated that he believes the use and the amendment violate provisions of the license granted by the State Department of Alcoholic Beverage Control (ABC). He reviewed reports made by the City's Police, Fire and Building Department regarding various incidents at La Prima. He requested that any change to the current Use Permit be denied and that La Prima's outdoor speakers be removed.

Senior Planner MacNab provided an overview of this item and summarized the findings and conditions of approval of the Planning Commission. He stated that the uses approved by the Planning Commission included live music only occur one night per week (no later than 9 p.m.), and live entertainment limited to indoor acoustical music. He noted that the approval granted by the Planning Commission is considerably less intense than originally requested by the business owner, and the limitations were imposed by the Planning Commission in response to neighborhood concerns. He commented that the appellant has not raised any new information or concerns not already discussed at the Planning Commission.

Councilmember Slusser suggested that City review the noise levels at La Prima every three months to ensure adherence to the Planning Commission's decision. She stated her concerns regarding La Prima's overflow parking.

Senior Planner MacNab stated the Planning Commission will be required La Prima to establish additional overflow parking.

Mayor Gingles opened the public hearing.

Norma Tofanelli, 1001 Dunaweal, stated concerns regarding commercial businesses encroaching into neighborhoods.

Denise Drawsky, Sierra Wellness Group Inc., read a Communication provided to Council supporting the Conditional Use Permit amendment.

Dalton Pierrcy, 1036 Pueblo Avenue #15, stated his support for La Prima's Conditional Use Permit; he stated that he has been hired by Mr. and Mrs. Nunez for the development of a music management plan for La Prima.

Jeff Bhatti, St. Helena resident, stated that he is a long time acquaintance of Mr. and Mrs. Nunez and supports their business in the community.

Peter Potrebic, 378 Kortum Canyon Road, stated that he supports La Prima's application for live music.

Betty Nunez, 5795 Sharp Road (La Prima co-owner), stated that a lot of time has been spent on this matter, and they have and will adhere to all the recommendations provided by City staff and the Planning Commission. She stated that her goal is to provide "mellow and inviting" music at La Prima.

Ray Centanni, 3764 Silverado Trail, stated that Mr. and Mrs. Nunez provide a "youth-friendly" place, and he supports La Prima's Conditional Use Permit amendment request.

Ruth Rodriguez, 1416 No Oak St, stated that she supports La Prima's Conditional Use Permit amendment request.

Catherine Rooney, 1145 Mitzi Drive, stated Mr. and Mrs. Nunez have contributed to the community and supports having music at La Prima.

Francisco Carrillo, 1720 Falleri Drive, stated that Mr. and Mrs. Nunez's restaurant is welcome in the neighborhood, and supports having music at La Prima.

Judy Cook, 109 Wapoo Avenue (Bed and Breakfasts owner), stated that she frequently refers her guests to La Prima, and supports the Planning Commission's action.

John Potrebic, 2106 Oat Hill Court, stated that he supports the Planning Commission's decision, and would like to see more outdoor music allowed at La Prima.

Zurla Troeppi, 2412 Foothill Blvd, provided her support for La Prima having "background music."

Caryl Maniscalco (attorney for Mitch Hawkins) stated that there will be increased traffic noise as well as noise from the music which will adversely impact the neighborhood. She stated that La Prima is in violation of the City's Municipal Code regarding parking, and in violation of ABC regulations. She requested that Council uphold the appeal and deny the Conditional Use Permit amendment.

Ed Grimsley, 505 Washington St, stated that the area identified for the proposed overflow parking is suitable for parking.

Mayor Gingles closed the public hearing.

Vice Mayor Dunsford stated that the existing 20 parking spaces should be sufficient, and he would rather not require the property owner to create additional parking. He stated that more noise would be generated from the cars in an overflow parking lot than from the music. He stated that he does not want to see the property owners have to spend the money to create the additional parking as it does not appear to be necessary. He stated that he is in favor of denying the appeal and suggested deleting **Condition of Approval No. 8** regarding overflow parking in the draft Resolution.

Councilmember Slusser stated that she is in favor of approving La Prima's Conditional Use Permit. She stated that the City needs to ensure that its regulations are applied consistently (pavement surfaces allowed in parking areas).

Vice Mayor Dunsford suggested that available street parking and the informal parking area used by Oat Hill Mine Trail hikers (corner of Lincoln Avenue/Highway 29) is available and is frequently used by La Prima patrons. He suggested holding off on any additional parking at this time, and monitor the need created by this modest change.

