

April 12, 2007  
 Capitola, California

## CAPITOLA CITY COUNCIL

### MINUTES OF A REGULAR MEETING

#### 6:15 P.M. - CLOSED SESSION - CITY MANAGER'S OFFICE CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL

At 6:15 p.m. in the City Hall Council Chambers, Mayor Termini made an announcement regarding the items to be discussed in Closed Session. No one addressed the Council at this time.

#### LIABILITY CLAIMS (Pursuant to Govt. Code §54956.95)

Claimant: Janet Perry

#### CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant Exposure to litigation pursuant to Govt. Code Section 54956.9(b): One case

#### 6:50 P.M. REDEVELOPMENT AGENCY - (See Redevelopment Agency Minutes)

#### 7:00 P.M. – CITY COUNCIL REGULAR MEETING

Mayor Termini called the Regular Meeting of the City Council to order at 7:15 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

#### ROLL CALL AND PLEDGE OF ALLEGIANCE

**PRESENT:** Council Members Bob Begun, Kirby Nicol, Ron Graves, Sam Storey, and Mayor Michael Termini; City Treasurer Tony Gualtieri

**ABSENT:** None

**STAFF:** Acting City Manager/Finance Director Lauren Lai, City Attorney John G. Barisone, Acting City Manager/Building Official Daniel Kostelec, Police Captain Todd Mayer, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

#### 1. REPORT ON CLOSED SESSION [520-25]

City Attorney John Barisone said the council met in Closed Session from 6:15 to 6:50 p.m. He and Finance Director Lai, along with all members of the City Council, were present for the Closed Session. City Attorney John Barisone said two items were discussed: 1) The tort claim of Janet Perry, which is also on the City Council's regular agenda, was briefly discussed. No reportable action was taken. 2) The Council received information from the City Attorney and discussed one matter of threatened litigation. City Attorney John Barisone said no reportable action was taken.

#### 2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Dottie Gibson, 870 Park Avenue, referred to a letter dated 3-19-07 she submitted to the city and other agencies regarding service problems. Ms. Gibson submitted an additional communication dated April 12, 2007, wherein she provided a listing of specific Internet connection problems she has had with Charter Communications Internet services. She would like the city's assistance with these problems. [565-20]

2) Barry Newman, resident on Monterey Avenue, stated for the record that he is against a skate park in Nobel Gulch. He commented on the city's zoning ordinance and recommended the council leave the park the way it is in order to achieve the zoning objectives. He said any development should be 35' from a riparian corridor. Mr. Newman is particularly concerned about the noise a skate park would generate. [1040-20]

## 2. ORAL COMMUNICATIONS (Continued)

3) Tom Hyland, resident and business owner in Capitola, said he wished to add his voice speaking against the proposed skate park at the Nobel Gulch site. He expressed concerns about noise pollution, traffic, loss of the greenbelt, etc. Mr. Hyland encouraged the council to preserve the property as a greenbelt for use by the public. **[1040-20]**

4) Wendy King, Board Member of Seniors Council, commented on the Area Agency on Aging. She discussed the Elder Care Task Force and Chief Rick Ehle's efforts in establishing the task force and its benefit to the community. Ms. King urged the Council to please think of the Seniors Council when considering services for seniors.

5) Cheryl Wong, owner of the property located at 212 San Jose Avenue, discussed numerous concerns she has about the property next door, which is located at 216 San Jose Avenue, as it relates to fire hazard concerns, safety issues, vandalism, security issues, etc. She commented on the two homeless people who have been living on the premises. Ms. Wong explained that her tenants have moved out due to concerns they had regarding safety. She believes the property poses an attractive nuisance and should be condemned. She asked for the city's assistance in dealing with these safety issues. Ms. Wong submitted copies of her statement to the council for the record.

Captain Todd Mayer spoke in support of Cheryl Wong and her situation. He explained that the Police Department has been working with the Building and Planning Departments to address this problem. **[730-10: 216 San Jose Avenue]**

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

1) City Treasurer Gualtieri recapped the meeting between the City Council and the Finance Advisory Committee held on March 27, 2007, regarding the \$6M PERS retirement fund unfunded liability. He commented on the City Council's 4-1 decision to pay \$1M down and borrow \$5M for 10 years. He said the council asked staff to provide a recommendation for the \$1M to come from existing funds. City Treasurer Gualtieri said the Finance Advisory Committee was split on this matter, and the City Manager had recommended the 18-year term. He said that, based on figures provided by the city's financial consultant, the savings to the city using the approved plan would be approximately \$3.5 Million.

