

REGULAR MEETING

Tuesday, April 3, 2018

Tour 3:30 p.m.

TOUR OF INSPECTION

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

Present: Councilmembers Hardy, Reimers, Richards, Mayor *pro tem* Theis and Mayor Dallas

Absent: None

Item A: Use Permit #18-040 (Mad Dogs & Englishmen) Jennifer Blevins, Business Owner
SW Corner of Ocean and Mission

Item B: Encroachment - #17-153 R. Terence Budden, Torres Street, 3 Northwest of First
Avenue, APN: 009-132-007

CLOSED SESSION 4:00 p.m.

CALL TO ORDER AND ROLL CALL

CLOSED SESSION

Item A: CONFERENCE WITH LEGAL COUNSEL - State Farm vs. City of Carmel-by-the-
Sea Summary Judgment

Item B: CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation (§54956.9(b):)
(1 case)

OPEN SESSION

4:30 PM

CALL TO ORDER AND ROLL CALL

Present: Councilmembers Hardy, Reimers, Richards, Mayor *pro tem* Theis and Mayor Dallas

Absent: None

Staff: Chip Rerig, City Administrator
Maxine Gullo, Assistant City Administrator
Jon Giffen, Assistant City Attorney
Marc Wiener, Director, Community Planning & Building
Marnie Waffle, Senior Planner
Lisa Leo, Project Manager
Robert Estrella, Project Manager
Dick Bower, Building Official

Bob Harary, Director, Public Works
Paul Tomasi, Chief of Police/Director, Public Safety
Ashlee Wright, Director, Library and Community Activities

PLEDGE OF ALLEGIANCE

EXTRAORDINARY BUSINESS

Item A: Police Officer Greg Johnson, Officer of the Year.

Chief Tomasi made the presentation to Officer Johnson.

Item B: Proclamation Declaring National Library Week, April 8-14, 2018.

Councilmember Reimers made the presentation to Director Wright.

PUBLIC APPEARANCES

Karen Ferlito, Ramona Andre, Richard Andre, Nevin Miller, Jack Galante, Sue McCloud, Les and Trish Albiol, Ken Spilfogel, Jessica Faddis, Ben Beesley, Georgina Armstrong, and Barbara Livingston.

ANNOUNCEMENTS

Item A: Closed Session Oral Report

Report by Assistant City Attorney Jon Giffen on the 1.) State Farm vs. the City of Carmel-by-the-Sea, the Court issued a Summary Judgment in this case. The City Council also discussed a case of anticipated litigation, and there is no information to report.

Item B: City Attorney Announcements - None

Item C: Councilmember Announcements –

Councilmember Hardy reported out for the Transportation Agency for Monterey County and for Monterey-Salinas Transit. The Holman Highway project continues to win accolades from users and professionals alike, and recently was submitted to a contest at the League of California Cities which it won for Best Safety Project of the Year. TAMC is also preparing to expand passenger rail service south to Salinas from Santa Clara County. There will be passenger hubs in Salinas, Pajaro and in Castroville. Measure X has generated over \$18 million for transportation projects for which Carmel's share was about \$129,000. That \$129,000 is being allocated for street repairs right now. Finally, MST has put new busses into service. The first four went into service already between Salinas and Monterey, and there are 23 more on the way. Each new bus costs about \$500,000. As a side note, the new busses are being made in Livermore, CA.

Councilmember Reimers reported on three items. First, she said she agrees that some research should go into the underground wiring planning for the City, and suggested that one way to do that would be an ad hoc committee of citizens. Second, she shared that the Carmel Library Foundation will have a special and unique

fundraising event entitled, "The Travel Edition: Journey of a Life," scheduled on April 24th at Sunset Center. As a side note, the Library Foundation recently gave in excess of \$200K to the Library for books and support. Lastly, Councilmember Reimers read a statement into the record on the North Dunes because, she said, she did not want to misspeak. The statement is as follows:

The North Dunes is a Sensitive Habitat that requires special care.

