

REGULAR MEETING
Tuesday, January 9, 2018

OPEN SESSION
4:30 PM

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

EXTRAORDINARY BUSINESS

Item A: Introduction of Robin Scattini - Finance Manager

City Administrator Rerig introduced Finance Director Scattini, who has over 20 years in public finance, coming to us via County of San Benito and Superior Court, County of San Benito.

Item B: Introduction of Tom Graves - City Clerk

City Administrator Rerig introduced City Clerk Graves, MMC, who has worked previously at City of Hollister and City of San Jose, among others.

PUBLIC APPEARANCES

Kathleen Craig, Sustainable Carmel, made a brief statement about recyclable food waste.

Maria Sutherland, Friends of Carmel Forest, asked for a joint City Council, Forest & Beach, and Planning Commission meeting to address tree deficit.

Dick Styles invited Councilmembers and the public to Sunset Center at 5 PM on January 25, 2018 to learn about the shape of water on the Monterey Peninsula.

Chris Mack - Fort Ord Reuse Authority (FORA) briefly described his concerns regarding the Eastside Parkway.

ANNOUNCEMENTS

Item A: Closed Session Announcements

A. 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

The City Attorney updated the City Council. No action was taken.

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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
The City Attorney updated the City Council. No action was taken.

C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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

Name of Case: Alfred Johnson v. City of Carmel and Does 1 through Doe 20, inclusive, Respondents/Defendants: Monterey County Superior Court Case No.17CV003800
The City Attorney updated the City Council. No action was taken.

D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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

Name of Case: Yolanda Macias v. City of Carmel-by-the-Sea, California, and Does 1 through Doe 25, inclusive, Respondents/Defendants Monterey County Superior Court Case No.17CV003685
The City Attorney updated the City Council. No action was taken.

E. PUBLIC EMPLOYEE PERFORMANCE REVIEW

Government Code Section 54957

Title: City Attorney

The Vice Mayor updated the City Council. Council authorized hiring two additional positions to work with the City Attorney.

F. CONFERENCE WITH LEGAL COUNSEL – EXISTING OR ANTICIPATED LITIGATION

(Facts and Circumstances)

Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9(d) (2): 1 case

The City Attorney updated the City Council. No action was taken.

Councilmember Reimers said she is the council rep to FORA, and that discussions on the Eastside Parkway have been lengthy and difficult. She said she will bring more information to the council, not only in light of the Parkway, but also because FORA is due to sunset in 2020 and council must decide if discussions should continue in some other forum, or whether FORA has served its purpose and should be sunset as planned.

Mayor Dallas explained that the reason the Fink Appeal (DR16-47) was withdrawn is that some thought he had announced his opinion about the appeal prematurely, He said he disagrees, but that is why the Appeal couldn't go forward as planned.

Item B: Councilmember Announcements

None

Item C: City Administrator Announcements

Mr. Rerig reminded all that today is Law Enforcement Appreciation Day.

He also announced that the Council will engage in facilitated vision exercises on Tuesday, January 12, from 12:30 p.m. to 5:00 p.m., and next Thursday, January 25 from 12:30 to 5:00 p.m. Public Notices will be posted.

Item D: City Attorney Announcements

Mr. Mozingo said 139 short-term rentals have been removed from inventory in accordance with local ordinances. He said that previously, there were only 5 units paying TOT, and now that number has increased to 69. Of those units that are not in compliance, penalties, interest, attorney's fees and costs are accumulating.

CONSENT AGENDA

Action: Upon a motion made by Councilmember Richards, seconded by Councilmember Reimers, Motion to pull Items 1, 3, 4 and 10 **Approved, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Item 1: Monthly Reports: City Administrator Contract Log, Community Planning and Building Department Reports, Fire, Ambulance, Beach Reports, Public Records Act Requests, and Forester Reports.

The Monthly Report of the City Forester brought forward a discussion about the tree deficit in the City.

Action: Upon a motion made by Councilmember Reimers, seconded by Councilmember Hardy, Motion to accept the reports, and to move the City Forester's Report to the agenda of February 6, 2018 as a discussion item. **Approved, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Item 2: Ratify check register summary for November 2017.

Action: Upon a motion made by Councilmember Reimers, seconded by Councilmember Hardy, Motion to approve. **Approved, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Item 3: Ordinance No. 2017-008, Extending the Cannabis Urgency Ordinance concerning the

sale, use and cultivation of cannabis.

