**MINUTES**
**REGULAR MEETING**

**Tuesday, November 01, 2016**

## CALL TO ORDER

Mayor Dallas called the meeting to order at 3:30 p.m.

Present: Councilmembers Hardy, Reimers, Richards, Theis, and Mayor Dallas

Absent: None

Staff: Chip Rerig, City Administrator
Don Freeman, City Attorney
Ashlee Wright, City Clerk

## CLOSED SESSION

Mayor Dallas announced the Closed Session items.

Item A: LABOR NEGOTIATIONS
Pursuant to Government Code Section 54957.6(a)
Agency Designated Representatives: Zutler
Employee Organization: Ambulance, General Employees, Management, Police

Item B: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(D)(1)
Name of Case: City of Carmel-by-the-Sea, California, a municipal corporation, Plaintiff v. Pacific Harvest Seafoods, Inc. and Does 1 through 20, Defendants, Santa Clara County Case No. 16CV296492

Pursuant to Government Code Section 54956.9(D)(1)
Name of Case: Jacqueline Simonelli, Antonio C. Simonelli, Petitioners/Plaintiffs v. City of Carmel-by-the-Sea, California, Christopher Tescher, Dennis Levett, Pot D'Oro, LLC, and Doe 1 through Doe 100, inclusive, Respondents/Defendants Monterey County Superior Court Case No. M123079

Pursuant to Government Code Section 54956.9(D)(1)
Name of Case: Gerit Sand; Cobblestone Bakery, a sole proprietorship, Plaintiff v. City of Carmel- by-the-Sea, Defendant - Monterey County Superior Court Case No. M130393

Pursuant to Government Code Section 54956.9(D)(1)
Name of Case: State Farm General Insurance Company, Plaintiff v. City of Carmel-by-the-Sea, and Does I through 10, Defendant - Monterey County Superior Court Case No. 16CV002381

Item C: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: 2 cases

Public Comments – None

Council adjourned to Closed Session at 3:31 p.m.

## OPEN SESSION

Council resumed in Open Session at 4:31 p.m.

Present: Councilmembers Hardy, Reimers, Richards, Theis, and Mayor Dallas

Absent: None

Staff: Chip Rerig, City Administrator
Don Freeman, City Attorney
Ashlee Wright, City Clerk
Rob Mullane, Public Works Director
Marc Weiner, Community Planning and Building Director
Maxine Gullo, Human Resources Manager
Sharon Friedrichsen, Director of Budget and Contracts
Janet Bombard, Library and Community Activities Director
Paul Tomasi, Police Commander
Mike Calhoun, Public Safety Director

## PLEDGE OF ALLEGIANCE

Paul Rodriguez, member of American Legion Post 512, led the pledge of allegiance.

## ANNOUNCEMENTS

Item A: Announcements from Closed Session

City Attorney Don Freeman announced that Council received updates on Item A; that Council received updates on all cases listed under Item B; and that Council received updates on Item C.

## EXTRAORDINARY BUSINESS

Item A: Presentation of resolutions from the Mayor of Petra, Spain.

This item was continued to the December 6, 2016 regular Council meeting.

## PUBLIC APPEARANCES

The following members of the public spoke: Stephen Moorer, Jennifer Hickerson, Eric Winecoop, Carl Iverson, Victoria Beach, Paul Rodriguez, Ken White, Skip Lloyd, Tammy Blount, Judy Ivey, Jim Banks, and Marcia Banks.

---End Public Appearances---

City Administrator Chip Rerig, City Attorney Don Freeman, and Mayor Dallas responded to questions and comments raised regarding the enforcement of the short-term rental ordinance.

## ANNOUNCEMENTS

Item B: Announcements and reports from City Council Members

Councilmember Reimers announced that she had attended a presentation at Seaside Middle School about webpage design presented by students representing cities throughout the Monterey Peninsula.

Councilmember Richards announced that the Monterey County Convention and Visitors Bureau has agreed that no other jurisdictions can advertise on the Carmel page.
Councilmember Hardy announced that she had submitted a report on her attendance at the League of California Cities, included in the agenda packet, and stated that she attended a session on medical marijuana session and that medical marijuana should be considered as a future agenda item.

