

October 30, 2007
Capitola, California

CAPITOLA CITY COUNCIL

MINUTES OF A SPECIAL MEETING

Mayor Termini called the Special Meeting of the Capitola City Council of Tuesday, October 30, 2007, to order at 7:02 p.m. in the City Council Chambers located at Capitola City Hall, 420 Capitola Avenue, Capitola, California.

1. 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: City Manager Rich Hill, Assistant City Attorney Anthony Condotti, Community Development Director Juliana Rebagliati, Finance Director Lauren Lai, and City Clerk Pamela Greeninger

OTHERS: Consultant Planner Anthony "Bud" Carney

2. ORAL COMMUNICATIONS

Mayor Termini announced that tonight's meeting was being cablecast "live" on Charter Community Channel 8 and is being recorded by Community Television of Santa Cruz County to be replayed on Sunday, November 4, at 9:30 p.m. on Charter Channel 72 and Comcast Channel 26.

3. BUSINESS

RISPIN MANSION RESTORATION & HOTEL PROJECT

Public Meeting for City Council Direction on Proposed Amendments to Conditions of Approval for the Rispin Project. The Project includes Restoration of the Mansion and Grounds, a Hotel (Up to 25 Rooms), Conservatory, and Habitat Enhancement Program at 2000 and 2005 Wharf Road, located in the AR/VS/PD "Automatic Review/Visitor Serving/Planned Development" Zoning District. APN: 035-371-01 &-02; Clares/Wharf 034-541-034. Presentation: Community Development Department. [730-10]

Community Development Director Rebagliati introduced the item and provided background information about this extremely complex project.

Consultant Planner Carney summarized the written agenda report and identified the modifications to the original conditions that were approved by the City Council on May 9, 2007. He responded to questions of Council members pertaining to his report.

Consultant Planner Carney then said that tonight's meeting is an opportunity for the developer to discuss other proposed changes to the project and to obtain direction from the City Council. He then identified those items, which include adding a second story for two units, the conservatory building, location of and design for the PG&E electrical transmission structure, utility shed, the ADA path design, the entrance gate, the emergency gate, the wrought iron fence, and the trash enclosure. Consultant Planner Carney also said the city and Rispin Partners are working with Bill Davilla and Dr. Richard Arnold pertaining to the preparation of a tree protocol and an adaptive habitat management plan that addresses the numerous conditions of approval and conservation easement requirements. He discussed each of the proposed changes to those aspects of the project and responded to questions of Council members.

At 7:49 p.m., the developer was invited to address the City Council on this matter.

Ric de la Cruz, representing Barry Swenson Builder, provided a presentation on behalf of the developer. He commented the developers now consist of the Rispin Partners and Green Valley, which they refer to as the "The Rispin LLC." He said the project has received SHPO and National Parks Service approval. Ric de la Cruz discussed their long-term strategy approach to development of the project, and he brought team members to tonight's meeting to answer any questions the Council may have about the project.

Following comments by Mr. de la Cruz, individual Council members commented on the project and received answers to their questions.

At 8:05 p.m. there was an earthquake. The mayor recommended a short break. Mayor Termini called the meeting back to order at 8:10 p.m.

There was continued Council discussion regarding the project.

Mayor Termini opened the matter to the public for comments at 8:44 p.m.

Bill Parkin, Attorney for Save the Habitat and a number of signatories to the Stipulated Judgment pertaining to the Rispin property, said that the judgment was part of a global settlement that was reached on three lawsuits pertaining to Rispin. He expressed concerns about actions taken at the May 9, 2007, meeting and informed the Council that they were not notified of the May 9 meeting where revisions were made to the conditions of approval.

Attorney Parkin read an excerpt from the Stipulated Judgment that states there will be no changes, amendments, variances or exceptions to the conditions of approval without the consent of all parties to the stipulation. He expressed concern that changes have been made without their consent, and he believes the Council should rescind the changes that were made on May 9. He then went on to explain why the changes of May 9 and the proposed changes are troublesome to his clients. Attorney Parkin urged the Council to first rescind the action of May 9, saying that under the Stipulated Agreement the Council would be violating the judgment if they do not rescind that action. Secondly, he said if the Council wishes to have a dialogue with him about this matter that would be acceptable; however, everyone needs to understand there is a binding agreement, and he doesn't believe the city should assume the parties of the judgment will approve the changes. Attorney Parkin said the reason his clients settled the lawsuits was to protect the conservation easement area and the public access area with those easements to remain in effect forever.

Ron Skelton, Capitola resident, addressed the Council on the proposed project modifications, the stipulated judgment, and encroachment by PG&E on the conservation easement. Mr. Skelton submitted a written copy of his verbal comments to the City Clerk, and he also commented on a photo distributed to Council members showing the building frame and netting on site.

Glenn Hanna said he wished to reiterate what Ron Skelton and Attorney Bill Parkin said about this project. He expressed concern that the city ignored the agreements it made. Mr. Hanna also commented on the number of parking spaces at the library parking lot. He discussed the city's commitment to the Library Board to build a library that is 7,000 square feet, the proposed 25-room hotel and spa, and said he is concerned about where the people are going to park.

Mayor Termini closed the public comment portion at 9:04 p.m.

Considerable Council discussion was followed by this action:

ACTION: Council Member Nicol moved to approve the amendments to the Rispin Project as set forth in the agenda report and to direct staff to proceed with the utmost diligence and dispatch to work with all the relevant parties and agencies to process the development permit application and issue a permit to develop the Rispin property at the earliest possible moment. Council Member Begun seconded the motion.

Community Development Director Rebagliati provided a point of clarification stating that the Council was not actually approving those actions tonight, but giving staff notice to proceed with the proposed amendments.

Council Member Storey said he would like to ask for a friendly amendment to the motion, that the City Council also direct staff to look at the actions the Council took on May 9, 2007, and to identify those that may clearly violate the stipulated agreement, and also to negotiate those items with all necessary and relevant parties and bring that back to the Council as well.

Council Member Nicol asked for advice of legal counsel regarding the proposed amendment. Assistant City Attorney Condotti said he had no problem with Council Member Storey's amendment.

Council Member Nicol then accepted the friendly amendment.

Council Member Begun asked for clarification of the amendment. He understands Council Member Storey wants staff to identify items that may be clearly in disagreement with the stipulated agreement. He asked what staff would do then. Council Member Storey said all of the items would have to be negotiated with the parties of the stipulated agreement. He clarified that staff should identify the ones that are clearly within the purview of negotiations, and staff should negotiate those items with them and report back to the Council.

Council Member Begun then accepted the friendly amendment.

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

4. ADJOURNMENT

The meeting was adjourned at 9:33 p.m. to the next Regular Meeting of the City Council to be held on Thursday, November 8, 2007, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola.

Michael Termini, Mayor

ATTEST:

Pamela Greeninger, City Clerk, CMC

MINUTES WERE UNANIMOUSLY APPROVED BY THE CITY COUNCIL ON 12/13/07