Action: Upon a motion made by Councilmember Reimers, seconded by Councilmember Hardy, Motion to Extend Urgency Ordinance No. 2017-008 for a period of 10 months and 15 days. **Approved, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Item 4: Consideration of a request to initiate an update of the City's Residential Zoning Code (Chapter 17.10) and Residential Design Guidelines and update of the City's Commercial Zoning Code (Chapter 17.14).

Action: Upon a motion made by Councilmember Reimers, seconded by Councilmember Hardy, Motion to authorize staff to initiate an update of the City's Zoning Code and Residential Design Guidelines. **Approved, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Item 5: Resolution No. 2018-001, authorizing and approving the current pay rates and ranges (salary schedule) for the City of Carmel-by-the-Sea as of January 1, 2018.

Adopt a resolution authorizing and approving pay rates and ranges (salary schedule) for the following City of Carmel-by-the-Sea employees as of January 1, 2018:

- 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
- 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 classifications salary plan in accordance with Municipal Code 2.52.520
- Police Officers Association
- Carmel Fire Ambulance Association
- At-Will Employees

Action: Upon a motion made by Councilmember Reimers, seconded by Councilmember Hardy, Motion Adopting Resolution No. 2018-001, authorizing and approving the current pay rates and ranges (salary schedule) for the City of Carmel-by-the-Sea as of January 1, 2018. **Adopted Resolution, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Item 6: Resolution No. 2018-002, Authorizing a refund of the residential design study fee in the amount of \$1,580.55 to Ross Roofing, Inc.

The Residential Design Study Track 1 fee of \$1,580.55 was collected from Ross Roofing, Inc. as the agent for an applicant seeking a permit for a replacement roof. The replacement roof did not require Planning Commission review and therefore a refund of the design fee is required.

Action: Upon a motion made by Councilmember Reimers, seconded by Councilmember Hardy, Motion Adopting Resolution No. 2018-002, Authorizing a refund of the residential design study fee in the amount of \$1,580.55 to Ross Roofing, Inc. **Adopted Resolution, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Item 7: Resolution No. 2018-003, authorizing the City Administrator to execute professional services agreements with Golden State Planning and Environmental Consulting Services for a total not to exceed \$31,280.

Adopt a resolution authorizing the City Administrator to execute an amendment to the agreement with Golden State Planning and Environmental Consulting Services for planning services in an amount not to exceed \$31,280 for the term of January 10, 2018 through March 31, 2018.

Item 8: Resolutions 2018-004 and 2018-005, authorizing Funding and Reimbursement Agreements with the Transportation Agency for Monterey County for the 2018 Pavement Management Program Update Project

1. Adopt Resolution No. 2018-004, authorizing the City Administrator to execute a Pavement Management Program Funding Agreement with the Transportation Agency for Monterey County.
2. Adopt Resolution No. 2018-005, authorizing the City Administrator to execute a Reimbursement Agreement for Pavement Management Program Services with the Transportation Agency for Monterey County.

Action: Upon a motion made by Councilmember Reimers, seconded by Councilmember Hardy, Motion to adopt Resolutions 2018-004 and 2018-005, authorizing Funding and Reimbursement Agreements with the Transportation Agency for Monterey County for the 2018 Pavement Management Program Update Project. **Adopted Resolution, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Item 9: Resolution No. 2018-006, approving the Fiscal Year 2018-2019 budget schedule

Action: Upon a motion made by Councilmember Reimers, seconded by Councilmember Hardy, Motion adopting Resolution No. 2018-006, approving the Fiscal Year 2018-2019 budget schedule. **Adopted Resolution, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Item 10: Resolution No. 2018-007, authorizing the City Administrator to negotiate and execute a three-year agreement with Visit Carmel to promote travel and tourism in Carmel-by-the-Sea in the amount of \$50,000 for fiscal year 2017-2018

Councilmember Hardy pulled this item. She expressed concerns about a possible conflict about who will be designating. At the third line from the bottom of the Agreement, a reference is made to the "City Administrator or Designee." This should read "City Administrator's Designee."

\$50,000 in the current budget allocated for regional marketing will be transferred to Visit Carmel and used for marketing purposes. Funding for future years will be determined as part of the annual budget process.

Action: Upon a motion made by Councilmember Reimers, seconded by Councilmember Richards, Motion Adopting Resolution No. 2018-007, authorizing the City Administrator to negotiate and execute a three-year agreement with Visit Carmel to promote travel and tourism in Carmel-by-the-Sea in the amount of \$50,000 for fiscal year 2017-2018, approved as amended. **Adopted Resolution, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

VIDEORDERS OF BUSINESS

Item 11: 1. Receive a report on the current status of the Fiscal Year 2017-2018 Adopted Budget.
2. Resolution No. 2018-008, approving supplemental appropriation requests totaling \$214,246.
3. Resolution No. 2018-009, authorizing changes to the Fiscal Year 2017-2018 position allocations.
4. Provide direction regarding the Council discretionary grant cycle for Fiscal Year 2018-2019.

