

**MINUTES
REGULAR MEETING
CARMEL-BY-THE-SEA**

Tuesday, August 08, 2017

CALL TO ORDER AND ROLL CALL

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

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

Absent: Councilmember Theis

Staff: Ashlee Wright, City Clerk

TOUR OF INSPECTION

The Council met in the Council Chamber and proceeded to an on-site tour of inspection of the intersection of Mission Street and 8th Avenue. Councilmember Theis met the Council at the location of the tour.

CALL TO ORDER AND ROLL CALL

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

Absent: None

Staff: Ashlee Wright, City Clerk
Chip Rerig, City Administrator
Glen Mozingo, City Attorney
Paul Tomasi, Public Safety Director
Sharon Friedrichsen, Budget and Contracts Director
Marc Weiner, Community Planning and Building Director
Maxine Gullo, Human Resources Manager
Joel Staker, IT Manager
Bob Harary, Public Works Director
Dick Bower, Building Official
Agnes Topp, Environmental Compliance Manager

PLEDGE OF ALLEGIANCE

City Attorney Glen Mozingo led the pledge of allegiance.

EXTRAORDINARY BUSINESS

Item A: Proclamation for Childhood Cancer Awareness Month

Mayor Dallas present the Proclamation for Childhood Cancer Awareness Month to Maureen Kendall of Jacob's Heart.

Item B: Introduction of new employee: Dick Bower, Building Official

Marc Wiener, Community Planning and Building Director introduced Dick Bower, Building Official.

PUBLIC APPEARANCES

The following members of the public spoke: Lauren Banner and Sue McCloud.

ANNOUNCEMENTS

Item A: Announcements from Closed Session

City Attorney Glen Mozingo reported out on Closed Session items heard by Council at its Closed Session meeting held Monday, August 7, 2017.

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

Council discussed negotiations being made and received a progress report. There were no announcements for the public.

Item B: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(D)(1)
Name of Case: Chilone Payton vs. City of Carmel-by-the-Sea, CA
Monterey Superior Court Case No. 16CV003820

Council was advised of the current status of the pending litigation and there was nothing further to report.

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

This case has been resolved through a motion summary judgement by both plaintiff and defendant. The defendants motion was granted and the plaintiffs motion was denied. The court concluded in a 24 page document that the taxing authority of the City was not authorized and was preempted by state regulation, therefore the City will be required to compensate the defendant in this matter in the amount of \$30,000 for attorney's fees and \$2,100 in costs.

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

Council was advised of the current status of this pending litigation and there was nothing further to report.

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

Council was advised of the current status of this pending litigation and there was nothing further to report.

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

Council was advised of the current status of this pending litigation and there was nothing further to report.

Pursuant to Government Code Section 54956.9(D)(1)

Name of Case: City of Carmel-by-the-Sea v. Josef Wagelaar.

This matter has been settled.

Pursuant to Government Code Section 54956.9(D)(1)

Name of Case: Stacy Lininger v. Ronald Pflieger, City of Carmel-by-the-Sea, et. al. United States District Court, Northern District of California Court Case No. C17-3385SVK

Council was advised of the current status of this pending litigation and there was nothing further to report.

Item C: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9(d)(2): 1 case

Item D: CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8)
PROPERTY: Sunset Center located on San Carlos Street between Eighth Avenue and Tenth Avenue, Carmel-by-the-Sea, California
Negotiating Parties:
City: City Administrator, Chip Rerig, Mayor Pro Tem Carrie Theis, and Councilmember Carolyn Hardy
Sunset Cultural Center, Inc.: Director Christine Sandin Et Al.
Under Negotiation: Lease Agreement/Price and Terms Of Payment

This item was addressed under orders of business.

Item E: CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8)
PROPERTY: Forest Theater located at Santa Rita Street and Mountain View Avenue, Carmel-by-the-Sea, California
Negotiating Parties:
City: City Administrator, Chip Rerig Mayor Pro Tem Carrie Theis, and Councilmember Carolyn Hardy
Sunset Cultural Center, Inc.: Director Christine Sandin Et Al.
Under Negotiation: Lease Agreement/Price and Terms Of Payment

This item was addressed under orders of business.

Item B: Announcements from City Council Members

Councilmember Reimers suggested considering putting together a committee to draft a brochure for visitors which would include locations of restrooms, courtyards, and private property, and that this could be worked on with the Carmel Chamber of Commerce.

Councilmember Reimers reported that Fort Ord Reuse Authority was working hard to address the buildings along Highway 1. She shared an excerpt from the Fort Ord Reuse Authority 2017 annual report regarding current and future initiatives and recommended that interested parties go to <http://www.fora.org/AnnualReports.html> to read the report in full.

Councilmember Richards announced that the City had been nominated for Monterey Peninsula Chamber of Commerce Business Award, that Carmel-by-the-Sea was only City nominated, and that the City was a runner-up.