Councilmember Garcia stated that Mr. and Mrs. Nunez have been willing to work with the City, and he supports the approval of La Prima's Conditional Use Permit amendment.

City Manager McCann suggested modifying **Condition of Approval No. 13** in the draft Resolution which calls for a quarterly report, to include the issues regarding the adequacy of parking and the compliance with the Conditions of Approval to allow a ongoing evaluation to determine if additional parking is necessary. He stated that if the Planning staff finds that the additional parking is necessary then it would be an issue for further Planning Commission consideration and action.

Planning and Building Director Gallina suggested that signage to inform La Prima's patrons that parking in the adjacent neighborhood streets is discourage should be installed.

City Manager McCann agreed with Planning and Building Director Gallina, and stated that the signage requirement could be included in the event management plan (**Condition of Approval No. 8**).

It was **MOVED** by **Mayor Gingles** and **SECONDED** by **Councilmember Garcia** to adopt the amended **Resolution No. 2010-003** denying an appeal of the Planning Commission's decision to approve a Conditional Use Permit Amendment (U 2000-06(A)) to allow indoor live entertainment at La Prima Pizza, 1923 Lake Street (APN 011-535-010). The amendment to the Resolution includes removing **Condition of Approval No. 8** regarding overflow parking, and modifying **Condition of Approval No. 13** to require an administrative quarterly report during the first year (and on a semi-annual

basis thereafter) to assess parking and operations, and to monitor any complaints to determine whether any violations of the Conditions of Approval have occurred. Motion was carried unanimously by the following vote:

**AYES: Mayor Gingles, Councilmembers Garcia, Slusser,
and Mayor Gingles.**

NOES: None

ABSTAIN: Councilmember Kraus

ABSENT: None

Councilmember Kraus returned to the meeting.

Mayor Gingles announced that a five minute break will be taken.

7. Consideration of Resolutions adopting the Urban Design Plan.

Planning and Building Director Gallina provided a brief history of this item. She stated that on December 1, 2009, the City Council held a public hearing regarding the Revised Draft Urban Design Plan in order to discuss and consider recommendations. She stated that Council continued this item to January 19, 2010 Council meeting to provide additional time for Council to complete discussions.

Mayor Gingles opened the public hearing.

Carl Sherrill, 1132 Denise Drive, stated his concerns that the City's General Plan will need to be revised for specific projects listed in the draft Urban Design Plan.

Elizabeth Hammond, 304 Foothill Blvd, stated the draft Urban Design Plan should be abandoned, and she is concerned that development applications are being considered without the proper verification of facts. She stated that she has concerns regarding the consideration of roundabouts and the Washington Street Extension.

Vince Tofanelli, 17555 Ida Clayton Road, stated that he is still opposed to the Washington Street Extension within the draft Urban Design Plan.

Ed Grimsley, 505 Washington St, provided a **Communication** to Council regarding the potential that bicycle or river pathways may impact private property.

Jennifer Barkley, 216 Foothill Blvd, stated her concerns regarding the draft Urban Design Plan. She stated that adequate public notice was not provided for this item.

Kristin Casey, 1132 Denise Dr, stated that the draft Urban Design Plan is not honoring the General Plan with regard to the City's Entry Corridors, specifically in reference to the proposed Bounsall property development.

Norma Tofanelli, 1001 Dunaweal Lane, provided *two Communications* to Council regarding this item. She requested to see the study regarding the “Fair Way Extension between Highway 29 to Dunaweal” referenced in the “Call for Projects List” prepared in 2008 by the Napa County Transportation and Planning Agency Technical Advisory Committee. She stated her concerns regarding changing the City’s land-use designations as stated in the General Plan and with various deficiencies of the document.

David Moon-Wainwright, 1210 Pine Street, stated his concerns regarding the proposed Washington Street Extension; he has not heard any discussions about alternative routes.

Mayor Gingles closed the public hearing.

Mayor Gingles stated that he is not aware of any studies for the Washington Street Extension, but will check if the County has completed one.

Councilmember Slusser stated that she does not support the Washington Street Extension, and requested that it be removed from the draft Urban Design Plan. She stated her concerns regarding conflicts with the proposed development of the Bounsall family properties and the General Plan; specifically allowing an event center in the area. She stated her concerns regarding the proposed “river walk” as reflected in the draft Urban Design Plan and the General Plan. She stated this would create a loss of privacy and security for residents. She stated that she was in agreement with issues identified in the January 14, 2010 letter from the Pacific Legal Foundation (Attachment 3 to the staff report).

