CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

REGULAR MEETING MINUTES

Tuesday, August 6, 2024

TOUR OF INSPECTION - 3:45 PM

Prior to calling the regular meeting to order, the Council conducted an on-site tour of inspection of the property listed below:

A. NW Corner of Sterling Way and Perry Newberry Way, Carmel (Das)

CALL TO ORDER AND ROLL CALL

Mayor Dave Potter called the meeting to order at 4:30 p.m.
Roll call: Councilmembers Jeff Baron, Alissandra Dramov, Karen Ferlito, Mayor Pro Tempore Bobby Richards, and Mayor Dave Potter.

PLEDGE OF ALLEGIANCE

City Administrator Chip Rerig led the pledge of allegiance.

EXTRAORDINARY BUSINESS

A. Hugh Comstock Proclamation

Councilmember Dramov read the proclamation and presented it to Thomas Hood, President of the Carmel Heritage Society.

ANNOUNCEMENTS

City Attorney read an announcement regarding public comment.

Mayor Potter announced that the City has received several emails from the public stating their views that a Brown Act violation occurred at the July 9th City Council meeting in regard to the street address agenda item. He said that in order for Council to discuss the concerns raised the Council would need to make a motion to add an item to the agenda. Mayor Potter asked City Attorney Pierik to explain the process of adding a "subsequent need" item to tonight's agenda.

City Attorney Pierik outlined the three requirements in Government Code section 54954.2 (b)(2) for adding an item to the agenda, and he summarized that all three requirements have been met. He recommended that Council consider making a motion to add a subsequent need item to the agenda.

Mayor Pro Tem Richards made a motion pursuant to Government Code section 54954.2 (b)(2) to add a subsequent need item to the agenda based upon the fact that there is a need to take immediate action which came to the attention of the city subsequent to the posting of the agenda for this meeting, to consider a motion finding that the city Council did not

violate the Brown Act on July 9, 2024, in regard to street addresses, seconded by Councilmember Ferlito, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmembers Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

SUBSEQUENT NEED ITEM ADDED TO THE AGENDA - To consider a motion finding that the City Council did not violate the Brown Act on July 9, 2024

City Attorney Pierik presented the item, explaining that the July 9th agenda title on street addresses met the Brown Act's requirement a brief general description of the item with 15 words. He noted that a detailed staff report was available to the public, which included the recommended action by the ad hoc committee. Pierik then summarized the motion from July 9th, which directed staff to return in September with an implementation plan, community outreach plan, and draft ordinance to amend the municipal code regarding street addresses. He emphasized that no final decision was made on July 9th, and the direction was to return at the next meeting with the next steps towards moving forward with street addresses implementation and highlighted several past meetings on the topic of street addresses as well as many future opportunities for public input on street addresses. Mr. Pierik concluded that the City Council did not violate the Brown Act during the July 9th meeting.

Public comment:
Michael McWalters
Girard Rose
Andi Carr
David O'Neil
Melanie Billig
Chris White
Cari White
Karyl Hall
Carol Hillburn
Kathleen Moyer
Linda Calafiore
Janet
Maria Ruess
Ken White
Craig Rose
Lindamarie Rosier
Richard Kreitman

Council discussion resumed. Councilmember Dramov made a motion to request that the City reach out to the Fair Political Practices Commission decide if a Brown Act Violation was made. Motion failed due to lack of second.

City Attorney Pierik said that the Brown Act allows the legislative body to give direction to staff related to the subject matter on the agenda during the discussion. He reiterated that at the July 9th meeting, the Council did not take any action or make changes to the code, they directed staff to return at a future meeting with an implementation plan, a community engagement plan, and consideration of an Ordinance to update the municipal code. He added that the Ordinance would first be introduced at one meeting, and if passed, would proceed to a second reading for adoption with public input at both meetings.

Motion by Mayor Potter, to find that the City Council did not violate the Brown Act on July 9, 2024, in regard to the item on street addresses, for the reasons that were explained by the City Attorney, seconded by Mayor Pro Tem Richards, and approved 4-1-0-0 by the following roll call vote:
AYES: Councilmember Baron, Ferlito, Richards, and Mayor Potter
NOES: Councilmember Dramov
ABSENT: None
ABSTAIN: None

Mayor Potter suggested the City consider putting the implementation of street addresses on the ballot for voters to decide and asked staff to provide an analysis at the September meeting. Councilmember Ferlito voiced about letting voters decide on compliance with the State Building and Fire Codes and emphasized the importance of understanding the consequences if voters were to vote against implementing street addresses.