Mayor Dallas announced Car Week would be a big week next week and that staff will be giving 120%.

Item C: Announcements from City Administrator

City Administrator Chip Rerig announced that Public Safety Director/Police Chief Paul Tomasi is in charge of car week events. He thanked Don Freeman for his years of service to the community, himself, and staff, and he welcomed City Attorney Glen Mozingo.

Item D: Announcements from City Attorney

There were no announcements from the City Attorney.

CONSENT AGENDA

Action: Upon a motion made by Mayor Pro Tem Theis, seconded by Councilmember Richards, Council unanimously approved the consent agenda with the exception of Items 6, 9, 11, and with Councilmember Reimers abstaining from voting on Item 10 due to a conflict:

Item 1: Minutes for July 11, 2017. **Approved 5:0**

Item 2: Monthly Reports for the Month of June. **Approved 5:0**

Item 3: Check Register for the Month of June. **Approved 5:0**

Item 4: SR 2017-111 Consideration of an amendment to the Employment Agreement between the City of Carmel-by-the-Sea and City Administrator Chip Rerig. **Adopted Resolution 2017-088, 5:0**

Item 5: SR 2017-112 Consideration of the adoption of a resolution to rescind Resolution 2016-090 and authorizing the City Administrator to execute a contract with West Coast Arborists, Inc. for tree maintenance services for a total not to exceed fee of \$122,000 and a term ending June 30, 2018. **Adopted Resolution 2017-089, 5:0**

Item 7: SR 2017-114 Consideration of a resolution authorizing the City Administrator to extend the contract for animal services with the Monterey County Health Department's Animal Services Division for two years, ending June 30, 2019. **Adopted Resolution 2017-091, 5:0**

Item 8: SR 2017-115 Consideration of the adoption of a resolution authorizing the City Administrator to execute a Professional Services Agreement with Neill Engineers Corp. for City Engineering Services with a not-to-exceed fee of \$70,800 and a two-year term ending June 30, 2019. Adopted **Resolution 2017-092, 5:0**

Item 10: SR 2017-117 Approve a memorandum of agreement between the County of Monterey and Monterey County Cities regarding the credit guaranty for Monterey Bay Community Power and authorize the City Administrator to execute the agreement on behalf of the City of Carmel-by-the-Sea. **Adopted Resolution 2017-094, 4:0:1 (Councilmember Reimers abstained due to a conflict because of current negotiations with PG&E)**

Item 12: SR 2017-119 Consideration of a resolution granting the Carmel Youth Center a Sunset Center Free Theater Day on September 10, 2017. **Adopted Resolution 2017-096, 5:0**

The following item was pulled by Councilmember Hardy and considered separately by Council:

Item 6: SR 2017-113 Consideration of the adoption of a resolution authorizing the City Administrator to execute a Professional Services Agreement with Kasavan Architects for design and construction support of the Police Building Renovation Project for a total fee, including contingency, of \$122,815.

Public Works Director Bob Harary provided the report and responded to Council question.

Public Comments – None

Action: Upon a motion made by Councilmember Hardy, seconded by Councilmember Reimers, Council moved to adopt a resolution authorizing the City Administrator to execute a Professional Services Agreement with Kasavan Architects for design and construction support of the Police Building Renovation Project for a total fee, including contingency, of \$122,815. **Adopted Resolution 2017-090, 5:0**

AYES: COUNCILMEMBERS: Hardy, Reimers, Richards, Theis, Dallas

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

The following item was pulled by member of the public former Mayor Sue McCloud and considered separately by Council:

Item 9: SR 2017-116 Consideration of the adoption of a resolution authorizing the installation of stop signs and painted crosswalks creating a four- way stop sign controlled intersection at Mission Street and 8th Avenue.

Public Safety Directory/Police Chief Paul Tomasi provided the staff report. City Administrator Chip Rerig provided additional comments.

Public Comment – None

Council discussion followed.

Action: Upon a motion made by Mayor Pro Tem Theis, seconded by Councilmember Reimers, Council moved to adopt a resolution authorizing the installation of stop signs and painted crosswalks

creating a four- way stop sign controlled intersection at Mission Street and 8th Avenue. **Adopted Resolution 2017-093, 5:0**

AYES: COUNCILMEMBERS: Hardy, Reimers, Richards, Theis, Dallas

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

The following item was pulled by Councilmember Hardy and considered separately by Council:

Item 11: SR 2017-118 Designation of voting delegates for the League of California Cities Annual Business Meeting, Friday, September 15, 2017.

Public Comment - None

Action: Upon a motion made by Mayor Dallas, seconded by Councilmember Hardy, Council moved to designate Councilmember Reimers as the primary voting delegate and Mayor Dallas as the alternate voting delegate for the League of California Cities Annual Business Meeting, Friday, September 15, 2017.