Mayor Pro Tem Theis stated that the parade was wonderful and thanked the Centennial Committee and staff for their work, and the community for participating.

Mayor Dallas stated that he echoed Mayor Pro Tem Theis in her statements and that the Council would formally thank the Centennial Committee at a future meeting.

Item C: Announcements from City Administrator

City Administrator Chip Rerig thanked the Centennial Committee, staff, and volunteers for their work. He stated that the request to have tour buses at the upcoming Walker House event had been worked out by Public Safety Director Mike Calhoun and Police Commander Paul Tomasi.

Item D: Announcements from City Attorney - None

**CONSENT AGENDA**

City Administrator Chip Rerig announced the Consent calendar.

Councilmember Reimers commented on Items 4 and 5 noting that there were directional mistakes that needed to be corrected.

Public Comments

The following members of the public spoke: Paul Rodriguez

---End Public Comments---

**Action:** Upon a motion made by Mayor Pro Tem Theis, seconded by Councilmember Hardy, Council approved the Consent calendar with the exception of Item 10:

Item 1: Consider and approve draft minutes for the special Council meeting held September 19, 2016, draft minutes for the special Council meeting held October 3, 2016, and draft minutes for the regular Council meeting held October 4, 2016. **Approved 4:0:1 (Councilmember Reimers abstained from voting on this Item because she did not attend the October Council meetings.**

Item 2: Check Register for September 2016. **Approved, 5:0**

Item 3: Monthly Reports for September 2016. **Approved, 5:0**

Item 4: SR 2016-1193 Consideration of a resolution accepting the new Memorial Bell installed in the World War I Memorial Arch at the intersection of Ocean Avenue and San Carlos Street. **Adopted Resolution 2016-079, 5:0**

Item 5: SR 2016-1194 Consideration of a resolution authorizing the temporary closure of the following streets: one northbound and one southbound lane on Ocean Avenue from Mission to Dolores Streets, for the dedication of the Memorial Bell installed in the World War One Memorial Arch.

**Adopted Resolution 2016-080, 5:0**

Item 6: SR 2016-1195 Consideration of a resolution authorizing the City Administrator to execute an agreement with Cypress Coast Ford in an amount not to exceed $25,000 for the purchase of a 2017 Ford Escape for the Community Planning and Building Department; declaring the 1999 Jeep Cherokee as surplus; and authorizing a budget adjustment to fund the new vehicle. **Adopted Resolution 2016-081, 5:0**

Item 7: SR 2016-1196 Consideration of a resolution affirming the City's intent to participate in governance and financing discussions for the proposed Monterey Bay Community Power Joint Power Authority. **Adopted Resolution 2016-082 5:0**

Item 8: SR 2016-1197 Consideration of a Resolution authorizing the City Administrator to execute an agreement with Municipal Resource Group (MRG) LLC for Facilitated Evaluation Services for City Administrator and City Attorney. **Adopted Resolution 2016-083, 5:0**

Item 9: SR 2016-1198 Consideration of a resolution authorizing the City to update an existing inter-agency agreement with Monterey County Behavioral Health adding Amendment 1 to the agreement, which identifies the newly formed Mobile Crisis Team (MCT). **Adopted Resolution 2016-084, 5:0**

Item 11: SR 2016-1200 Ratification of appointments to the Forest and Beach Commission and Historic Resources Board. **Ratified, 5:0**

Item 12: SR 2016-1201 Consider a resolution accepting donations to the City's 2016 Centennial celebration in the amount of $11,600. **Adopted Resolution 2016-091, 5:0**

Item 13: SR 2016-1202 Authorization of the City Administrator to execute an agreement with SSB Construction for the Vista Lobos Community Room roof project for an amount not to exceed $30,000.00. **Adopted Resolution 2016-092, 5:0**

*The following item was pulled by member of the public Jeff Baron and considered by Council separately.*

Item 10: SR 2016-1199 Authorization of the City Administrator to Execute Various Tree Trimming and Tree Maintenance Services Contracts for a Not to Exceed Amount of $680,000 for the Term of November 2, 2016 through June 30, 2018.