Motion by Mayor Potter to direct staff to come back in September with a discussion on whether street addresses should be put to the voters to decide on, and provide an analysis on what that would like, in addition to the direction to staff that was given during the July 9th meeting, seconded by Councilmember Dramov, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmember Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

ANNOUNCEMENTS

A. City Administrator Announcements - City Administrator Rerig said that the Community Planning & Building Department will host a housing workshop at Carpenter Hall on August 21st at 6:00 p.m. and encouraged everyone to attend.

B. City Attorney Announcements - no reports

C. Councilmember Announcements -

Mayor Pro Tem Richards shared that a 15-year-old driving student recognized him from a Mock City Council meeting she attended in the 3rd grade.

Councilmember Dramov suggested moving public appearances earlier on the agenda so the public doesn't have to wait as long.

D. Ad Hoc Committees - no reports from ad hoc committees.

PUBLIC APPEARANCES

Michael McWalters
James Smith
Linda Califiore
Cari White
Julia Christopher
Hans Buder
Kevin Ruess
Carol Hillburn
Paul Tomasi
Jo Todd
Joe Danucci
Craig Rose
Artist
No name

ORDERS OF BUSINESS

Item 1 - Resolution 2024-067 adopting a Memorandum of Understanding (MOU) between the City of Carmel-by-the-Sea and LIUNA/UPEC, Local 792 (General Unit) for the period of July 1, 2024 through June 30, 2026 and authorizing the City Administrator to execute the MOU

City Attorney Zachery Lopes presented on the MOU negotiations between City management and the General employee unit. He explained that, following the City Council's direction, City management has been meeting with LIUNA/UPEC, Local 792 (General Unit), and they have reached a tentative agreement on terms for a new MOU. He added that the General Unit has approved the agreement through a member vote. Mr. Lopes highlighted key provisions of the agreement and recommended that the Council adopt a resolution to authorize the MOU's execution.

Public comment:
None

Council thanked employees for their participation in the negotiation process and for their hard work.

Motion by Mayor Tem Richards to adopt Resolution 2024-067 authorizing the execution of an MOU with the General Employee Unit, for the period of July 1, 2024, through June 30, 2026, and adopting an updated salary schedule, seconded by Councilmember Ferlito, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmember Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

Item 2 - Resolution 2024-068 adopting a Memorandum of Understanding (MOU) between the City of Carmel-by-the-Sea and LIUNA/UPEC, Local 792 (Management Unit) for the period of July 1, 2024, through June 30, 2026 and authorizing the City Administrator to execute the MOU

City Attorney Zachery Lopes presented on the MOU negotiations between City management and the Management employee unit, and similar to the General Unit, and they have also reached a tentative agreement on terms for a new MOU. Mr. Lopes highlighted key provisions of the agreement and recommended that the Council adopt a resolution to authorize the MOU's execution.

Public comment: None

Motion by Mayor Pro Tem Richards to adopt Resolution 2024-068, authorizing the execution of an MOU with the Management Unit, for the period of July 1, 2024, through June 30, 2026, and adopting an updated salary schedule, seconded by Councilmember Ferlito, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmember Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

Council took a recess at 6:15 p.m. and returned the dais at 6:30 p.m. Meeting resumed at 6:31 p.m.

Item 3 - Resolution 2024-069 of the City Council of the City of Carmel-by-the-Sea amending the At-Will (Unrepresented) salary ranges to incorporate and align with Cost of Living Adjustments (COLAs) for the Management (LiUNA) Unit, in accordance with Municipal Code 2.52.520, effective August 1, 2024

Assistant City Administrator Swanson presented the item to Council, which is to consider aligning the at-will employees' compensation with the recent changes approved for the general and management employee units. He emphasized the importance of competitive salaries for recruitment and retention and highlighted the risk of salary compaction, where staff could end up earning more than their supervisors. He noted that maintaining a 10-15% salary difference between supervisors and staff is a standard practice to prevent these issues and mentioned that the City already faces significant compaction, which could worsen without adjustments.