2) Council Member Nicol announced that the Santa Cruz County Regional Transportation Commission has approved the \$200,000 grant application for the Clares Street Traffic Calming Project.

3) Council Member Begun asked to receive Planning Commission agendas. He also reported on a study session of LAFCO regarding consolidation of Fire Departments.

4) Mayor Termini commented on positive reactions he has experienced from residents from Turner Lane Mobile Home Park regarding the Council's approval of their subdivision.

5) Mayor Termini said he would be adjourning tonight's meeting in memory of long-time Capitola resident and owner of Grady's Market, Helen Ide Schattenburg.

E. Committee Reports/Appointments

Mayor Termini reported on the Library JPA Board meeting, and he said they were working on a more economical administrative office arrangement by acquiring a new location, which would save the library system a significant amount of money over the years.

## 2. ORAL COMMUNICATIONS (Continued)

F. **Approval of Check Register Report [300-10]**

Council discussion was followed by this action:

**ACTION:** Council Member Graves moved, seconded by Council Member Storey, to approve the Check Register Reports dated March 16, March 23, and March 30, 2007, including checks numbered 51108 through 51163 in the amount of \$44,139.68, and checks numbered 51165 through 51234 in the amount of \$218,014.50, and checks numbered 51235 through 51342 in the amount of \$210,223.54 respectively, and payroll disbursements for the 03/16/07 payroll in the amount of \$185,860.50 and for the 3/30/07 payroll in the amount of \$194,238.72 for a Grand Total of \$852,476.94, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

3. **CONSENT CALENDAR**

Mayor Termini asked if there were any items members of the council or public wished to pull for separate discussion. There were several comments regarding Approval of the Minutes, Item 3.B. (*See comments under that item below.*) Council Member Nicol pulled Item 3.I. regarding the Bandstand Administrative Policy. Mayor Termini advised Item 3.I. would be discussed at the end of the meeting following Other Business Item 5.E. (*See discussion and action on Page 10816.*)

**CONSENT CALENDAR ACTION:** Council Member Storey moved, seconded by Council Member Graves, to approve the Consent Calendar as recommended, with the exception of Item 3.I. and with the correction to the March 27, 2007, Special Meeting Minutes made by Council Member Begun. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: Council Member Graves abstained on the Minutes to the March 8, 2007, meeting under Item 3.B.

A. **Waive Reading of all Ordinances and Resolutions on the Agenda.**

**ACTION:** The City Council unanimously approved the reading by title of all Ordinances and Resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

B. **Approval of Minutes – Regular Meeting of March 8, 2007, and the Special Meetings of March 15, 22 and 27, 2007.**

Council Member Storey asked if the March 22, 2007, Regular Meeting Minutes were still pending. City Clerk Greeninger said they would be on the next agenda.

Council Member Graves said he would be abstaining from Minutes of March 8, 2007, as he was absent.

Council Member Begun commented on the third page of the March 27 minutes, stating his name was spelled incorrectly in the motion under "City Council Action."

**ACTION:** Council Member Storey moved, seconded by Council Member Graves, to approve the Minutes of the Regular Meeting of March 8 and the Special Meetings of March 15 and 22, 2007, as submitted, and the Special Meeting of March 27, 2007, as corrected. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None. (*Note: Council Member Graves abstained from the minutes of March 8, 2007, only.*)

C. **Approve Purchase of a 2008 Pick-Up Truck with Dump Bed for the Public Works Parks Department at the price of \$22,398.25 including tax from North Bay Ford in Santa Cruz. [370-40]**

**ACTION:** Council Member Storey moved, seconded by Council Member Graves, to approve the purchase of a 2008 Ford pick-up truck with dump bed at the price of \$22,398.25 including tax from North Bay Ford in Santa Cruz for the Public Works Parks Department. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

## 3. CONSENT CALENDAR (Continued)

- D. Authorize the Purchase and Installation of New Lights at Jade Street Community Center in the Amount of \$3,000 and adopt budget amendment transferring \$3,000 from the City Manager's Unanticipated Events Fund Balance to City Manager's Materials and Supplies Budget. [210-60/330-10]**

**ACTION:** Council Member Storey moved, seconded by Council Member Graves, to take the recommended action as follows:

1. **Adopted Resolution No. 3623, Resolution Amending the 2006/2007 Budget by Transferring \$3,000 from the City Manager's Unanticipated Events Fund Balance to City Manager's Materials and Supplies Budget, Increasing Materials and Supplies Expenditures by \$3,000; and**
2. Authorized the purchase of new lights at the Jade Street Community Center in the amount of \$3,000.

