REGULAR MEETING
Tuesday, November 5, 2019

OPEN SESSION
4:30 PM

CALL TO ORDER AND ROLL CALL

Mayor Potter called the meeting to order at 4:30 p.m.

Present: Council Members: Baron, Reimers, Theis; Mayor Pro Tem Richards; Mayor Potter

PLEDGE OF ALLEGIANCE

Mayor Potter

EXTRAORDINARY BUSINESS

Item A: Monterey Regional Airport Update

Item B: Monterey Bay Community Power Presentation

PUBLIC APPEARANCES

The following members of the public spoke:

Karen Ferlito
Ellen Gannon
Paul Rodriguez
Richard Kreitman

ANNOUNCEMENTS

Item A: City Administrator Announcements

The City Administrator discussed recent hack of Carmel Police Officers Association Facebook site and announced the City received a Certificate of Achievement from the Government Finance Officers Association (GFOA) for the City's Comprehensive Annual Financial Report (CAFR).

Item B: City Attorney Announcements/ Closed Session Oral Report in accordance with GC § 54957.1(a)

The City Attorney stated the City Council met in Closed Session on November 4, 2019 and authorized and approved payment to settle with 27 current and former members of the Police Officers Association (POA) for $627,904 for the period 9-14-14 through 9-10-19 based on the Federal Fair Labor Standards Act (FLSA) to properly calculate the FLSA regular rate of pay and overtime calculations.

Item C: Councilmember Announcements

Council Member Baron discussed an upcoming meet and greet event and stated the Climate Change Committee will be meeting November 20th in Council Chambers from 4:00 p.m. – 6:00 p.m.

Item C: Councilmember Announcements continued...

Council Member Reimers thanked staff for the Halloween Parade, stated her report from her attendance at the League of California Cities Annual Conference will be provided in December, and discussed her concerns with planting a tree at a business on Delores.

Council Member Theis discussed recent Recycling Waste Characterization Study conducted by Monterey Regional Waste Management District, specifically the progress made by the City with regard to recycling efforts.

Mayor Potter discussed an item being heard by the City of Monterey City Council, stated he intends to attend the meeting and may need to leave the City Council meeting early.

CONSENT AGENDA

Item No.'s 8 and 9 were pulled for separate discussion.

Council Member Reimers requested clarification regarding funds related to Item No. 4.

On a motion by Council Member Theis and seconded by Mayor Pro Tem Richards, the City Council approved the Consent Agenda with the exception of Item No. 's 8 and 9, by the following vote:

AYES:	BARON, REIMERS, THEIS, RICHARDS, POTTER
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

Item No. 8

Council Member Reimers discussed her concerns with losing control of the City's zoning rules and housing; concerns with taking state funds for the City's needs and being tied to the State's agreement; believes staff can handle the feasibility study without the state watching how the funds are used and read portions of the agreement from the staff report.

Staff provided clarification and stated the funds will be used for feasibility studies, will not amend the Zoning Ordinance or approve housing developments and provides funding to look at the barriers to affordable housing.

Council Member Theis further clarified the Grant provides the funds needed to hire someone to handle the feasibility study and to do the assessment of housing needs so as not to impact staff.

The City Administrator stated the feasibility studies could be used to analyze natural barriers to housing in the village other than land values including who the housing should be provided for.

Addressing the City Council on Consent Agenda Item No. 8:

Richard Kreikman
Michael LePage

On a motion by Council Member Baron and seconded by Council Member Theis, the City Council approved Consent Agenda Item No. 8, by the following vote:

AYES:	BARON, THEIS, RICHARDS, POTTER
NOES:	REIMERS
ABSENT:	NONE
ABSTAIN:	NONE

Item No. 9
Council Member Theis discussed number 8 in the proposed policy, and suggests roping off the Memorial during events on Ocean Avenue and suggests telling event coordinators no sitting/standing on the Memorial during their events.