Public Comment:
None

Councilmember Baron suggested that the Council should discuss creating a policy to make salary schedules more consistent and reduce compaction. He also recommended further discussions on reclassifying employees to ensure their positions are in the appropriate units.

Motion by Councilmember Baron to adopt Resolution 2024-069 amending the At-Will (Unrepresented) salary ranges to align with Management Unit COLAs, effective August 1, 2024, seconded by Mayor Pro Tem Richards, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmember Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

Item 4 - Resolution 2024-070, authorizing the City Administrator to execute a Construction Contract with Pro-Ex Construction, Inc., in the amount, with a 15% contingency, of $168,360 for the Sunset Center Cottages Window Repairs Project

Acting Public Works Director Mary Bilse gave a presentation to Council on the item and answered questions from Council. Duston Conner, Project Consultant, answered questions from Council regarding how asbestos abatement is conducted during the construction.

Public Comment:
None

Motion by Councilmember Baron to adopt Resolution 2024-070, authorizing a contract with Pro-Ex Construction, Inc., in the amount, with a 15% contingency, of $168,360 for the Sunset Center Cottages Window Repairs Project, seconded by Councilmember Ferlito, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmember Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

Item 5 - Review the Request for Proposals (RFP) for Architect Services for the renovation of the Harrison Memorial Library and the list for the Architect Selection Committee

Library and Community Activities Director Ashlee Wright presented the item to Council and answered questions from Council. She outlined the project timeline to date, the goal of the RFP, and summarized the role of the Harrison Memorial Library Board of Trustees, Library staff, the

Carmel Public Library Foundation (CPLF), and the Friends of the Harrison Memorial Library. She requested direction from Council on releasing the RFP, as well as provide direction on the architect selection committee members. CPLF Executive Director Alexandra Fallon answered questions from Council in regard to the list of members on the architect selection committee. She announced that the CPFL has a donor willing to make a $5 million lead gift that has a matching donation requirement by June 2025.

Public comment:
Lettie Bennett
Ben Heinrich
Ken Cranston
Susan Galvan
Pam Nightman
Erik Dyar

Council discussion resumed.

Mayor Pro Tem Richards made a motion to approve and release the RFP for Architect Services for the renovation of the Harrison Memorial Library and approve the list of 19 people on the Architect Selection Committee, seconded by Mayor Potter.

Council discussion resumed. Councilmember Baron asked about the status of the agreement between the City and with CPLF to secure funding for the Library Master Plan project, and expressed concerns that the agreement has not been entered into. Ms. Fallon said that the CPLF is committed to providing the initial $250,000 towards the architectural services agreement for the Library Master Plan.

Mayor Pro Tem Richards amended his motion to add that the City acknowledges that the CPLF has committed to funding $250,000 towards the architectural services agreement, in addition to approving and releasing the RFP, and approving the list of 19 people on the architectural selection committee. Amended motion seconded by Councilmember Baron.

Motion by Mayor Pro Tem Richards to approve and release the RFP for Architect Services for the renovation of the Harrison Memorial Library; approve the list of 19 people on the Architect Selection Committee; that the CPLF will enter into an agreement with the City to secure funding for the project once the architect is selected; and acknowledge that the CPLF has committed to funding $250,000 towards the initial architectural services agreement, seconded by Councilmember Baron, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmember Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

Item 6 - An update on development of the City's Accessory Dwelling Unit (ADU) Ordinance.

Assistant City Administrator and Acting Community Planning and Building Director Swanson presented an update on the development of an ADU Ordinance covering the background of the ADU Ordinance, process and review, development standards, design standards, and next steps.

Public comment:
Nancy Twomey
Melanie Billig
Dale Byrne

Council received the update on the ADU Ordinance; no action was taken.

Item 7 - Consider directing staff and the Forest and Beach Commission to explore a policy, prior to the end of 2024, that would balance the pickleball and tennis activities at Forest Hill Park with the surrounding residential uses.

Assistant City Administrator and Acting Community Planning and Building Director Swanson requested direction from Council to direct staff and the Forest and Beach Commission to explore a policy, prior to the end of 2024, that would balance the pickleball and tennis activities at Forest Hill Park with the surrounding residential uses.