Change Resolution No. 2018-008 to read in the fourth WHEREAS \$214,246 from \$212,246.

Councilmember Reimers and Councilmember Hardy were placed upon the ad hoc committee for council grants. Vice Mayor Theis also offered.

Regarding Item 4, Councilmember Hardy said a cap on funding would be helpful when deciding grant

amounts, and also to let the community know there are not unlimited funds. Grants should be more realistic. Last year, some grant requests were upward of \$20,000. Councilmember Richards said that more time with applicants would be beneficial also.

Councilmember Hardy suggested a budget of \$20,000, with an individual cap at \$3,000.

Action: Upon a motion made by Councilmember Hardy, seconded by Councilmember Richards, Motion to: 1. Receive a report on the current status of the Fiscal Year 2017-2018 Adopted Budget. 2. Adopt Resolution No. 2018-008, approving supplemental appropriation requests totaling \$214,246. 3. Adopt Resolution No. 2018-009, authorizing changes to the Fiscal Year 2017-2018 position allocations. 4. Provide direction regarding the Council discretionary grant cycle for Fiscal Year 2018-2019. **Approved, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Item 12: Consideration of revised fees for special events and activities.

Action: Upon a motion made by Mayor Dallas, seconded by Councilmember Hardy, Motion that the Historical Events Policy include Veterans Day and Memorial Day as Historical Events exempt from City fees and that the Special Events Policy will be reviewed by Council in June. **Approved, 4:1:0**

AYES: COUNCILMEMBERS: Dallas, Hardy, Richards, Theis

NOES: COUNCILMEMBERS: Reimers

ABSTAIN: COUNCILMEMBERS:

Councilmember Richards suggested adding the Kite Festival and others as "historical events."

Councilmember Hardy expressed concerns that Council might be straying from Brown Act guidelines and asked that this discussion be continued to the February meeting.

Ashlee Wright said a Public Notice will be posted on Friday regarding the Fee Schedule and will post until March 2. The item will then go to City Council in June.

Action: Upon a motion made by Councilmember Reimers, seconded by Mayor Dallas, Motion that residents living on Scenic Drive may use Devendorf Park for block parties in lieu of Scenic Drive, which may not be blocked off. **Approved, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Action: Upon a motion made by Mayor Dallas, seconded by Councilmember Theis, Motion that "High Season" be removed from "Rental Fees," "Refundable Damage Deposit," and "Parking Stall." **Approved, 5:0:0**

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

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Councilmember Reimers withdrew her second.

Action: Upon a motion made by Councilmember Theis, seconded by , Motion that staffing would only be charged when staff were pulled into an event to work on the event directly. **Died for lack of Second, 0:0:0**

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Action: Upon a motion made by Councilmember Richards, seconded by Councilmember Reimers, Motion that the City Council list some events on the new Fee Schedule as Historical Events, such as Surf About and COTA, and delete the "High Season" fees. **Failed, 2:3:0**

AYES: COUNCILMEMBERS: Reimers, Richards

NOES: COUNCILMEMBERS: Dallas, Hardy, Theis

ABSTAIN: COUNCILMEMBERS:

Jill Sheffield spoke in opposition to the new fee schedule's "high season" fees.

Graeme Robertson spoke in support of Concours on the Avenue (COTA), and reminded councilmembers that COTA is now twelve years old.

Rich Pepe spoke in support of COTA, and thanked the Council for also adding \$50,000 to Visit Carmel.

Kirk Grasing spoke in support of COTA.

Sue McCloud spoke in support of COTA.

Dennis LeVette spoke in support of COTA.

Todd Tice spoke in support of COTA.

Mayor Dallas asked that the Kite Festival be restored to the list of historical events.

Councilmember Reimers doesn't believe COTA was treated fairly and wants it to come back in February. She cautioned that it's important for the City Council to take notice of things that have been

said about the Carmel Foundation. She would like COTA to be added to the list of historical events. The City is well-served by the Carmel Foundation, and COTA should be exempt from street fees.

Councilmember Richards said if the "high season" was taken out of the fee schedule, it might be easier to focus on historical events.

Vice Mayor Theis said she wants to encourage people to have events in the slow time, and that COTA is almost too much; people move out of town, etc. It's huge.

