

April 9, 2008
 Capitola, California

**CAPITOLA CITY COUNCIL
 MINUTES OF A SPECIAL MEETING**

**5:30 P.M. CLOSED SESSION – CITY MANAGER’S OFFICE
 CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL**

At 5:20 p.m. in the City Hall Council Chambers, Mayor/Chairperson Nicol noted that all City Council Members/Redevelopment Agency Directors, with the exception of Council Member/Director Termini, were present. He made an announcement regarding the one item to be discussed in Closed Session, as follows:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Govt. Code §54956.9a)
 Save the Habitat vs. City of Capitola (Rispin Mansion Project)

No one addressed the Council/Agency at this time. The Directors/Council Members adjourned to its Closed Session in the City Manager’s Office at 5:30 p.m.

SPECIAL MEETING OF THE CITY COUNCIL

Mayor Nicol called the Special Meeting of the City Council to order at 6:04 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

PRESENT: Council Members Sam Storey, Bob Begun, Ron Graves, and Mayor Kirby Nicol
ABSENT: Council Member Michael Termini [*Note: Council Member Termini had recused himself from participating in this Special Meeting due to a conflict of interest on the Public Hearing item.*]
STAFF: City Manager Rich Hill, City Attorney John G. Barisone, Community Development Director Juliana Rebagliati, Finance Director Lauren Lai, Public Works Director Steve Jesberg, and City Clerk Pamela Greeninger
OTHERS: Consultant Planner Anthony “Bud” Carney

2. REPORT ON CLOSED SESSION [520-25]

Mayor Nicol stated that at 5:20 p.m. the City Council met in the Council Chambers and announced there would be a Closed Session at 5:30 p.m. in the City Manager’s Office. The Closed Session agenda item was read, and there was no public comment at that time. He then asked for a report from the City Attorney.

City Attorney Barisone said there was one item discussed in closed session pertaining to the Save the Habitat vs. City of Capitola litigation regarding the Rispin Mansion Project. The city manager and the city attorney provided a status report on that matter. The Council/Redevelopment Agency directors took no reportable action in Closed Session.

3. ORAL COMMUNICATIONS - None

4. PUBLIC HEARING

A. Public Hearing on the Rispin Mansion Restoration & Hotel: Project Application #08-014 to Amend Applications #97-95 and #05-005: Conditional Use Permit, Architectural and Site Review, and Coastal Permit for the Proposed 25-Room Hotel at Rispin Mansion Project located at 2000 and 2005 Wharf Road in the AR/VS/PD “Automatic Review/Visitor Serving/Planned Development” Zoning District. [APNs 035-371-01 and -02 (Rispin) and APN 034-541-34 (Clares Street/ Wharf Road) Presentation: Community Development Department [730-10] [NOTE: Council Member Termini had recused himself from participating in this Special Meeting due to a conflict of interest on this Public Hearing item.]

4. A. PUBLIC HEARING (Continued)

Mayor Nicol introduced the Public Hearing item by reading the agenda title.

City Manager Hill said the item before the Council is to consider amendments to the project. He said there are about ten changes from the original project approval. City Manager Hill stated that questions regarding the Lease and Development Agreement and financing will be addressed at another time before the Council and the Redevelopment Agency and are not part of tonight's agenda.

Consultant Planner Carney summarized the written agenda report by providing background information regarding the project and detailing the proposed amendments and comparing them to the original project approval.

Mayor Nicol asked for clarification regarding placement of the Rispin units, Villa units and Creekside units. Using an overhead site map, Mr. Carney pointed out the various areas and placement of structures.

Consultant Planner Carney then discussed an important point about the Creekside units. Using an overhead diagram of the units, he pointed out areas where the stairways go slightly over the Conservation Easement line. He said that if the Council approves the project as submitted tonight, staff is asking that the applicant and the city return to the Council with an amended Conservation Easement.

Consultant Planner Carney went on to discuss the elevations for the Villas and the Spa units, changes to the Conservatory and recommended approval to include construction of the building at the same time the project is being built, and he commented on the ADA path to the Mansion and the emergency gate required by Fire standards. He discussed the Planning Commission's approval of the landscaping plan, which approved removal of 40 trees and said the proposed plan is to remove only 18 trees.

Consultant Planner Carney then went through staff's recommendations as itemized in the written agenda report dated March 18, 2008 (for Meeting of March 27, 2008).

Community Development Director Rebagliati commented on the SHPO review of the project and stated that the State Historical Preservation Office staff has worked with the city over the past year to make sure that the Rispin Project complied. She said a number of the recommended changes are a result of that review and are necessary in order to comply with their requirements and to keep the national historic register status on the property.

