

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

Tuesday, June 06, 2017

CALL TO ORDER AND ROLL CALL

Mayor Dallas called the meeting to order at 3:00 p.m.

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

Absent: None

Staff: Chip Rerig, City Administrator
Ashlee Wright, City Clerk
Paul Tomasi, Public Safety Director

PUBLIC APPEARANCES - None

CLOSED SESSION

Mayor Dallas announced the Closed Session items.

- Item 1:** LABOR NEGOTIATIONS
Pursuant to Government Code Section 54957.6(a)
Agency Designated Representatives: Zutler
Employee Organization: Ambulance
- Item 2:** PUBLIC EMPLOYEE PERFORMANCE REVIEW
Government Code Section 54957
Title: City Administrator
- Item 3:** Public Employment - Gov't. Code Section 54957.
Title: City Attorney.
- Item 4:** CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
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
- 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: Antonio C. Simonelli & Jacqueline C. Simonelli, Appellant/Petitioner v. City of Carmel, et al., Respondent - Monterey County Superior Court Case No. M123079, Sixth Appellate District Court of Appeal Case No. H044251

Public Comment - None

OPEN SESSION

Council resumed in Open Session at 4:33 p.m.

Staff: Ashlee Wright, City Clerk
Chip Rerig, City Administrator
Paul Tomasi, Public Safety Director
Janet Bombard, Library and Community Activities Director
Sharon Friedrichsen, Budget and Contracts Director
Marc Weiner, Community Planning and Building Director
Maxine Gullo, Human Resources Manager
Agnes Topp, Environmental Compliance Manager
Sherman Low, City Engineer
Gaudenz Panholzer, Monterey Fire Chief
Chris Johnson, Police Sergeant

PLEDGE OF ALLEGIANCE

Police Sergeant Chris Johnson led the pledge of allegiance.

ANNOUNCEMENTS

Item A: Announcements from Closed Session

City Attorney Don Freeman announced the Closed Session items and stated that there were no announcements for the public.

EXTRAORDINARY BUSINESS

Item 1: Police Officer of the Year and Support Service Person of the Year

Public Safety Director Paul Tomasi announced Sergeant Chris Johnson as the Police Officer of the Year and Joe Martis as Support Service Person of the Year

PUBLIC APPEARANCES

The following members of the public spoke: Christine Herco, Kathleen Craig, Ron Chaplain, Kenny Spilfogel, Carl Iverson, and Chief Panholzer.

ANNOUNCEMENTS

Item B: Announcements from City Council Members

Councilmember Hardy announced that the Council had conducted interviews for City Attorney, were in deliberations, and that the Council hoped to have an announcement at the July meeting.

Councilmember Reimers announced that she had been recusing herself from the PG&E discussions, as she and her neighbors are currently in discussion with PG&E about the moving of a power pole, which she hopes can be resolved.

Councilmember Hardy announced that the City now has a new Monterey-Salinas Transit bus shelter, and that the lighting is a little harsh, but will be taken care of.

Mayor Dallas announced that he attended the Panetta Lecture Series and that he hopes the series will return next year.

Councilmember Hardy announced that her husband, Niels, spent a lot of time at the Carmel Youth Center.

Item C: Announcements from City Administrator – None

Item D: Announcements from City Attorney

The City Attorney announced that the City had filed a lawsuit against homeowners who had been found in violation of the City's short-term rental law; and that the City was asking for a permanent injunction if homeowners violate this law, which can carry a jail sentence. He said that the City was looking for compliance with keeping the residential area primarily residential. He stated that the City was also pursuing fines for not applying for a business license, reimbursement for TOT and associated penalties, reimbursement for the investigators, and legal expenses. He stated that this process does take a long time; that an outside firm has been hired for the sting operation, which is the basis for the lawsuits. He stated that Council was serious about pursuing this and that the City is the first in the U.S. to prohibit short-term rentals. He stated that he hopes the City will be able to stop short-term rental violations and asked Council to consider this as an expense and to increase the line item for this.

CONSENT AGENDA

Action: Upon a motion made by Council Member Reimers, seconded by Councilmember Richards, Council moved to adopt the consent agenda as follows, with the exceptions of items 4, 8, and 11:

- Item 1:** Minutes. **Approved, 5:0**
- Item 2:** Monthly Reports for the month of April. **Approved, 5:0**
- Item 3:** Check Register for the month of April. **Approved, 5:0**
- Item 5:** SR 2017-074 Consideration of a resolution approving the rates charged by GreenWaste Recovery for the collection of franchised solid waste, recycling and organics. **Adopted Resolution 2017-049, 5:0**
- Item 6:** SR 2017-075 Consideration of a resolution authorizing an extension of the approved retroactive extension to the Paramedic Service Provider Agreement between the County of Monterey and Carmel-by-the-Sea. **Adopted Resolution 2017-050, 5:0**
- Item 7:** SR 2017-076 Authorization of the City Administrator to send a letter authorizing the County of Monterey to execute all documents necessary to continue to implement the annual Used Oil Payment Program (OPP) 7th Cycle, FY 2017-2018 on behalf of the City. **Authorized, 5:0**
- Item 9:** SR 2017-078 Ratification of an appointment to the Planning Commission. **Ratified, 5:0**
- Item 10:** SR 2017-079 Ratification of an appointment to the Community Activities & Cultural Commission **Ratified, 5:0**
- Item 12:** SR 2017-081 5th Award a Construction Contract to Monterey Peninsula Engineering for the Junipero and Fifth Avenue Storm Drain project in a total amount not to exceed \$87,690 (base bid of \$79,720 and \$7,970 project contingency) and authorize a budget adjustment up to \$8,650. **Adopted Resolution 2017-053, 5:0**
- Item 13:** SR 2017-082 Consider a resolution authorizing the Carmel Public Library Foundation to renovate the Park Branch Library lobby. **Adopted Resolution 2017-055, 5:0**