Councilmember Reimers said that by adopting this new policy now, the City will be adding all of these new charges. If the Council adopts this tonight, it will put some events out of business and that will cause a huge dent in revenue for the Carmel Foundation.

Councilmember Richards said he wants Surf About to be added to the list of historical events.

Motion: Richards/Reimers - That the City Council list some events on the new Fee Schedule as historical events, such as Surf About and COTA, and delete the "high season" fees.

Motion failed 2/3, Dallas, Theis, Hardy dissenting.

Vice Mayor Theis said she supports COTA but wants to be sure the City is being treated fairly as well.

Councilmember Richards said he doesn't support the notion of a high season and a low season.

Motion: Theis/Reimers - moved that staffing would only be charged when staff were pulled into an event to work it.

Councilmember Reimers withdrew her Second.

Motion: Dallas/Theis - Moved that "high season" be removed from "Rental Fees," "Refundable Damage Deposit," and "Parking Stall."

Council approved unanimously.

Motion: Reimers/Dallas - Moved that residents living on Scenic Drive may use Devendorf Park for block parties in lieu of Scenic Drive, which may not be blocked off.

Council approved unanimously.

Councilmember Richards suggested adding the Kite Festival and others as "historical events."

Councilmember Hardy expressed concerns that Council might be straying from Brown Act guidelines and asked that this discussion be continued to the February meeting.

Ashlee Wright said a Public Notice will be posted on Friday regarding the Fee Schedule and will post until March 2. The item will then go to City Council in June.

Motion: Dallas/Hardy - Moved that the Historical Events Policy include Veterans Day and Memorial Day as Historical Events exempt from City fees and that the Special Events Policy

will be reviewed by Council in June.

Dallas, Theis, Richards, Hardy - Aye
Reimers - No

Action: Upon a motion made by Mayor Dallas, seconded by Councilmember Hardy, Consideration of revised fees for special events and activities. **Other, 4:1:0**

AYES: COUNCILMEMBERS: Dallas, Hardy, Richards, Theis

NOES: COUNCILMEMBERS: Reimers

ABSTAIN: COUNCILMEMBERS:

Item 13: Receive a presentation regarding possible options for the use of the Flanders mansion and provide direction to staff

Staff is directed to bring back two RFP's as a future agenda item.

Action: Upon a motion made by Mayor Dallas, seconded by Councilmember Reimers, Motion to direct staff to include RFP's for Curatorship and a Ground Lease. **Approved, 3:2:0**

AYES: COUNCILMEMBERS: Dallas, Reimers, Richards

NOES: COUNCILMEMBERS: Hardy, Theis

ABSTAIN: COUNCILMEMBERS:

Action: Upon a motion made by Councilmember Reimers, seconded by Councilmember Theis, Motion to direct staff to explore the curatorship option and develop an RFP that would come back to Council for review. **Approved, 3:2:0**

AYES: COUNCILMEMBERS: Hardy, Reimers, Theis

NOES: COUNCILMEMBERS: Dallas, Richards

ABSTAIN: COUNCILMEMBERS:

City Attorney Mozingo admonished members of the media not to go upon the dais for any reason during a public meeting.

SPEAKING FROM THE FLOOR:

Skip Lloyd, Friends of Mission Trails Nature Preserve, cautioned that the house and the Preserve are one and the same. They are interconnected and indivisible. He suggested a workshop.

Darlene Moseley read a letter, saying a Curatorship would be best.

Les Albion, former Curator in Maryland. Curatorship is the best option.

Bertie Bialek Elliott likes the idea of a Curator.

Sue McCloud asked that Council determine a dollar amount that will be necessary to complete the renovations of the house.

Melanie Billig, Flanders Foundation President expressed "deep concern" for the lack of understanding of the historicity of the project. She believes Curatorship would be a good idea.

Dick Styles strongly supports Curatorship, and supports Les Albion as well.

FUTURE AGENDA ITEMS

Staff will bring back two RFP's as a future agenda item - Curatorship and a Ground Lease.

The City Administrator's Performance Evaluation will also be brought back as a future agenda item for Closed Session.

ADJOURNMENT

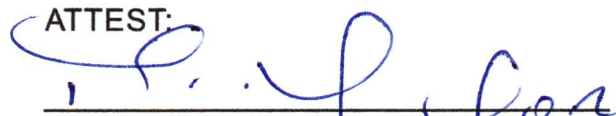
Mayor Dallas adjourned the meeting in memory of City of Carmel-by-the-Sea long-time employee Bill Askew, who passed away recently.

APPROVED:



Steve G. Dallas, Mayor

ATTEST:



Ashlee Wright, City Clerk