Community Development Director Rebagliati said staff is recommending an additional Finding be added to the resolution that would reference back to the Environmental Checklist included in the Agenda Report (Attachment 2), the supplemental environmental review, to make a Finding that the Council has reviewed that Checklist and it supplements the record and agree that the project will not have environmental impacts and the current EIR is appropriate.

Mayor Nicol asked if the developer wished to add to the staff report.

Ric de la Cruz, representing the applicant, said he is with Barry Swenson Builder, the construction company for the project. Rispin LLC is the applicant, and it is a partnership of Barry Swenson Builder and Ron Beardslee. In light of the excellent, detailed staff report, he provided a brief PowerPoint Presentation of the proposed project in order to give the council a clear perspective of their commitment to building and rebuilding the Mansion.

4. A. PUBLIC HEARING (Continued)

Following the applicant's presentation, staff and Mr. de la Cruz responded to questions of Council Members.

Mayor Nicol opened the public hearing at 7:01 p.m.

The following people spoke in support of the project:

Linda Smith, Capitola resident and President of the Capitola Historical Museum Board. Ms. Smith also shared comments from Museum Coordinator Carolyn Swift who could not attend tonight's meeting and encouraged the council to move forward with the proposed project.

Molly Ording read a letter from former Council Member/Mayor Gayle Ortiz supporting the proposed project. Ms. Ording also offered her comments and encouraged the Council to approve the changes to the project.

Jacques Bertrand, Capitola resident, supports the changes and approval of the project.

Rex Gardiner, Balboa Avenue, said the proposed project would be an asset to the city, and he supports the project.

Bill Lopez, speaking on behalf of several neighbors living near the Rispin Mansion property, said there is a real safety problem in the area and commented on the graffiti and trash. He urged the council to approve the project.

Ted Burke, owner/operator of the Shadowbrook Restaurant and neighbor to the Rispin Mansion, encouraged the council to be bold and to be a progressive council by approving the proposed project and moving forward.

Charlie Thomas, Capitola resident for 35 years, discussed his involvement in the community over the years. He also said he is familiar with projects Barry Swenson Builder has completed, and he offered his support of the project.

Mary Healy, Francesco Circle, urged the council to move forward with the project. She expressed concern about the crime that is occurring in the area and requested that the police be more active in cleaning up that area. She also asked about staff parking and the graffiti wall.

Maureen O'Malley Moore, Capitola resident, said it is time to give the green light to the applicant and not let this opportunity slip through our hands.

Dennis Norton, Capitola resident and former council member, said the Rispin Mansion is an historic treasure, and it is time to approve this project. He said this project has had more scrutiny than any other project in Santa Cruz County.

Anne Nicol, Capitola resident and member on the Village Master Plan Advisory Committee, discussed her knowledge of the project and offered her support.

John Nicol, Capitola resident, said it is time for the council to proceed with the project.

4. A. PUBLIC HEARING (Continued)

Cathy Bentley, Capitola Village business owner, said she has served on many city committees, including the Art & Wine Festival, Village Master Plan Advisory Committee member, Capitola Village and Wharf Business Improvement Area member, and she thanked the council for their sincere thoughtfulness on this project. She believes Mr. Rispin would be very proud.

Greg Tedesco, Magellan Street resident, commented on the time he has lived in the City of Capitola and his remembrance of the Rispin Mansion. He said he and his partners donated Capitola Wharf to the city. He urged the Council to live up to their campaign promises and approve the Rispin project and see that it is completed.

Toni Castro, on behalf of the Capitola-Soquel Chamber of Commerce, said the chamber encourages the city to move forward with the project. She commented on the need for more lodging facilities in the Capitola area.

The following speakers addressed the Council on the proposed application:

Dave Fox, McCormick Avenue resident, commented on the city council's responsibility to be sure that the developers are not going to be able to come back to the City for more money. He said the citizens of Capitola are relying on the council.

Steve Lineau, EarthLink and Friends of Soquel Creek, expressed concern about amendments to Conservation Easement, saying it was disheartening to hear about making changes to an easement.

Paul Pelkey, Capitola resident, commented on development of the property and the need to take into consideration the effects of global warming and expressed concerns regarding erosion. He submitted a report on recommendations for a New Ocean Policy prepared in May 2003.

Tom Mader, Capitola resident and member of Save the Habitat, said he passed out a graphic entitled, "The Pendulum of Capitola Community Power" and commented on a series of events that have changed the Capitola community. Tonight the city council is allowing a developer to have a substantially larger project than was originally approved, and he is concerned that the promises made by an earlier council will be broken by approving this project. Mr. Mader said his group would once again take this matter to court where a judge has agreed to hear their case on the 15th of May. In closing, Mr. Mader said he hopes the developer will move on and allow Capitola to spend the \$3 Million on a frugal upgrade of the Rispin building site with a community art center and garden center for use by Capitola residents.