Addressing the City Council on Consent Agenda Item No. 9:

Richard Kreitman
Paul Rodriguez
Brian Andrus
Michael LePage
Mike Brown

On a motion by Council Member Theis and seconded by Council Member Reimers, the City Council approved Consent Agenda Item No. 9 as amended; adding to number 8 that there is either roping off or signage added to prevent and ward off people from sitting or standing on the War Memorial, by the following vote:

AYES:	BARON, REIMERS, THEIS, RICHARDS, POTTER
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

Item 1: Approve the October 7, 2019 Special Meeting Minutes and the October 8, 2019 Regular Meeting Minutes as presented.

Item 2: Monthly Reports for September: 1) City Administrator Contract Log; 2) Community Planning and Building Department Reports; 3) Police, Fire, and Ambulance Reports; 4) Public Records Act Requests, and 5) Public Works Department Report

Item 3: September 2019 Check Register Summary

Item 4: Adopt Resolution 2019-076 accepting the completion of the Wireless Indoor Access and the Fiscal Year 2018-2019 Sidewalk Repair projects and authorizing the carryover of funds for the Ocean Avenue Median Lights and World War Monument Restoration projects to Fiscal Year 2019-2020.

Item 5: Adopt Resolution 2019-078 delegating authority to the City Administrator or Assistant City Administrator to act on behalf of the City of Carmel-by-the-Sea in matters related to the CSAC (California State Association of Counties) Insurance Authority.

Item 6: Adopt Resolution 2019-079, authorizing Free Use Days of the Sunset Center Theater and Lobby for Carmel Unified School District, AIM Youth Mental Health and Carmel Public Library Foundation.

Item 7: Adopt Resolution 2019-080, recognizing unanticipated revenue from the CalRecycle FY 2019-2020 Beverage Container Recycling Grant and approving a budget amendment of $120,364 to the Fiscal Year 2019-2020 Adopted Budget.

Item 8: Adopt Resolution 2019-081, authorizing application for, and receipt of, SB 2 Planning Grants Program (PGP) Funds.

Item 9: Adopt Resolution 2019-082, adopting a War Memorials Policy to address the care, maintenance and treatment of the City's war memorials.

ORDERS OF BUSINESS

Item 10: Receive presentation from the Monterey Peninsula Housing Coalition and provide feedback.

Council Member Baron along with Tyller Williamson provided the presentation for this item.

Addressing the City Council on this item:
Karen Ferlito
Michael LePage
Hans Buder
Heidi Anderson-Spicer

Discussion among the City Council and staff included discussion of reaching out to Monterey's Hospitality Association regarding similar studies being done and collaborating with nonprofits and various organizations that provide housing.

Mayor Potter requested Item No. 13 be heard be discussed at this time, followed by Item No. 14.

PUBLIC HEARINGS

Item 13: An Urgency Ordinance extending an Urgency Ordinance for a period of one year, establishing a program to regulate and permit sidewalk vending pursuant to California Senate Bill 946.

Director of Planning & Building, Marc Weiner provided the staff report for this item.

Discussion among the City Council and staff included discussion of people "sitting on permits" and the lack of data for the permits currently issued. Additionally, the Council noted Staff recommends scheduling time in the coming months to study the issues and regulations associated with the program and further discussed the importance of public health, safety and welfare with regard to sidewalk vendors.

On a motion by Mayor Pro Tem Richards and seconded by Council Member Theis, the City Council adopted Urgency Ordinance 2019-005 extending an Urgency Ordinance for a period of one year, establishing a program to regulate and permit sidewalk vending pursuant to California Senate Bill 946, by the following roll call vote:

AYES:	REIMERS, THEIS, RICHARDS, POTTER
NOES:	BARON
ABSENT:	NONE
ABSTAIN:	NONE

Item 14: Introduce Ordinance 2019-003 amending Carmel Municipal Code (CMC) Chapters 17.08, 17.14, 17.28, 17.68 and 17.70 to establish regulations for transient rentals in the Commercial and Multi-Family Zoning Districts and to prohibit the advertising of unpermitted transient rentals within all Zoning Districts.