Public comment:
Suzie
Alan Schooley
Nancy Hubbe
Michael Kennedy
Donna Kostigan
Didier Diaz
Kimberly Edwards
Nancy Twomey
John Kratchmer
Jay Swaggerman
Debbie Streeter
Kelly Brezoczky

Council thanked both sides of topic for being respectful to each other. Council consensus was that a policy around pickleball noise is needed, and the Forest and Beach Commission is the appropriate board to explore a policy.

Motion by Mayor Pro Tem Richards directing staff and the Forest and Beach Commission to explore a policy on pickleball, seconded by Councilmember Dramov, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmember Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

PUBLIC HEARINGS

Councilmember Ferlito left the dais at 8:29 pm and returned at 8:32 pm.

Item 1 - APP 24117 (Rodriguez) - Consideration of an Appeal of the Historic Resources Board's decision to add an individual property known as the "Henry J. Ohloff House" located at Camino Real 4 northwest of 11th Avenue to the Carmel Inventory of Historic Resources. APN: 010-275-006. RECOMMENDED FOR CONTINUANCE

Motion to continue the item to a date uncertain by Councilmember Baron, seconded by Mayor Potter, and approved 4-0-1-0 by the following roll call vote:
AYES: Councilmember Baron, Dramov, Richards, and Mayor Potter
NOES: None
ABSENT: Councilmember Ferlito
ABSTAIN: None

Item 2 - PERM EN 23-242 (Maxcy-Levy) - Consideration of a Permanent Encroachment Permit application, PERM EN 23-242 (Maxcy-Levy), for the installation of pavers in the public right-of-way, fronting a single-family residence located at Camino Real 3 northwest of 8th Avenue. RECOMMENDED FOR CONTINUANCE.

Motion to continue the item to a date uncertain by Councilmember Baron, seconded by Mayor Potter, and approved 5-0-0-0 by the following roll call vote:
AYES: Councilmember Baron, Dramov, Ferlito, Richards, and Mayor Potter
NOES: None
ABSENT: None
ABSTAIN: None

Item 3 - PERM EN 240031 (Das) - Consideration of a Permanent Encroachment Permit application, PERM EN 240031 (Das), for the legalization of, and modification to, existing encroachments in the public right-of-way, adjacent to a single-family residence located at the northeast corner of Sterling Way and Perry Newberry Way.

Associate Planner Evan Kort gave a presentation on the item summarizing that the City has adopted clear standards that guide the treatment of the right-of-way in the residential district. He stated that the staff recommendation is to deny the permanent encroachment application from the Das family to legalize their existing encroachments in the public right-of-way due to the applicant not providing any justifiable need for maintaining the encroachment, and the proposed encroachment is contrary to policy direction, design objectives, and the zoning code.

Public comment:
Antoni, Architect for the applicant

Mayor Potter said that although he normally agrees with staff's recommendation, in this instance he feels that allowing the existing retaining wall acts as a berm, protects the existing vegetation, and reduces the number of cars that would crowd the street. Mayor Pro Tem Richards and Councilmember Dramov agreed with Mayor Potter and noted that based on the letters received from the neighbors they support the existing encroachment.

Councilmembers Baron and Ferlito expressed support for the recommendation by staff to deny the encroachment, which is supported by the 7 findings for denying the approval. They voiced concerns that authorizing the existing illegal encroachment gives the homeowner 1,200 square feet of public space as their private property, approval goes against the city's codes and design guidelines and would set a precedent.

Motion by Mayor Potter to approve a Permanent Encroachment Application (EN 240031) at the northeast corner of Sterling Way and Perry Newberry Way, with the exception of the brick wall in the southeast corner of the property which must be removed, seconded by Mayor Pro Tem Richards, and approved 3-2-0-0 by the following roll call vote:
AYES: Councilmembers Dramov, Richards, and Mayor Potter
NOES: Councilmembers Baron, Ferlito
ABSENT: None
ABSTAIN: None

FUTURE AGENDA ITEMS
None

ADJOURNMENT

Council adjourned the meeting at 8:55 p.m.

SIGNED:

Dave Potter, Mayor

ATTEST:

Nova Romero, MMC, City Clerk

CITY OF CARMEL-BY-THE-SEA CALIFORNIA INCORPORATED 1916