Public Comment:

The following members of the public spoke on this item: Jeff Baron, Skip Lloyd, John Lambert, and Peter Quintilla.

---End Public Comment---

Rob Mullane, Public Works Director provided a staff report.

**Action:** Upon a motion made by Councilmember Hardy, seconded by Councilmember Reimers, Council moved to authorize the City Administrator to execute various tree trimming and tree maintenance services contracts for a not to exceed amount of $680,000 for the term of November 2, 2016 through June 30, 2018. **Adopted Resolutions 2016, 085 2016-086, 2016-087, 2016-088, 2016-089, 2016-090, 5:0**

**ORDERS OF BUSINESS**

Item 14: SR 2016-1203 Consider a request from Ben Beesley of Keller Williams Coastal Estates on behalf of the Carmel Chamber of Commerce to hold a mixer with wine and food in the City Council Chamber from 5:30 to 7:30 p.m. on a yet to be determined date in November, 2016, and provide direction.

City Administrator Chip Rerig stated that he had directed Library and Community Activities Director Janet Bombard to write the staff report and that they were not in agreement on holding an event in the Council Chamber.

Janet Bombard, Library and Community Activities Director gave the staff report.

Public Comment

The following members of the public spoke on this item: Ben Beesley.

---End Public Comment---

Council discussion followed.

**Action:** Upon a motion made by Councilmember Hardy, seconded by Mayor Pro Tem Theis, Council moved to deny the request to have the event in the Council Chamber, but to continue to plan a similar event at a different location. **Denied, 4:1 (Councilmember Richards against)**

**PUBLIC HEARINGS**

Item 15: SR 2016-1204 Adopt addendum to Memorandum of Understanding (MOU) for represented employees of the general employees union and management employees union, LIUNA/UPEX, Local 792, AFL-CIO bargaining agreement City of Carmel-by-the-Sea [N1636/N1636B] adopting preferred schedule effective January 1, 2012.

Maxine Gullo, Human Resources Manager, provided the staff report.

There were no Council comments or public comments.

**Action:** Upon a motion made by Mayor Pro Tem Theis, seconded by Councilmember Hardy, Council moved to adopt the addendum to Memorandum of Understanding (MOU) for represented employees of the general employees union and management employees union, LIUNA/UPEX, Local 792, AFL-CIO bargaining agreement City of Carmel-by-the-Sea [N1636/N1636B] adopting preferred schedule effective January 1, 2012. **Adopted, 5:0.**

Item 16: SR 2016-1205 1. Adoption of a Resolution of Intention to approve an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Carmel-by-the-Sea to include provisions pursuant to Government Code 20516 "Cost Sharing" for Miscellaneous members in accordance with the previously approved Memorandum of Understanding and 2. Adoption of an Ordinance Authorizing an Amendment to the contract between the City of Carmel-by-the-Sea and the Board of Administration California Public Employees' Retirement System (CalPERS).

Maxine Gullo, Human Resources Manager, provided the staff report.

There were no Council comments or public comments.

**Action:** Upon a motion made by Mayor Pro Tem Theis, seconded by Councilmember Hardy, Council moved to 1. Adopt a Resolution of Intention to approve an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Carmel-by-the-Sea to include provisions pursuant to Government Code 20516 "Cost Sharing" for Miscellaneous members in accordance with the previously approved Memorandum of Understanding; and 2.Waive reading in full and introduce on first reading an Ordinance Authorizing an Amendment to the contract between the City of Carmel-by-the-Sea and the Board of Administration California Public Employees' Retirement System (CalPERS). **Adopted Resolution 2016-094 and Introduced Ordinance 2016-006, 5:0.**

Item 17: SR 2016-1206 Consideration of an appeal of the Planning Commission's decision to deny Design Study (DS 15-217) and associated Coastal Development Permit application for the demolition of an existing residence and construction of a new residence located in the Single-Family Residential (R-1), Beach and Riparian (BR) and Archaeological Significance (AS) Overlay Zoning Districts. The applicant/property owner is Art Chadwick.