The recent Pine Cone told that the plan that has been approved Unanimously by the Forest & Beach, approved Unanimously by the Planning Commission and approved Unanimously by the City Council is being challenged to the Coastal Commission. Granted, a person has a right to challenge.

However, to defend that challenge the city will need to prepare and present positions at one of the upcoming Coastal Commission meetings.

That process will be costly and it is important that the citizens of Carmel-by-the-Sea understand and learn what those costs are. So, I am asking that the hours of staff time and the travel expenses and all other city costs be tabulated so that we all will have a clear understanding of the cost to the city of this challenge.

As a side note, the plan to restore the Dunes is one that all scientists who have been involved over the number of years supported. And, important to note is that 60 or so trees will remain in the Dunes area and the opening up of the hedges of trees will allow us all to appreciate the more 'iconic' look of the Cypress trees. (that, by the way are not native to that Dunes)

It is for these reasons that I ask that a record be kept of the costs related to the defense of the Dunes Restoration challenge.

//s// Jan Reimers

Mayor Dallas said that on behalf of the City he sent letters regarding two bills that were introduced by Assemblymember Mark Stone; AB-2308 will protect our coast and waterways by banning cigarette filters, and the second was AB-2421 to restore habitat for the Monarch butterfly whose population has been drastically declining over the past decade.

In May, Mayor Dallas hopes to have Jim Cullem, Executive Director of the Monterey Peninsula Regional Water Authority come to the City with a water update. As of this meeting, Public Water Now has gathered 11,405 signatures asking for a feasibility study to be done, and to have it voted upon by Peninsula residents in November.

The Mayor also reported that unfortunately the North Dunes Restoration Project had been appealed to the Coastal Commission for review. City staff and the Mayor will attend that Coastal Commission meeting in hopes of getting the matter settled so the City can proceed with the restoration.

Finally, The City Administrator and Mayor Dallas have reached out to PG&E regarding the proposed 6-inch gas pipeline proposed installation through the City. It appears that PG&E is proposing some changes as requested by the residents, staff and Council. Furthermore, the Mayor and Mr. Rerig have requested PG&E to produce a PG&E outreach workshop for the community. PG&E has not yet responded. Mayor Dallas

will continue to press for such an outreach workshop to be done before it comes again before this Council.

Item D: City Administrator Announcements

The City has installed four beach fire smokeless devices mounted on small concrete pads south of Tenth. Several citations were issued to people burning charcoal in a charcoal grill, which is not allowed. Lastly, Community Planning and Building Director Wiener has helped to design new beach signage, with a planned installation date of this Friday, March 9.

Regarding Flanders Mansion, the City has received direction from Council. The administration is in the middle of budget preparation for the FY18-19 cycle that has taken precedence over the two options the Council has asked for, but this will be done as soon as the budget preparation has been concluded.

CONSENT AGENDA

Councilmember Richards stated that he did speak with Assistant City Attorney Giffen about funds that were expended in February, and that all charges were explained to his satisfaction.

Councilmember Reimers moved, seconded by Mayor pro tem Theis, to approve the Consent Agenda, minus Item 3.

Action: AYES: Richards, Hardy, Theis, Reimers, Dallas
NOES: None

Councilmember Reimers moved, seconded by Mayor pro tem Theis, to approve Item 3.1.

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

Item 3.5. was pulled by Jeff Baron, who said he does not feel the Minutes of March 20th accurately describe his statement. He asked either that his remarks be stricken and the Minutes be revised or that the Council direct the City Clerk to re-watch the tape and revise the Minutes accordingly. The Mayor so directed the Clerk. On a query from Councilmember Hardy suggesting Mr. Baron might clarify his point for the Clerk, Mayor Dallas said it's just easier to "dictate it out" and place it directly into the minutes, thus eliminating the need for further discussion.

Mayor Dallas asked for a motion to continue Items 3.2, 3.3, 3.4, and 3.5 to the May 1, 2018 agenda.