Council Member Theis recused herself due to the perceived conflict of interest that she has because she is the owner of an Inn and left the dais at this time.

Council Member Reimers recused herself due to her family having a short-term rental permit and left the dais at this time.

Director of Planning & Building, Marc Weiner provided the staff report for this item.

Addressing the City Council on this item:

Heidi Anderson-Spicer
Jenny MacMurdo
Jessica Schmidt
Richard Kreitman
George Mederos
Ellen Gannon
Karen Ferlito
Diane Singer
Kent Ipsen
Vince Brigantino

Mayor Potter discussed the origin of the Ordinance which was due to Council's concern in maintaining the City's housing component.

Mayor Pro Tem Richards stated the Ordinance was built on the different conversations that took place regarding short term rentals. Additionally he discussed his concerns with landlords kicking renters out if the ordinance retains the original 6-month parameters.

Mayor Pro Tem Richards made a motion to accept the Ordinance as presented.

Council Member Baron discussed the Council's previous discussion related to Council's concerns with landlords kicking out long term renters in favor of short-term renters and discussed going from one extreme to the other. Council Member Baron requested continuing the item and changing the verbiage from perpetuity to a 20-30 year sunset clause.

Mayor Potter asked staff if there could be a way to amortize the investments made by people who currently hold short-term rental permits and discussed his preference to have staff analyze not having current permit owners lose their investment and the City not losing the affordable housing stock; supports a continuance of the item and made a point to mention the Council has worked hard to ensure the concerns of the community are included.

Item 14 continued...

Council Member Baron clarified the motion with direction to staff to come back with a 30-year sunset clause leaving the public hearing open.

Mayor Pro Tem Richards stated he is not supportive of a continuance because the Coastal Commission has approved the Ordinance, the Council is ready to go and expressed his concerns with more permits being issued.

The City Administrator discussed voting on the Ordinance as presented to the Council or directing staff to come back with an amortization period.

The City Attorney discussed adopting the Ordinance this evening and amending the ordinance in the future.

Mayor Pro Tem stated adoption of the Ordinance as presented stops more short term rental permits being issued.

The City Attorney read the Ordinance title at this time.

On a motion by Mayor Pro Tem Richards and seconded by Mayor Potter, the City Council as currently comprised, voted to introduce Ordinance 2019-003 amending Carmel Municipal Code (CMC) Chapters 17.08, 17.14, 17.28, 17.68 and 17.70 to establish regulations for transient rentals in the Commercial and Multi-Family Zoning Districts and to prohibit the advertising of unpermitted transient rentals within all Zoning Districts.

Before taking the roll call vote, Council Member Baron requested clarification regarding passing the ordinance as presented with the perpetuity clause and in six months, amending the Ordinance and revoking the perpetuity clause and how that will impact those holding permits.

The City Attorney stated he will need to research the issue as he will need to determine the impact on permit holders if the Council, in the future, changed perpetuity to something less than perpetuity. The City Attorney offered two other options, continue the item to the next meeting or direct staff to come back with an ordinance with a time limit.

Mayor Potter stated he is supportive of the amortization suggestion.

At this time Council Member Baron stated he would vote NO on the current motion.

The motion failed and no other roll was taken as the Ordinance must pass unanimously due to the current composition of the Council.

On a motion by Council Member Baron and seconded by Mayor Potter, the City Council voted to direct staff to come back with an ordinance at the next meeting such that the permits that have already been granted be amortized out over a period of time to be determined by staff.

Mayor Pro Tem stated this means more permits can be issued tomorrow.

Item 14 continued…
Council Member Baron stated it is one more month of permits and this is a price he is willing to pay to amortize the current existing units over an extended period of time.

Mayor Pro Tem Richards stated if he votes no the item would not pass.