- Item 14:** SR 2017-083 Receive a report on the Emergency Operations Center and the 2017 updated Emergency Operations Plan. **Adopted Resolution 2017-056, 5:0**
- Item 15:** SR 2017-084 Consideration of a resolution approving participation of the City of Carmel-by-the-Sea in the Institute for Local Government's Beacon Program. **Adopted Resolution 2017-057, 5:0**
- Item 16:** SR 2017-085 Consideration of a resolution authorizing the City Administrator to execute Amendment No. 3 to a Professional Services Agreement with Boots Road Group, LLC for an additional amount of \$3,000 for contract website support services. **Adopted Resolution 2017-058, 5:0**
- Item 17:** SR 2017-086 Consideration of resolutions authorizing the City Administrator to execute amendments to professional services agreements for financial consulting and project management services for a total not to exceed amount of \$82,500. **Adopted Resolution 2017-059, 5:0**
- Item 18:** SR 2017-087 Consideration of a resolution authorizing the Mayor to execute a legislative subpoena to HomeAway, Inc. doing business as Vacation Rentals by Owner (VRBO). **Adopted Resolution 2017-065, 5:0**
- Item 19:** SR 2017-088 Consideration of a Resolution of the City Council of the City of Carmel-by-the-Sea adopting the Memorandum of Understanding (MOU) between the City of Carmel-by-the-Sea General employees union – an affiliate of the Laborers' International Union of North America, United Public Employees of California, LIUNA/UPEC, Local 792, AFL-CIO; and the City of Carmel-by-the-Sea Management Employees Union - an affiliate of the Laborers' International Union of North America, United Public Employees of California, LIUNA/UPEC, Local 792, AFL-CIO. **Adopted Resolution 2017-061, 5:0**

The following items were pulled from the Consent Agenda for further discussion:

- Item 8:** SR 2017-077 Adoption of a resolution authorizing the destruction of certain records in accordance with §34090 et. seq. of the Government Code.

Public Comment

The following members of the public spoke on this item: Sue McCloud and Ian Martin.

Councilmembers Reimers presented a list of items that she requested be pulled.

City Administrator Chip Rerig spoke to this item.

Action: Upon a motion by Councilmember Reimers, seconded by Mayor Pro Tem Theis, Council moved to adopt a resolution authorizing the destruction of certain records in accordance with §34090 et. seq. of the Government Code with the exception of documents identified by Councilmembers Reimers and Hardy. **Adopted Resolution 2017-051, 5:0**

- Item 11:** SR 2017-080 Consider a resolution authorizing the placement of tents in Devendorf Park and the closure of certain streets for the 11th annual Concours on the Avenue event on Tuesday, August 15, 2017.

Public Comment

The following members of the public spoke on this item: Jeff Baron, Richard Kreitman, and Kimberly Willis.

---End Public Comment---

Council discussion followed.

Action: Upon a motion made by Mayor Pro Tem Theis, seconded by Councilmember Richards, Council moved to adopt a resolution authorizing the placement of tents in Devendorf Park and the closure of certain streets for the 11th annual Concours on the Avenue event on Tuesday, August 15, 2017. **Adopted Resolution 2017-052, 5:0**

Item 4: SR 2017-073 Consideration of a resolution authorizing the City Administrator to execute a settlement agreement with Pacific Gas & Electric Co.

Councilmember Reimers recused herself from consideration of this item and stepped down from the dais.

Council discussion followed

Action: Upon a motion made by Mayor Dallas, seconded by Mayor Pro Tem Theis, Council moved to adopt a resolution authorizing the City Administrator to execute a settlement agreement with Pacific Gas & Electric Co. **Adopted Resolution 2017-048, 4:0:1 (Councilmember Reimers recused due to discussions with PG&E regarding a power pole near her home)**

ORDERS OF BUSINESS

Item 20: SR 2017-089 Adoption of the FY 2017/2018 Budget.

City Administrator Chip Rerig provided the staff report.

Public Comment

The following members of the public spoke on this item: Richard Kreitman, Sue McCloud, Barbara Livingston, Chris Toscaro, Ken White, and Ben Beesley.

---End Public Comment---

Council discussion followed.

