MINUTES
REGULAR MEETING
CARMEL-BY-THE-SEA

Tuesday, February 6, 2018

CALL TO ORDER AND ROLL CALL

Mayor Dallas called the meeting to order at 4:30 p.m.

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

Absent: None

Staff: Chip Rerig, City Administrator
Maxine Gullo, Assistant City Administrator/HR Manager
Glen Mozingo, City Attorney
Tom Graves, City Clerk
Robin Scattini, Finance Manager
Ashlee Wright, Library and Community Activities Director
Paul Tomasi, Public Safety Director
Bob Harary, Public Works Director

PLEDGE OF ALLEGIANCE

EXTRAORDINARY BUSINESS

A. Presentation by PG&E to Introduce a New Gas Line Project Across the Northerly Portion of Carmel-by-the-Sea.
B. Transportation Agency for Monterey County (TAMC) Measure X Oversight Committee Update.

Mayor Dallas announced that Item A would be continued to the March meeting, and that Item B. would be continued to a future date under Public Appearances.

PUBLIC APPEARANCES

The following members of the public spoke: Karen Ferlito, Cynthia Buell, Fred Kern , and Thomas Hood.

ANNOUNCEMENTS

A. Councilmember Announcements

Councilmember Richards attended the League of California Cities meeting in Sacramento.

Councilmember Hardy reported out for Transportation Agency for Monterey County (TAMC) and for Monterey-Salinas Transit (MST).

Councilmember Reimers reported out on the Fort Ord Reuse Authority (FORA).

Mayor pro tem Theis announced that Monterey Regional Waste Management District will have an open house on February 23th to show off their new Resource recovery machine.

B. City Attorney Announcements

The investigator will have a report to the City Attorney by the end of the month on the report of inappropriate activity of an elected official. The City Attorney said the process is coming to a resolution soon.

C. City Administrator Announcements

Mr. Rerig said issues have still not been resolved regarding the agenda management system, and one thing that is under consideration is to have a very short-term ad hoc committee to address agenda matters such as font size, formatting, etc. He also pointed out that the agenda management system is made to be viewed online, and that it may not always look as good when printed.

CONSENT AGENDA

Sue McCloud mentioned several housekeeping items and suggestions for the listing of Public Records

Skip Lloyd spoke on behalf of Friends of Mission Trail Nature Preserve regarding Item 16. He thanked the Public Works Department for collaborating with them.

Karen Ferlito asked to pull Item 1.5., the Forester's Report.

Ashley Blake, Oceana, also thanked the Council and Mayor for agendizing the resolution regarding off-shore drilling.

Action: Councilmember Hardy moved, seconded by Mayor *pro tem* Theis, to approve the following items on the Consent Agenda, except items 1.5, 2, 3, 6 and 10.

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

Item 1. Monthly Reports:
1.) City Administrator Contract Log;
2.) Community Planning and Building Department Reports;
3.) Police, Fire, and Ambulance Reports;
4.) Public Records Act Requests, and

Item 4. Approve the Minutes of October 2, 2017, October 3, 2017, November 7, 2017, November 27, 2017, December 4, 2017, December 5, 2017, December 15, 2017 and January 8, 2018 Meetings of the City Council.

Item 5. Resolution No. 2018-010, Amending the Current Peninsula Regional Violence and Narcotics Team (PRVNT) MOU by adding the City of Del Rey Oaks as a participating agency.

Item 7. Resolution No. 2018-014, Opposing Offshore Oil Drilling, Exploration and Fracking.

Barbara Livingston thanked the Mayor and Council for this resolution.

Item 8. Resolution No. 2018-015, Approving a Request from Carmel Public Library Foundation for a "Free Use Day" at Sunset Center Theater on Tuesday, April 24, 2018.

Item 9. Resolution 2018-016, Authorizing City Co-Sponsorship of the Carmel Public Library Foundation's Annual Donor Salute Event at the Main Library on Sunday, March 4, 2018; and Authorizing City Co-Sponsorship of the Carmel Public Library Foundation's Annual Sterling Circle Event at the Main Library on Sunday, June 10, 2018.