Action: Councilmember Hardy moved to do so, seconded by Councilmember Reimers.
AYES: Richards, Hardy, Reimers Theis, Dallas
NOES: None

- Item 1:** Monthly Reports for February:
- 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.) Forester Reports
- Item 2:** February 2018 check register summary.
- Item 3:** Draft Minutes -
- 1.) March 2, 2018 City Council Special Meeting Closed Session and;
 - 2.) March 5, 2018 City Council Regular Meeting & Closed Session; and
 - 3.) March 6, 2018 City Council Regular Meeting & Closed Session; and
 - 4.) March 7, 2018 City Council Special Meeting, and
 - 5.) March 20, 2018 City Council Special Meeting.
- Item 4:** Resolution 2018-012, Awarding a Professional Services Agreement to Axiom Engineers for a not-to-exceed fee, including contingency, of \$30,000 for design and construction support services for HVAC System Replacements at the Harrison Memorial and Park Branch Libraries
- Item 5:** Resolution No. 2018-032-1 approving a budget adjustment of up to \$21,293 to fund the purchase of radios for the City's Fire and Ambulance Department; and Resolution 2018-032-2 authorizing the City Administrator to enter into an agreement with the Cities of Monterey, Pacific Grove, Salinas, Big Sur Fire Brigade, City of King City, City of Marina, Mid Coast Fire Brigade, and the Aromas Tri-County Fire Protection District for joint grant funding of remaining radios not purchased through the initial grant.
- Item 6:** Resolution 2018-033, Adopting Council Policy C18-01 "Website Policy" governing the usage of the City's website.
- Item 7:** Resolution No. 2018-034 authorizing a supplemental appropriation of \$884,575 to the Fiscal Year 2017-2018 Adopted Budget for the Citywide Paving Project.
- Item 8:** Resolution 2018-035, Authorizing the Community Activities & Cultural Commission to form an *ad hoc* Committee to review Municipal Code Chapter 2.28 "Community Activities and Cultural Commission".
- Item 9:** Resolution No. 2018-038 authorizing the City Administrator to execute Amendment No. 3 to Professional Services Agreement ADM-CREZA-035-16-17 with Christine Reza for financial consulting services for a not to exceed contract amendment amount of \$10,000.
- Item 10:** Resolution No. 2018-039, adopting a list of streets to be repaved for inclusion in the FY 2018/19 Budget and Capital Improvement Plan and partially funded by SB 1, the Road Repair and Accountability Act.

ORDERS OF BUSINESS

Item 11: Resolution 2018-040, authorizing the City Administrator to execute Amendment No. 1 to the Professional Services Agreement with Kasavan Architects for a fee increase, including contingency, of \$74,534; and Review of Schematic Design for the Police Building Renovation and Expansion Project.

The City Council returned from a break at 6:21 p.m.

Public Works Director Harary began his presentation at 6:30 p.m., recapping the steps Council took to get to the present situation, which is for the City Council to confirm the schematic design and approve Amendment No. 1 with Kasavan Architects for additional design services at \$74,534, bringing the total fee with a 10% contingency to \$197,349. The Design Phase is considered a separate project from the Construction Phase.

Council asked questions of staff. Chief Tomasi and Director Harary answered questions.

Georgina Armstrong, Jeff Baron, Karen Ferlito, Barbara Livingston, (add the others) spoke.

City Administrator Rerig said this process started about a year ago when Chief Tomasi talked about what his needs were. He said this process is in its adolescent phase right now, and the reason it's coming back to the Council is that Council asked for it to come back after reviews by the Forest and Beach and Planning Commissions. He also stated that this would be a secure facility, unlike the community rooms at Sunset Center or the Library. This room will be used as a training room for police officers and perhaps other small groups of staff, as well as the EOC.

Councilmember Hardy moved, seconded by Mayor pro tem Theis, to authorize the City Administrator to execute Amendment No. 1 to the Professional Services Agreement with Kasavan for the additional design services including a contingency of \$74,534.