Councilmembers Reimers and Richards, Mayor Pro Tem Theis, and Mayor Dallas disclosed that they had spoken with Ben Beesley, President of the Carmel Chamber of Commerce Board about funding for the Carmel Chamber of Commerce.

Action: Upon a motion made by Councilmember Hardy, seconded by Councilmember Richard, Council moved to the FY 2017/2018 Budget with the additional budget adjustment process to come back at the date certain September Council meeting to come up with an additional \$250,000 adjusting the budget for legal services and a mid-year review to possibly further support the Carmel Chamber of Commerce.

Adopted Resolution 2017-062, 5:0

Item 21: SR 2017-090 Authorization of the City Administrator to Execute Lease Agreements between the City and Sunset Cultural Center Inc. for Management and Operations of the Sunset Center and the Forest Theater for the Term of July 1, 2017 to June 30, 2032.

City Attorney Don Freeman stated that there had been two requests this evening from two different Councilmembers and he requested that this item be broken up into two segments, and that Council vote first on Sunset Center and then second on the Forest Theater, because two of the council members will be stepping down for the appearance of a conflict, because they live within 500 feet of the actual centers themselves.

Councilmember Reimers recused herself from consideration of the Sunset Cultural Center Inc. for Management and Operations of the Sunset Center because of owning property within 500 feet of the Sunset Center and stepped down from the dais.

City Administrator Chip Rerig provided the staff report and responded to Council questions.

Public Comment

The following members of the public spoke on this item: Doug Meuler.

Action: Upon a motion made by Councilmember Hardy, seconded by Mayor Pro Tem Theis, Council moved to authorize the City Administrator to Execute Lease Agreements between the City and Sunset Cultural Center Inc. for Management and Operations of the Sunset Center. **Adopted Resolution 2017-063, 4:0:1 (Reimers recused because of owning property within 500 feet)**

Councilmember Reimers returned to the dais. Councilmember Hardy recused herself because she owns property within 500 feet of the Forest Theater.

Public Comment

The following members of the public spoke on this item: Ian Martin, Jeff Baron, and Stephen Moorer.

---End Public Comment---

City Administrator Chip Rerig and City Attorney Don Freeman provided clarifications and responded to questions from the public and the Council.

Action: Upon a motion made by Mayor Pro Tem Theis, seconded by Councilmember Reimers, Council moved to authorize the City Administrator to Execute Lease Agreements between the City and Sunset Cultural Center Inc. for Management and Operations of the Forest Theater. **Adopted Resolution 2017-064, 4:0:1 (Councilmember Hardy recused because of owning property within 500 feet)**

PUBLIC HEARINGS

Item 22: SR 2017-091 Consider an appeal from Chanterria McGilbra, Executive Director of the Prancing Ponies Rally, of the denial of a Special Event Permit application for a proposed special event on Wednesday, August 16, 2017.

Janet Bombard, Library and Community Activities Director provided the staff report and responded to Council questions.

Appellant, Chantierra McGilbra spoke on this item and responded to questions from Council

Public Comment

The following members of the public spoke on this item: Barbara Livingston, Richard Kreitman, Jeff Baron, Jonathan Sapp, and Bashar Sneed.

---End Public Comment---

Council discussion followed.

Mayor Dallas called for a recess at 7:40 p.m. Council resumed at 7:45 p.m.

Council discussion followed.

Action: Upon a motion made by Councilmember Hardy, seconded by Mayor Pro Tem Theis, Council moved to; uphold the appeal and direct staff to ensure access to the post office delivery driveway, no DJ music but a small (music) ensemble would be allowed, no artificial turf laid on any streets, that flutter flags be permitted at the number indicated by the applicant that the event organizer will obtain a business license and remit sales tax to the City for any merchandise sold; and that all City event fees will be paid. **Granted, 3:2 (Councilmembers Richards and Reimers against)**

Item 23: SR 2017-092 Waive reading in full and adopt on second reading an ordinance moving the date of the City's General Municipal Election from the second Tuesday in April of even-numbered years to the first Tuesday after the first Monday in November of even-numbered years beginning in November 2018.

Public Comments

The following members of the public spoke on this item: Richard Kreitman, Sue McCloud, and Barbara Livingston.

---End Public Comment---
Council discussion followed.

Action: Upon a motion made by Councilmember Hardy, seconded by Mayor Pro Tem Theis, Council moved to Waive reading in full and adopt on second reading an ordinance moving the date of the City's General Municipal Election from the second Tuesday in April of even-numbered years to the first Tuesday after the first Monday in November of even-numbered years beginning in November 2018. **Adopted Ordinance 2017-008, 5:0**

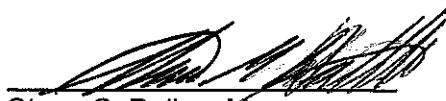
FUTURE AGENDA ITEMS

- Banning plastic straws and utensils
- Change of date for Board and Commission appointments
- Budget adjustments for September meeting
- Sidewalks – commercial district

ADJOURNMENT

There being no further business, Mayor Dallas adjourned the meeting at 8:15 p.m.

APPROVED:


Steve G. Dallas, Mayor

ATTEST:


Ashlee Wright, City Clerk