Item 11. Adopt Resolution No. 2018-018 Approving the Placement of a Small Commemorative Plaque in the Lobby of City Hall to Recognize Friends of Carmel Forest Centennial Tree Donors.

Item 12. Resolution No. 2018-019, approving the Conversion to 4-way Stop-Controlled Intersections at Carmelo Street/8th Avenue, Dolores Street/12th Avenue, and Lincoln Street/7th Avenue.

Mayor Dallas recused himself on Dolores St./12th Avenue, and Councilmember Reimers recused herself on Carmelo St./8th Avenue.

Item 13. Resolution 2018-020-1, Authorizing the Examination of Sales and Transaction and Use Tax Records, AND

Resolution 2018-020-2, Authorizing the City Administrator to negotiate and execute an agreement with Civitas for preparing a restaurant improvement district feasibility study.

Item 14. Resolution 2018-021, Authorizing the Investment of Monies in the Local Agency Investment Fund.

Item 15. Resolution No. 2018-022, Approving the Special Event Fee Schedule

Item 16. Resolution No. 2018-023 accepting a $25,000 grant from the Monterey Peninsula Regional Park District for improvements to the Mission Trail Nature Preserve.

Item 17. Ratify Five Appointments to the Board of Appeals and One Appointment to the Community Activities & Cultural Commission.

The City Council heard the following items separate from the Consent Agenda:

Item 1. Monthly Reports:
5.) Forester Reports

Karen Ferlito, Friends of Carmel Forest, spoke the tree deficit in the City.

Barbara Livingston endorsed what Ms. Ferlito said, and asked what the state of the "tree waterer" is.

The City Attorney said the "tree waterer" is a personnel issue.

The City Administrator said he would be happy to meet with Ms. Ferlito, Ms. Livingston and others about this item.

Action: Councilmember Hardy moved, seconded by Councilmember Richards, to approve the Forester's Report.

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

Item 2. Ratify Check Register Summary for December 2017.

Councilmember Richards pulled this item, with questions about legal services.

Action: Councilmember Hardy moved, seconded by Councilmember Reimers, to approve the Check Register.

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

Item 3. Approve the Minutes of the January 9, 2018 City Council Meeting.

Mr. Rerig said these Minutes are a prime example of what is not working Novus, and that we would like to continue these Minutes to the March meeting. Council agreed by consensus.

Item 6. Resolution No. 2018-013 approving the Expansion of the Prancing Ponies Car show on Wednesday August 22, 2018.

Councilmember Reimers pulled this item. There are some time and date discrepancies, which should be corrected

Action: Councilmember Reimers moved, seconded by Mayor pro tem Theis, to approve Resolution No. 2018-013, with amendments.

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

Item 10. Resolution No 2018-017:

1. Authorizing the Closures of Dolores Street Between Ocean and 7th Avenues, and 7th Avenue Between Dolores and San Carlos Streets for the 26th Annual Winemakers' Celebration Event on May 5, 2018; and
2. Authorizing the Consumption of Alcohol at the Event.

Councilmember Reimers recused herself from this item and left the dais. Councilmember Hardy pulled this item, and asked for an additional police officer to augment private security and suggested music be less noisy than last year, e.g., no DJ and more ambient music.

Kim Stemmler said a second police officer would be added, and more ambient music would be used.

Action: Councilmember Hardy moved, seconded by Mayor *pro tem* Theis, to approve Resolution No. 2018-017, with amendments.

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

ORDERS OF BUSINESS

Item 17. A preliminary review of a proposed right-of-way abandonment in exchange for design and construction of a new sidewalk in the public right-of-way associated with a proposed duplex located on 8th Avenue, two northwest of Junipero Street. The project applicant is Thomas Fountain.

Councilmember Reimers left the dais at 5:30 p.m. because she of a potential conflict of interest on this item.

Senior Planner Waffle made the staff presentation.

Anthony Lombardo made the applicant presentation. Eric Miller was present to represent the applicant as well.

SPEAKING FROM THE FLOOR:

Barbara Livingston
Karen Ferlito

Council discussion and questions followed. City Administrator Chip Rerig responded to questions.