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

- E. Adopt Resolution Declaring May 2007 as "Clean Air Month" and May 14 to 18 as "Bike Week," and Thursday, May 17 as "Bike to Work/School Day" in the City of Capitola. [770-05]**

**ACTION:** Council Member Storey moved, seconded by Council Member Graves, to adopt **Resolution No. 3624, Resolution Declaring May 2007 as "Clean Air Month," May 14 to 18 as "Bike Week," and Thursday, May 17 as "Bike to Work/School Day" in the City of Capitola.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

- F. Receive Information from County of Santa Cruz Administrative Officer regarding Tenants' Interest on Security Deposits. [750-10]**

**ACTION:** Council Member Storey moved, seconded by Council Member Graves, to receive information from County of Santa Cruz Administrative Officer Susan Mauriello pertaining to Tenants' Interest on Security Deposits as an informational item. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

- G. Adopt Resolution Approving a Lease with Option to Purchase Agreement for the Acquisition of a Mechanical Street Sweeper. [370-40/500-10 A/C: First Municipal Leasing Corporation]**

**ACTION:** Council Member Storey moved, seconded by Council Member Graves, to adopt **Resolution No. 3625, Resolution Approving a Lease with Option to Purchase Agreement for the Acquisition of a Mechanical Street Sweeper.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

- H. Deny Claim of Janet Perry for an undetermined amount and forward to City's Liability Insurance. [Claims Binder]**

**ACTION:** Council Member Storey moved, seconded by Council Member Graves, to deny the claim of Janet Perry and forward it to the City's liability insurance carrier. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

## 3. CONSENT CALENDAR (Continued)

I. **Approval of an Administrative Policy Regarding the Usage of the Capitola “Bandstand” located in Esplanade Park. [110-10/1040-20/Administrative Policy Binder]**

*This item was pulled for separate discussion. (See Page 10816 for discussion and action.)*

J. **Receipt of Planning Commission Action Minutes for the Regular Meeting of April 5, 2007. [740-50]**

**ACTION:** The City Council unanimously received the Action Minutes for the Regular Meeting of April 5, 2007, as submitted.

4. **PUBLIC HEARINGS - None**5. **OTHER BUSINESS**A. **Reconsideration of Cabrillo Mobile Estates Homeowners Association’s Service Reduction Award. [750-25]** *(NOTE: A complete transcript of this item Reported by Betty A. Salois, Certified Shorthand Reporter, is on file in the Office of the City Clerk. FILE #750-25)*

Mayor Termini introduced this item. There was no council discussion prior to the following motion to reconsider:

**ACTION TO RECONSIDER:** Council Member Nicol moved that the City Council reconsider the formulation of its award as set forth in its action of March 22, 2007, relative to the petition for rent decrease brought forth by the Cabrillo Mobile Estates Homeowners Association. Council Member Storey seconded the motion for reconsideration. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

**ACTION:** Council Member Nicol then moved that the formula for the award for damages set forth in City Council action of March 22, 2007, in response to the petition for rent decreases, brought by the Cabrillo Mobile Estates Homeowners’ Association awarding damages suffered by the Cabrillo Mobile Estates Homeowners Association membership as a result of the landlord’s material service reductions, be rescinded in favor of a flat figure in the amount of \$68,660.44, and that such award be in the form of incremental rent credits issued by the landlord to the tenants against rents due and payable in 2007. Council Member Storey seconded the motion.

Council Member Nicol then discussed the calculations he made in arriving at the \$68,660.44 figure and said the motion takes into account service reductions dating back to June of 2000. The number of months since that time to the end of 2006 is 79 months.

In response to comments made by council members to the motion, Council Member Nicol clarified that the total award amount should be paid off by the end of 2007 and that the original park owner request for preparation of Findings is part of the motion.

There was concern expressed about it being a hardship for the park owner to pay the full amount by the end of the year. A suggestion was made to come up with a payment schedule for the next 12 months.

Council Member Nicol amended his motion to change “rents due and payable in 2007” to “rents due and payable from **May 1, 2007, through May 1, 2008.**” Council Member Storey approved the amendment to the motion. Mayor Termini then clarified it would be up to the park owner to provide the city with a payment schedule.

## 5. A. OTHER BUSINESS (Continued)

At 8:03 p.m., Mayor Termini asked if anyone from the public wished to address the council on this item.

Rick Halterman asked questions of the motion and the figures presented by Council Member Nicol. He said the council needs to remember that it must provide a fair rate of return to the park owner.