Vice Mayor Dunsford expressed concern about revisiting issues and direction that had been discussed at the prior hearing. He suggested that the Council discuss specific points in the Urban Design Plan as necessary to thoroughly address Council level concerns.

The Council discussed how best to address points raised by public tonight and previously and their own thoughts.

Mayor Gingles continued this item until later in the meeting.

GENERAL GOVERNMENT

9. Consideration of a request by the Calistoga Chamber of Commerce for financial participation in the rental of an advertising billboard.

Calistoga Chamber of Commerce Interim Chief Executive Officer Canning introduced this item. He stated that the Chamber has come across a unique opportunity to rent a highly visible billboard located on Highway 29 to the southeast of the City of St. Helena to promote Calistoga. The Chamber

anticipates the ability to raise half of the \$28,800 annual rental cost from local businesses, and seeks the remaining funds from the City.

Mayor Gingles stated that this is a great idea to promote the City, however these are tough financial times and he is not in favor of funding this project. He noted that the City is struggling to reduce expenditures not to increase spending.

Vice Mayor Dunsford asked if City has funds budgeted for these kinds of uses.

City Manager McCann stated that currently the City's adopted Fiscal Year 2009/2010 Economic Vitality Account contains \$25,000. He stated that at the December 1, 2009 Council meeting ideas were presented to close the City's budget gap, and one idea was to reduce this account from \$25,000 to \$3,000. He stated that if Council supports this Chamber request then the reduction of this account will be less (we'll leave \$6,000 for this fiscal year), and staff will suggest an amendment to other expenditures elsewhere in the General Fund Budget at the February 2, 2010 Council meeting.

Vice Mayor Dunsford stated that this is a great opportunity to help promote the City; he acknowledged the challenging times and the substantial budget adjustments which the City has already made; he stated that we must continue to aggressively market and promote the City for our economic well being.

Councilmember Slusser agreed that the City has real budgeting challenges but does see the value in this proposal, and believes that it is a worthwhile partnership.

Mayor Gingles reiterated his opposition to participate in funding the request; he noted that the City's financial future is difficult and that we've asked our employees to provide wage and benefit concessions to close our budget shortfall – it's not right to increase spending now; he noted that the City invests heavily already in marketing and promotional efforts.

Councilmember Kraus noted his agreement with the Mayor's comments. He suggested that the funds be secured by redirecting funds committed in the City's contract with the Chamber of Commerce.

Discussion ensued regarding options for use of redirected funds in Fiscal Year 2010/2011 from the marketing and promotional contract with the Chamber of Commerce.

Councilmember Garcia stated that the proposed billboard rental would be a good promotional tool for the City, however the financial status of the City is unsure.

Mary Sue Frediani, 1255 Lincoln Avenue, suggested renting the sign for six months.

There was consensus to authorize the payment of \$6,000 to the Calistoga Chamber of Commerce for financial participation in the rental of an advertising billboard.

City Manager McCann clarified the direction that the City's contribution toward this promotional effort will be \$6,000 for the remainder of the 2009/2010 Fiscal Year (Mr. Canning confirmed). He stated that in Fiscal Year 2010/2011 no additional funding will be provided to the Chamber; the \$8,400 remaining balance will be redirected with City review and approval to the Chamber's marketing and promotional contract in Fiscal Year 2010/2011.

**7. Consideration of Resolutions adopting the Urban Design Plan.
(Mayor Gingles resumed discussion of this Agenda item).**

Councilmember Slusser reiterated her concerns regarding the City's requirements being unduly burdensome on residents particularly upon single-family properties with respect to "takings" and the establishment of bicycle or river trail systems.

City Manager McCann stated that the Planning Commission conducted several public meetings regarding this item, and addressed the many points of interest and concern expressed by the public; the Council has discussed and agreed on the majority of the Urban Design Plan issues, and he provided direction regarding the Washington Street Extension at the December 1, 2009 meeting. He reminded the Council that the Urban Design Plan is not a regulatory document, and it does not amend, supersede or replace the General Plan or Municipal Code. He stated that General Plan and Municipal Code amendments will be scheduled in the future in order to address the various ideas and suggestions contained in the Urban Design Plan. He stated that both the General Plan and the draft Urban Design Plan contain policy direction to explore and develop a river walk and bicycle trails. He referenced the January 14, 2010 letter from the Pacific Legal Foundation (Attachment 3 to the staff report for this item) and stated that it references well established land-use and policies that the City has historically and intends to abide by.