The City clerk conducted a roll call vote with the following results:

AYES:	BARON, RICHARDS, POTTER
NOES:	NONE
ABSENT:	NONE
RECUSED:	REIMERS, THEIS

Mayor Potter requested a recess and left the meeting at this time

Mayor Pro Tem reconvened the meeting at 7:11 p.m.

Council Members Reimers and Theis returned to the dais at this time.

ORDERS OF BUSINESS

Item 11: Review proposed written arguments in favor of the City's Ordinance to increase the transactions and use tax to 1.5% for 20 years and provide direction to staff to finalize the City Council's argument; determine the authors of the City Council's argument in favor of the Ordinance; and determine the authors to whom each member of the City Council will release their rebuttal argument to, if needed.

Director of Budgets and Contracts, Sharon Friedrichsen provided the staff report for this item.

Discussion among the City Council and staff included clarification of who may sign the argument in favor and discussion regarding the City Council's preferred language for the Argument in Favor.

The City Council gave direction to staff to make the recommended changes while Item No.'s 12 and 15 on the agenda are considered and return with the revised Argument following completion of Item No. 15.

PUBLIC HEARINGS

Item 12: ***The following item will be continued to December 3, 2019:***
Introduce Ordinance 2019-002 amending Carmel Municipal Code (CMC) Title 15 (Buildings and Construction) by adopting the 2019 editions of the California Building (CBC), Residential (CRC), Energy (CEnC), Fire (CFC), Mechanical (CMC), Plumbing (CPC), Electrical (CEC), Green Building Standards (CGBSC), Historic Building (HBC), and Existing Building Codes (EBC) with local amendments; and adopt Resolution 2019-077 approving Standard Operating Guidance Procedures (SOG 17-07) for private stormwater drainage systems.

Item 12 Continued...
On a motion by Council Member Reimers and seconded by Council Member Theis, the City Council continued this item to the December City Council meeting, by the following vote:

AYES:	BARON, REIMERS, THEIS, RICHARDS
NOES:	NONE
ABSENT:	POTTER
ABSTAIN:	NONE

Item 15: Consideration of an Appeal (APP 19-348) application of the Planning Commission's decision to deny a Use Permit (UP 19-304) to allow for the establishment of a Cosmetic Store, Royal Bee, located on Dolores, 4 SW of Ocean in the Central Commercial (CC) Zoning District.

Council Member Reimers recused herself due to the proximity of property she owns to the location involved with the appeal and left the dais at this time.

Director of Planning & Building, Marc Weiner provided the staff report for this item.

Discussion among the City Council and staff included discussion of what happens to the business if the appeal is denied, the number of times Code Compliance has visited the store, the amount of skin care products in the store, the 'stations' in the store and inviting individuals to sit in the chairs at the stations which indicate the store is a cosmetic store.

The appellant provided information regarding his business and the practices of the employees.

On a motion by Council Member Theis and seconded by Council Member Baron, the City Council denied the appeal (APP 19-348) subject to the findings for denial found in the staff report, by the following vote:

AYES:	BARON, THEIS, RICHARDS
NOES:	NONE
ABSENT:	POTTER
RECUSED:	REIMERS

ORDERS OF BUSINESS

Item 11 Continued:
Director of Budgets and Contracts, Sharon Friedrichsen provided the Council with the revised Argument in Favor as directed.

On a motion by Mayor Pro Tem Richards and seconded by Council Member Reimers, the City Council approved Argument in Favor, Option 6 as amended and authorized all five members of the City Council to sign the Argument in Favor, by the following vote:

AYES:	BARON, REIMERS, THEIS, RICHARDS
NOES:	NONE
ABSENT:	POTTER
ABSTAIN:	NONE

FUTURE AGENDA ITEMS

Council Member Baron discussed the previous design guidelines item and requested agendizing an item to discuss potentially having an architect represent the City's interest for the design review guidelines discussion in the future.

ADJOURNMENT

Mayor Pro Tem Richards adjourned the meeting at 8:34 p.m.

APPROVED:	ATTEST:
Dave Potter, Mayor	Britt Avrit, MMC City Clerk