Council Member Graves said he would like the original motion to include direction to staff to prepare Findings for council approval. City Attorney Barisone said Attorney Jensen requested the Findings, and he is still under that direction. Council Member Graves said it was his understanding that the Findings would be brought back on the Consent Calendar. City Attorney John Barisone said he would be waiting for the transcript, so it most likely would not be brought back at the next meeting.

Mayor Termini then called for the City Council's vote on the motion to award damages suffered by the Cabrillo Mobile Estates Homeowners' Association membership as a result of the landlord's material service reductions in the amount of \$68,660.44, and that such award be in the form of incremental rent credits issued by the landlord to the tenants against rents due and payable from May 1, 2007, through May 1, 2008.

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

**B. Consideration of a Tiered Fee Structure for the Mobile Home Park Administrative Service Fee. [390-40/ 750-25]**

Assistant to the City Manager Murphy summarized the information contained in the written agenda report and responded to questions of council members.

There was considerable Council discussion prior to the following motion being made:

**ACTION:** Council Member Begun moved, seconded by Mayor Termini, to direct staff to pursue an increased fee for second-home mobilehome owners.

Under discussion of the motion, Assistant to the City Manager Murphy asked for direction regarding a fee amount for Tier 2 residents. Council Member Begun said he would leave that to staff's discretion. She also said staff would like direction to amend the Municipal Code to require the park owners to submit a list of park residents, along with their billing addresses, on an annual basis in order for the city to collect fees from all the tenants.

At 8:26 p.m., Mayor Termini opened this item to the public for comment.

Rick Halterman, President of the Capitola Mobilehome Association, said a two-tiered system might be a good idea, but he reminded the Council that pursuant to state law second homes are not entitled to rent control. He commented on the number of people who have not paid the administrative service fee and suggested the city go after those people with the 10% penalty called for in the ordinance. Mr. Halterman asked if a legal notice could be placed on the coaches of those homeowners who have not paid. If it is possible he believes the city should do it. Mr. Halterman also commented on the sham mobilehome park conversion issue that would be coming forward at a future meeting. He also informed the Council that the Capitola Mobilehome Association would be meeting on Saturday, April 21 at 10 a.m. at Capitola City Hall.

## 5. B. OTHER BUSINESS (Continued)

Following considerable council discussion and deliberation, Mayor Termini called for a vote on the motion that was on the floor to direct staff to come back with either alterations to the ordinance or a course of action which would help the city to obtain names of all coach owners in order to collect the uncollected administrative service fees. The motion carried unanimously.

**C. Off-Leash Dog Regulations. (1<sup>st</sup> reading of a proposed Ordinance amending Capitola Municipal Code Section 6.14.320 pertaining to leashing requirements for dogs). [400-10]**

Captain Todd Mayer provided background information for bringing this item forward and responded to questions of council members. No one from the public addressed the council on this item.

Council discussion was followed by this action:

**ACTION:** Council Member Storey moved, seconded by Council Member Begun, to pass the proposed Ordinance Amending Section 6.14.320 of the Capitola Municipal Code Pertaining to On-Leash Dog Requirements to a second reading, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

**D. Establish a Mayor's Internet Forum. [100-10/Administrative Policy Binder]**

Acting City Manager/Finance Director Lai summarized the written agenda report and responded to questions of council members.

Considerable Council discussion was followed by this action:

**ACTION:** Council Member Storey moved, seconded by Council Member Nicol, to approve the proposed Administrative Policy on Councilmember On-Line Forums/Web Logs ("Blogs") as submitted, and directed staff to proceed in establishing an Internet forum for the Mayor. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

Following the council's action on this item, City Attorney Barisone said the council needs to be very careful when communicating on the Internet. He said the same rules that apply at regular council meetings would apply; we don't want to participate in viewpoint discrimination.

**E. Acquisition of Historic Bathhouse located at 216 San Jose Avenue. [810-10/730-10]**

Acting City Manager/Building Official Kostelec summarized the written agenda report prepared by Public Works Director Jesberg and staff's request for Council direction regarding acquisition and relocation of the bathhouse. He said staff may need to issue an Order to Abate in order to accomplish demolition of the main building located on the property and explained why.

Building Official Kostelec responded to questions of council members regarding the bathhouse structure and the costs for moving and reconstruction. He said the cost for reconstruction would most likely be closer to \$30,000 than \$15,000.

Mayor Termini asked if anyone from the public wished to speak to this item. Kathryn Gualtieri and Museum Director Carolyn Swift spoke in favor of acquiring the bathhouse and moving it to the property adjacent to the Capitola Museum.