Councilmember Reimers said she wanted to make it very clear that she wants the health and safety of the community as well. Since this is a schematic design she is concerned about the look of it and for that reason she will be voting no.

Councilmember Richards said he would make the same comment. He will vote no on this because he won't spend any more of the taxpayers' money on this project because he doesn't believe in it. However, that has no bearing on his feelings for the health and safety of this community. Those are two completely different things.

Mayor Dallas said he would be supporting this project because he believes Council did vote on Option 5 a few months back. He reiterated that Council is not voting on the design tonight. He wants junior boards and commissions to have the opportunity to make design changes before it comes back to Council.

Action:

AYES: Hardy, Theis, Dallas

NOES: Richards, Reimers

At this point in the meeting, Mayor Dallas moved to Item 15.

Item 12: Consideration of an Encroachment Permit (EN 17-153) application to maintain an existing fence with stone columns and other associated encroachments in the City right-of-way at the front of a property located on Torres Street, three northwest of First Avenue, in the Single-Family Residential (R-1) Zoning District.

This item was taken out of agenda order, before Item 11.

MAYOR DALLAS OPENED THE PUBLIC HEARING AT 5:01 p.m.

Senior Planner Marnie Waffle presented the staff report.

Appellant Nancy Ann Budden addressed the Council. She is a Sediment Geologist and thinks about this issue often. She said the slope is such that the whole neighborhood has evolved over the last forty years, and is the reason why these retaining walls have evolved. These allow the plants to take root and stabilize the soil.

Barbara Livingston spoke.

MAYOR DALLAS CLOSED THE PUBLIC HEARING AT 5:37 P.M.

City Administrator Rerig addressed Ms. Livingston's question. He said many of these retaining walls were done with encroachment permits over a period of time. A mechanism now in place, after a suggestion by Councilmember Hardy, is to send out Welcome Letters to all new property owners reminding them that properties may not be rented out on a short-term basis (less than 30 days), and that if there are encroachments in the Right of Way, they require approval by the City or removal by the new property owner. The City also reviews properties for encroachments upon change of ownership or design reviews.

Councilmember Richards moved, and Councilmember Reimers seconded, that Council approve the encroachment as requested by the property owner.

AYES: Richards, Reimers

NOES: Hardy, Theis, Dallas

After discussion, Councilmember Reimers moved, and Mayor Dallas seconded, that the Council deny the application with the exception of the retaining wall to the south, which would be maintained or adjusted to the slope.

Mayor pro tem Theis asked for clarification of the motion, and Councilmember Reimers said that staff could assist the Applicant with the retaining wall to the south.

City Administrator Rerig read back Councilmember Reimers' motion to deny the encroachment with the exception of the retaining wall to the south and allow it to be maintained or adjusted to maintain the adjacent slope to the north.

Councilmember Reimers removed her motion due to the changes

Mayor pro tem Theis said the goal is to bring this property into compliance based on our current building codes.

Councilmember Hardy moved, seconded by Councilmember Reimers, to deny the encroachment permit application for the hardscape of the walkway, the fence and the pillars, allow the brick retaining wall, but have it cut back to some degree with approval of staff, and have the Applicant work with staff to groom the corner.

Action: AYES: Theis, Hardy, Reimers, Dallas
NOES: Richards

The City Council took a five-minute break at 6:10 p.m. and then moved to Item 13?

Item 13: CalPERS Pension Update

City Administrator Rerig made some introductory remarks, and said the goal tonight was to lay out the challenge and to lay out the plans to meet those challenges. He also thanked the residents and staff for contributing to the solutions so far. He said the City is in much better shape than other cities because it never went to an enhanced benefits package. Other agencies have a more robust retirement package.

Assistant City Administrator Maxine Gullo presented the staff report.

City Administrator Rerig answered questions from councilmembers Jeff Baron spoke.