Mark Weller, Projects Coordinator for the Unite Here Local 483, which is the Hospitality Workers Union in the Monterey Bay Area, said his interest is primarily relative to the economic and financial aspects of the project, which he understands are not on tonight's agenda. He commented on the handouts he received in the audience and concerns about the city's email address being on one of the handouts that he believes was from the developer.

Carin Hanna, Capitola business owner, expressed concern about the addition of a spa to the project and water consumption. A spa is a water-intensive business, and she wondered if there was a study conducted regarding the effects of that use.

4. A. PUBLIC HEARING (Continued)

Jennifer Bragar, Law Clerk at Wittwer & Parkin, explained that neither Mr. Wittwer nor Mr. Parkin were able to be at the meeting; therefore, she was here to deliver Mr. Parkin's message. She noted that Mr. Parkin's letter dated March 27, 2008, was not attached to the staff report, and they just want to make sure that letter was included as part of the record. Ms. Bragar said they stand by the comments made in that letter and explained why. She stated that if the council approves the project modifications they will be in violation of the Stipulated Judgment.

Mayor Nicol closed the public hearing at 7:52 p.m.

Each council member made individual comments on the proposed project. The council was interested in making sure they are on firm ground with respect to the project and that all prior conditions of approval will still be in effect. The Council received responses to questions from Community Development Director Rebagliati and Consultant Planner Carney pertaining to the spa, fire gate design, the perimeter wall that has been the target of graffiti, staff parking, mansion and habitat viewing area, conservation easement, etc.

After considerable Council discussion, the following action was taken:

ACTION: Council Member Storey moved, seconded by Council Member Begun, to approve the recommended action to adopt the proposed resolution.

Council Member Graves said he would like to amend the motion to include an additional "Whereas" that will encompass his thoughts with regard to the original conditions that have not been modified.

Community Development Director Rebagliati said staff would like to add an additional Finding regarding the CEQA Checklist, acknowledging that the Council's decision is based on the Environmental Checklist that was included in the Agenda Report (Attachment 2).

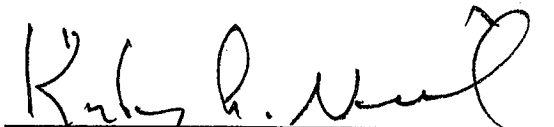
Mayor Nicol asked about the proposed Amendment regarding Access Redesign to Rispin Guest Room 101 that was submitted by Barry Swenson Builder. Community Development Director Rebagliati said that amendment is before the Council, and staff is presuming that approval of that amendment is part of the motion.

Mayor Nicol asked if the proposed amendments were satisfactory to the maker of the original motion. Council Member Storey said yes. Mayor Nicol then asked if the amendments were acceptable to the second. Council Member Begun said yes. He then asked if there was any further discussion.

There being no further discussion, **Resolution No. 3686, Resolution Approving Application #08-014, Amending Permit #97-95 including a Conditional Use Permit and Architectural and Site Review Design Permit, and Coastal Permit #05-005, based upon Adoption of Findings, Conditions and a Mitigation Monitoring Program for the Rispin Development Project**, with the inclusion of an additional "Whereas" articulating inclusion of the original conditions that have not been modified, an additional "Finding" that the Council's decision is based on the Environmental Checklist, and approval of an Amendment to Application #08-014 regarding Access Redesign to Rispin Guest Room 101 pursuant to letter dated April 4, 2008, from Barry Swenson Builder. The motion carried on the following vote: AYES: Council Members Storey, Begun, Graves, and Mayor Nicol. NOES: None. ABSENT: None. ABSTAIN: None. DISQUALIFIED: Council Member Termini.

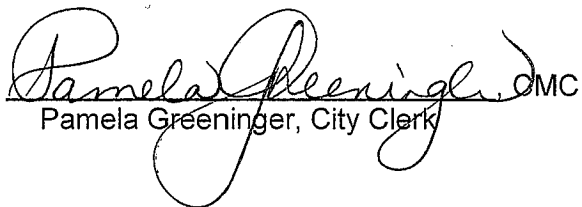
5. ADJOURNMENT

The Capitola City Council adjourned at 8:24 p.m. to its next Regular Meeting to be held on Thursday, April 10, 2008, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Kirby A. Nicol, Mayor

ATTEST:



Pamela Greeninger, City Clerk

MINUTES WERE APPROVED BY THE CITY COUNCIL ON 4/24/08 WITH COUNCIL MEMBER TERMINI ABSTAINING