Considerable Council discussion was followed by this action:

## 5. E. OTHER BUSINESS (Continued)

**ACTION:** Council Member Graves moved, seconded by Council Member Storey, as follows:

- 1) Approved acquiring and moving the bathhouse, with the idea of recovering the moving cost from the property owner
- 2) Directed staff to relocate the bathhouse, currently located at 216 San Jose Avenue, near the Capitola Museum behind the recently restored beach cabin as soon as possible, and
- 3) Directed staff to proceed with the abatement of the main house located on the property, which is a nuisance and a public safety issue brought to the council's attention under oral communications by Cheryl Wong.

Acting City Manager/Finance Director Lai asked if it was the desire of the council to move forward with the contractor for reconstruction of the building. Mayor Termini said the motion on the floor does not include reconstruction of the bathhouse – only acquisition and relocation.

Council Member Nicol spoke to the motion and explained the reasons why he would be voting against the motion.

After further discussion of the motion, Mayor Termini called for the vote. The motion carried on the following vote: AYES: Council Members Begun, Graves, Storey, and Mayor Termini. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.

AT THIS POINT, ITEMS REMOVED FROM CONSENT CALENDAR WILL BE CONSIDERED

3. CONSENT CALENDAR (*Items pulled for separate discussion.*)

**I. Approval of an Administrative Policy Regarding the Usage of the Capitola "Bandstand" located in Esplanade Park. [110-10/1040-20/Administrative Policy Binder]**

Assistant to the City Manager Murphy provided a summary of the written agenda report and the reason for coming up with a policy for use of the Bandstand, which will be completed soon.

Council Member Nicol asked why there is a provision in the policy that says the Bandstand cannot be reserved for "Private Events," such as a wedding. He said private events should be allowed. Assistant to the City Manager Murphy said someone could have a wedding there, but they could not rope off a section of the park area exclusively for the event.

Council Member Graves said there are facilities at Jade Street Park that can be reserved for private events, such as baseball tournaments, etc., when the public is unable to use the facility and explained such instances. He believes the proposed fees are too cheap.

Council Member Begun expressed concerns about the wording in the Informational Handout that will be provided to the public regarding the Bandstand. He would like to soften the language; i.e., change the "must's" and "must have's" to "requires" or some other word(s) that are more inviting to potential users of the Bandstand. Council Member Begun said he has suggested wording changes that he would like to give to Assistant to the City Manager Murphy.



3. I. CONSENT CALENDAR *(Items pulled for separate discussion - Continued)*

Council Member Nicol said he wants to make sure the public interest is honored. He would like to think people could use this facility with their own political agenda similar to venues at Hyde Park in London and other public forums around the world where people may speak, or a ukulele group may show up and play on a Sunday morning.

Council discussion was followed by this action:

**ACTION:** Council Member Graves moved, seconded by Council Member Storey, to approve the proposed Administrative Policy for use of the Capitola Bandstand with change to Section III. A., paragraph 8, to provide that the Bandstand can be reserved for private events, but the park area cannot be closed to the public, and directed staff to work on wording changes and to provide a copy of the revised policy to council members off agenda. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

## 6. ORAL COMMUNICATIONS

1) Council Member Graves commented on the copy of a letter he received from Nancy Powell regarding the Cabrillo Mobile Estates service reduction award. He would like to see a letter from the Mayor sent to Mr. Vieira saying that the city hopes this won't be the beginning of a new period of decreased maintenance at the park.

2) Council Member Storey discussed the letter received from Dottie Gibson and the comments she made about problems she has experienced with Charter Communications' Internet service. He has received complaints from many other city residents, and he would like staff and the city attorney to review that list of complaints and come back to the council with information about whether this is consistent with the city's franchise agreement. Council Member Storey suggested that, if necessary, perhaps a representative from Charter could attend a meeting and speak to the council on this matter. **[565-20]**

3) Mayor Termini said he would be on vacation beginning tomorrow and that Vice Mayor Nicol would be available in his absence.

## 7. ADJOURNMENT

The City Council adjourned in memory of Helen Ide Schattenburg at 10:11 p.m. to a Special Joint Meeting of the City Council and Redevelopment Agency concerning the Rispin Project to be held on Wednesday, April 25, 2007, beginning at 6:00 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola.

ATTEST:  CMC  
Pamela Greeninger, City Clerk

  
Michael Termini, Mayor

MINUTES WERE UNANIMOUSLY APPROVED BY THE CITY COUNCIL ON 4/26/07