Assistant Administrator Gullo and City Administrator Rerig responded.

Council discussed the item.

Having concluded this item, the council then moved to Future Agenda Items.

Item 14: Receive an Update from Civitas on the Feasibility of Forming a Carmel Restaurant Business Improvement District; Adopt Resolution 2018-40-1 Authorizing the City Administrator to Execute an Agreement with Civitas for Technical Assistance Regarding the Formation of the Carmel Restaurant Business Improvement District in an Amount not to Exceed \$30,000 and Adopt Resolution 2018-40-2 Authorizing a Supplemental Appropriation of \$40,000 to the Fiscal Year 2017-2018 Adopted Budget

Budget and Contracts Manager Sharon Friedrichsen presented the staff report.

Nichole Farley, Civitas, also presented on the specifics of the RBID.

Council asked questions.

Amy Herzog, Visit Carmel, said her board voted in January to approve \$13,000 for this initiative.

Ken Spielfogel, Monterey County Hospitality Association, said his group would be ready to make their first payment by the end of April, 2018. Their commitment would be the same as Visit Carmel's.

Barbara Livingston spoke.

Mayor pro tem Theis moved, seconded by Councilmember Richards, that the City Council adopt resolution 2018-40-1 Authorizing the City Administrator to Execute an Agreement with Civitas for Technical Assistance Regarding the Formation of the Carmel Restaurant Improvement District in an Amount not to Exceed \$30,000, which would reflect a \$13,000 commitment from Visit Carmel and a \$13,000 commitment from the restaurants, and the restaurants need to have their commitment to these funds by April 30th in order for this to go forward, and Adopt Resolution 2018-40-2 Authorizing a Supplemental Appropriation of \$40,000 to the Fiscal Year 2017-2018 Adopted Budget.

Action: AYES: Richards, Hardy, Reimers, Theis, Dallas
NOES:

Council then took up Item 15?

PUBLIC HEARINGS

Item 15: City Council Review of a Denial of Use Permit #18-040 (Mad Dogs & Englishmen)
Jennifer Blevins, Business Owner southwest corner of Ocean and Mission

Mayor Dallas opened the Public Hearing at 7:42 p.m.

Councilmember Reimers recused herself due to proximity and left the dais at 7:40 p.m.

Senior Planner Mamie Waffle presented the staff report.

Jennifer Blevins and Martin Watson, Applicants, made their report.

Council asked questions.

Mike Brown Jeff Baron, and John Plastini spoke.

Mayor Dallas closed the Public Hearing at 7:58 p.m.

, Assistant City Attorney Giffen answered questions and Council discussed the item.

Councilmember Hardy moved, seconded by Mayor pro tem Theis, that the Council approve the application with the added condition that guided group tours of any size are prohibited, and add that language into the authorization on page 460.

The Applicant asked that the language be amended to "guided group tour," and Councilmember Hardy and Mayor pro tem Theis agreed.

Action: AYES: Richards, Hardy, Theis, Dallas
NOES:
ABSENT: Reimers

The City Council then took up Item 14.

FUTURE AGENDA ITEMS

City Administrator Rerig said the CIP will be coming back on May 1st, and a workshop is planned on May 15th in anticipation of budget adoption on June 5, 2018.

Mayor Dallas adjourned the meeting at 9:44 p.m.

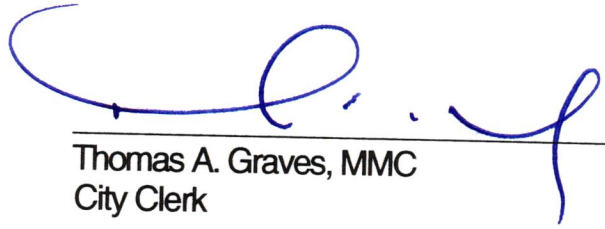
ADJOURNMENT

APPROVED:



Steve G. Dallas, Mayor

ATTEST:



Thomas A. Graves, MMC
City Clerk