*Councilmember Reimers recused herself from consideration of Item 17, stating that she had voted on it as a Planning Commissioner, and stepped down from the dais.*

Marc Weiner, Community Planning and Building Director, provided the staff report and responded to questions from the Council.

Attorney for the applicant, Anthony Lombardo and architect, Eric Miller spoke on behalf of their client and the applicant Art Chadwick and responded to Council questions.

Public comments:

The following members of the public spoke on this item: Pamela Silkwood, Victoria Beach, Barbara Livingston, Simon Yencken, and John Lambert.

---End Public Comment---

Attorney Anthony Lombardo provided the rebuttal on behalf of applicant Art Chadwick.

Council discussion followed. Councilmember Hardy provided the Council with a document that outlined her thoughts on the Chadwick Project, which was photocopied and provided to the public. '

Further Council discussion followed and Mayor Dallas asked the representatives for the applicant and the appellant if they would agree to the revisions to the Findings and Conditions for final approval and the design changes as proposed by Councilmember Hardy and discussed by Council.

*Mayor Dallas called a recess at 6:50 p.m. At 7:00 p.m. the meeting resumed.*

Architect Eric Miller, on behalf of Art Chadwick, agreed to the proposed changes with the exception of eliminating the south-facing second story-window, instead requesting that it be reduced in size from 36"W x 60"H to 27"W x 60"H and that the north (oriel) bay window on the first floor be kept.

Attorney Pamela Silkwood stated that her client Simon Yencken, project appellant agreed to accept the proposed conditions as discussed by Council and requested by architect Eric Miller.

Action: Upon a motion made by Councilmember Hardy, seconded by Mayor Pro Tem Theis, Council moved that to insure compliance with Council direction, design revision required tonight shall be brought back to the City Council as a future consent agenda item, with the intent to grant the appeal and approve Design

Study (DS 15-217) and Coastal Development Permit application at that time, subject to the findings and conditions as revised tonight.

**Revisions in the Findings and Conditions for final approval:**

1. Variance Findings 1 through 6 shall either be removed or marked "NA: Not Applicable" since a variance is no longer required due to the reduction in overall site coverage.
2. To meet Condition No. 12, the window frame material in the "Window Schedule" of the site plans shall be changed from "steel" to "wood".
3. Remove Condition No. 16, which states that "approval of this Design Study shall be valid only with approval if a Variance".
4. Change Special Condition No. 22: applicant shall plant three (not two) trees, a mix lower and upper canopy trees with City Forester review and approval based on discussion with the neighbor to the East. Additionally, the trees shall be 36-inch box trees, and shall be maintained and watered by the applicant for a minimum of five years. If any trees do not survive, applicant shall replace with the same maintenance requirements for any replacement trees.

**Direct the applicant to make the following design changes and return to City Council for approval on a future consent agenda:**

5. All arched windows on the second floor of the west elevation shall have divided lights for architectural consistency, similar to Window Type "N" or "R" as reflected in the site plans (the same as the front window facing the street). Sliding doors will remain plain.
6. The one oriel (bay) windows south side the first floor of the west elevation shall be removed to reduce additional mass and bulk. The divided lights added to the sidelight windows shall remain.
7. Reduce the size of the south-facing second-story window from 36" x 60" to 27" W x 60" H to reduce the privacy impact as recommended by the Planning Commission and supported by Staff.
8. Reduce the second floor roof deck an additional width of approximately 10' by moving the deck edge in a northerly direction away from the neighbor to the south to reduce privacy impact. Deck edge to align with the northern edge of the set of bay windows and the sliding doors. (Offset of decks provides better visual balance with first floor deck below.)

**FUTURE AGENDA ITEMS**

- Marijuana initiatives

**ADJOURNMENT**

There being no further business, Mayor Dallas adjourned the meeting at 7.06 p.m.

APPROVED:

Steve G. Dallas, Mayor

ATTEST:

Ashlee Wright

Ashlee Wright, City Clerk