Mayor Dallas coalesced Council direction: A low stone wall that would wrap-around from Mission Street to the Eighth Avenue elevation of the Scout House, and that the Scout House wall at the Scout House driveway would be re-done in Carmel stone to match the existing stone at the front of the Scout House. Then a plaster wall in front of the Fountain properties without any stone cap.

Mayor Dallas suggested regarding fees, the encroachment permit is $895, tree removal is $3,568, and the fee for lot line adjustment is $1,739. He suggested those fees be waived, and that the applicant takes responsibility with for all other fees with the County, etc.

Councilmembers concurred.

Note: Councilmembers were not asked to approve this project, but only to advise staff.

Item 18. Consideration of an Encroachment Permit application (EN 17-67) for an existing restaurant trash enclosure located in a portion of the City-owned Piccadilly Park. The project is located on Dolores Street, 4 northwest of 7th Avenue. The project applicant is David Fink.

Councilmember Reimers remained off the dais because she was recused on this item, as well.

Senior Planner Waffle presented the staff report.

Applicant Fink presented.

SPEAKING FROM THE FLOOR:

Barbara Livingston.

Council discussed and questions followed. City staff responded to questions.

City Attorney Mozingo received a letter from the Applicant's counsel, and he said he disagrees with each of the points counsel raised. He said Counsel argued that there is a vested interest in the property or prescriptive easement; neither one of which can be applied to a property that is owned by a sovereign. Mr. Mozingo said he did find a document dated May 23, 2006, and on the bottom of it, in part, it reads, No trash receptacle or bins permitted outside the building on parkland.

City Attorney Mozingo reminded all that any issuance of a permit that conflicts with the Municipal Code is void ab initio, i.e., from the beginning. He stated that Council has the absolute right to void any permit that was issued in conflict with the Municipal Code.

Action: Councilmember Hardy moved, seconded by Mayor *Dallas*, to uphold the staff recommendation to deny the Encroachment Permit request, and to direct the Applicant to accommodate trash storage on private property, and to remove the trash enclosure from the park within 60 days.

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

Mayor Dallas called a short break at 6:45 p.m.
Council reconvened at 6:54 p.m.

Item 19. Review of the Beach Fire Management Pilot Program and Provide Direction to Staff. Director Wiener made the staff presentation.

SPEAKING FROM THE FLOOR:

Barbara Livingston
Georgina Armstrong
Richard Andre
Brent Allen
Audrey Hall
Christine Hollenbeck
Lynn Ross
Missy Jensen
Kathy Bang
Anthony Lombardo
Karen Ferlito

The City Administrator said many letters were received on this issue, and that they are all in Councilmembers' packets. Public Safety Director Tomasi said coverage has been through several changes, but it has been provided per the agreement. Beach fires were up to 165 a month, and last month there were four, so enforcement is working.

The City Attorney, in response to a question from Councilmember Hardy, said moving the area where fires are not allowed would be a violation of the LCP.

The City Administrator said the current Pilot Program expires in June of 2019. He has intended to come back to Council in August of 2018, but he said that date is flexible if Council wishes.

Action: Councilmember Hardy moved, seconded by Mayor *pro tem* Theis, that the City Council recommend that up to nine smokeless devices be used in the Pilot, that they be 200 feet from each other, that they be south of 10th Avenue to comply with the LCP, that the City makes every attempt to work with the Air Quality Control Board to measure the air quality (which could also be influenced by fireplace fires), that the Pilot Program be extended at the July meeting of the council, and to hold off pursuing permanent amendments to the LCP at this time; and also that the signage be amended as follows and installed: replacing the logs with a different logo, that the 75 foot limit from the bluffs be left in place, which is reduced to 25 feet from the bluffs for propane devices.

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

FUTURE AGENDA ITEMS

None

ADJOURNMENT

There being no further business Mayor Dallas adjourned the meeting at 8:32 p.m.

APPROVED:

Steve G. Dallas, Mayor

ATTEST:

Thomas A. Graves, MMC
City Clerk