Adopted Resolution 2017-095, 5:0

AYES: COUNCILMEMBERS: Hardy, Reimers, Richards, Theis, Dallas

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ORDERS OF BUSINESS

Item 13: SR 2017-120 Annual review of the Beach Fire Management Pilot Program

Community Planning and Building Director Marc Wiener provided the staff report.

Council discussion followed.

Public Safety Director/Police Chief Paul Tomasi responded to Council questions.

City Administrator Chip Rerig provided additional comments.

Public Comment

The following members of the public spoke on this item: Anthony Lombardo, Missy Jensen, Robert Fenton, Audrey Hall, The Lumets, Ramona Maris Andres, Richard Andres, Wayne Moon, Lynn Ross, Nancy Turro Garcia, Barbara Livingston, Georgina Armstrong, Lauren Banner, Doug Westfold, David, Denise Otterson, Martha Thomas, and no name given.

---End Public Comment---

City Administrator Chip Rerig responded to questions from the Council and the public.

Council discussion followed.

Council provided the following direction to staff regarding the Beach Fire Management Pilot Program:

1. Study the option of revising the pilot program to allow wood-burning fire devices (max still 12; possibly only smokeless north of 8th) and propane-fueled fires north of 8th Avenue and report back to the City Council on this in February 2018. We need to evaluate the environmental review requirements, potential locations and setbacks for devices, and ensure that we have proper public noticing for the February meeting.
2. Test out the new smokeless device and if deemed successful install more in place of currently installed fire pits.
3. Enhance the beach fire signage to be more visible and better convey the rules.
4. Prohibit burning of driftwood and study whether removing driftwood from the beach is a permissible option.
5. Promote the communal fire devices (include signage/tag on device)
6. Enhance public outreach with an emphasis on promoting propane-fueled fires.

Item 14: SR 2017-121 Receive a presentation regarding the leasing of the Flanders Mansion and other alternatives and provide direction to staff

Director of Budget and Contracts Sharon Friedrichsen provided the staff report.

City Administrator Chip Rerig provided additional comments.

Public Comment

The following members of the public spoke on this item: Les Albiol, Melanie Billig, Dick Stiles, Sue McCloud, Barbara Stiles, Barbara Livingston, Geri Ann Crosby, and Mike Brown.

---End Public Comment---

Council discussion followed. City Clerk Ashlee Wright made photocopies of documents provided by former Mayor Sue McCloud on this item for members of the Council and for the public to review.

Council directed staff to return at a future date with a recommendation regarding the lease, sale, or curator management of Flanders Mansion.

Item 15: SR 2017-122 Adopt Resolution ratifying City Administrator's execution of the Lease Agreement between City of Carmel-by-the-Sea and Sunset Cultural Center, Inc. for the facility known as Sunset Center for the period of July 1, 2017, through and including June 30, 2032.

Councilmember Reimers stepped down from the dais and recused herself from consideration of this item, as she owns property within 500' of the Sunset Center.

City Attorney Glen Mozingo provided the report on Items 15 and 16.

Public Comment – None

Action: Upon a motion made by Councilmember Richards, seconded by Mayor Dallas, Council moved to ratify the City Administrator's execution of the Lease Agreement between City of Carmel-by-the-Sea and Sunset

Cultural Center, Inc. for the facility known as Sunset Center for the period of July 1, 2017, through and including June 30, 2032 by the following roll call vote:

AYES:	COUNCILMEMBERS:	Hardy, Richards, Theis, Dallas
NOES:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	Reimers

Ratified, Resolution 2017-097, 4:0:1

Item 16: SR 2017-123 Adopt Resolution ratifying City Administrator's execution of the Lease Agreement between City of Carmel-by-the-Sea and Sunset Cultural Center, Inc. for the facility known as Forest Theater for the period of July 1, 2017, through and including June 30, 2032.

Councilmember Hardy stepped down from the dais and recused herself from consideration of this item, as she owns property within 500' of the Forest Theater.

Public Comment - None

Action: Upon a motion made by Councilmember Reimers, seconded by Mayor Dallas, Council moved to ratify the City Administrator's execution of the Lease Agreement between City of Carmel-by-the-Sea and Sunset Cultural Center, Inc. for the facility known as Forest Theater for the period of July 1, 2017, through and including June 30, 2032 by the following roll call vote:

AYES:	COUNCILMEMBERS:	Reimers, Richards, Theis, Dallas
NOES:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	Hardy

Ratified, Resolution 2017-098, 4:0:1

FUTURE AGENDA ITEMS

Councilmember Hardy resumed her seat at the dais.

- Short-term rentals in the business district
- Tour bus parking rates and sizes
- Special event fees and special event grant program

ADJOURNMENT

There being no further business, Mayor Dallas adjourned the Council meeting at 8:20 p.m.

APPROVED:

ATTEST:


Steve G. Dallas, Mayor


Ashlee Wright, City Clerk