Councilmember Slusser stated her concern regarding the privacy of residences. She requested that it be written in the Urban Design Plan that there will be no taking of land for bike paths.

City Manager McCann suggested including language in the draft Urban Design Plan (at numerous locations) to make clear Councilmember Slusser's point specific to residential properties (specifically regarding the river walk). He suggested including language in each Resolution about the Council's commitment regarding improvements required of private property rights, and that any requirement imposed on private property owners be balanced with

proper rough proportionality relative to the impact caused by the private development activity.

It was **MOVED** by **Mayor Gingles** and **SECONDED** by **Vice Mayor Dunsford** to adopt **Resolution No. 2010-004** regarding the Urban Design Plan excluding Character Area 3 (Downtown) as amended*. The Motion was carried by the following vote:

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

NOES: None

ABSTAIN:None

ABSENT: None

Councilmember Kraus restated his concern regarding the sustainability issue related to the carrying capacity of hotel development. He commented that our area does not have the population base to provide a sufficient number of employees to be employed in a greatly expanded commercial economy, and increased commuting will result in an increase in green house gases. He suggested that a sustainability study be done regarding commercial and lodging businesses.

City Manager McCann stated that the present General Plan policies allow for hotel development in many areas of the community, and that the Urban Design Plan recognizes the need for very careful consideration of any new hotel proposal; he suggests future studies/evaluations regarding available hotel capacity.

Mayor Gingles recused himself from partaking in discussions and voting regarding the Resolution having to do with the Stevenson/Grant area for the Urban Design Plan as has a ownership interest in property in this Character Area.

It was **MOVED** by **Vice Mayor Dunsford** and **SECONDED** by **Councilmember Slusser** to adopt **Resolution No. 2010-005** regarding the Stevenson/Grant area for the Urban Design Plan as amended.* The Motion was carried by the following vote:

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

NOES: None

ABSTAIN: Mayor Gingles

ABSENT: None

Vice Mayor Dunsford recused himself from partaking in the vote regarding the adoption of the Resolution regarding the Historic District for the Urban Design Plan as he owns a business within 500 feet of the "Historic District".

It was **MOVED** by **Mayor Gingles** and **SECONDED** by **Councilmember Garcia** to adopt **Resolution No. 2010-006** regarding the historic district for the Urban Design Plan as amended*. The Motion was carried by the following vote:

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

NOES: None

ABSTAIN: Vice Mayor Dunsford

ABSENT: None

*The three Resolution regarding the adoption of this item regarding (1) the Urban Design Plan excluding Character Area 3 (Downtown); (2) Stevenson/Grant area; and (3) the Historic District for the Urban Design Plan are amended to include an additional finding and statement of purpose emphasizing the Council's concern regarding protecting private property rights, and that improvements required of private land owners should have the least private impact and demonstrable public benefit; and that Council desires that any requirement imposed on private property owners be balanced with proper rough proportionality relative to the impact caused by the private development activity.

Vice Mayor Dunsford thanked staff, the Planning Commission, and the public for the challenging four year process for this item.

10. Consideration of a request by Councilmember Kraus to reduce the stipend provided to the City Council and the Planning Commission by ten percent.

Councilmember Kraus introduced this item

Mayor Gingles stated that he is not in favor of this item; he listed the meetings that he attends on the City behalf which takes considerable time and travel.

Vice Mayor Dunsford stated that he is not in favor of this item. He stated that he never submits expense reports for mileage reimbursement when attending various City related meetings.

There was Council consensus to not reduce the stipend provided to the City Council or the Planning Commission.

PUBLIC COMMENT

Jeff Bounsall, 414 Foothill Blvd, thanked the City Council, Planning Commission for the many hours spent on the draft Urban Design Plan and is glad it has been adopted. He stated that he looks forward to future and has concerns about losing business in town.

Mayor Gingles recognized the situation regarding Haiti's recent disaster, and gave condolences for those that have lost loved ones.

CITY MANAGER REPORTS

None provided.

CITY COUNCIL ADJOURNMENT

Mayor Gingles adjourned the meeting at 11:05 PM to the next scheduled regular meeting of the Calistoga City Council, on Tuesday, February 2, 2010, Calistoga Community Center, 1307 Washington Street, 7:00 p.m.

Respectfully submitted:

Prepared by: Susan Sneddon, City Clerk

Approved by: Jack Gingles, Mayor