

**MINUTES  
REGULAR MEETING  
Tuesday, November 3, 2015**

**CALL TO ORDER, & PLEDGE OF ALLEGIANCE**

Mayor Burnett called the meeting to order at 4:31p.m.

**ROLL CALL**

Present: Council Members: Dallas, Beach, Theis, Mayor Pro Tem Talmage, and Mayor Burnett

Absent: None

Staff Present: Mike Calhoun, Interim City Administrator  
Don Freeman, City Attorney  
Ashlee Wright, City Clerk  
Marc Weiner, Senior Planner  
Rob Mullane, Public Works Director  
Sharon Friedrichsen, Director of Budgets and Finance  
Paul Tomasi, Police Commander

The Carmel River School Sing! Sing! Sing! after-school class led the pledge of allegiance.

**EXTRAORDINARY BUSINESS**

The National Anthem was sung by Carmel River School Sing! Sing! Sing! after-School class led by Stacy Meheen.

**EMPLOYEE RECOGNITION**

Rob Mullane, Public Works Director introduced Yvette Oblander, Administrative Services Coordinator for Public Works, to the Council and community.

Mike Calhoun, Interim City Administrator introduced Christina Newton, Police Services Officer to the Council and the Community. He also announced Officer Chris Johnson's promotion to Sergeant.

**ANNOUNCEMENTS**

Council Member Dallas, Council Member Beach, Vice Mayor Talmage and Mayor Burnett thanked the City Administrator Doug Schmitz for his service to the community and thanked staff for their work on the Arbor Day, 100<sup>th</sup> Anniversary of the Carmel Fire Department, City Birthday and Pumpkin Rolling events.

Mayor Burnett provided an update on water issues.

Interim City Administrator Mike Calhoun stated that he was looking forward to working with the Council and community.

City Attorney Don Freeman commented on the resignation of Doug Schmitz. He reported that Council received updates on one case for potential litigation and Council received an update on case re: Jennifer Da Silva, Plaintiff v. City of Carmel-by-the-Sea, Monterey County Superior Court Case No. M132929. He recommended that anyone who has anything to report about short-term rental violations should contact Code Compliance Officer Al Fasulo.

## **PUBLIC APPEARANCES**

Barbara Livingston announced the Carmel Resident's Association's new book "Stories of Old Carmel".

Carl Iverson commented on the Arbor Day, 100<sup>th</sup> Anniversary of the Carmel Fire Department, and Pumpkin Rolling events, and the resignation of City Administrator Doug Schmitz.

Monterey Peninsula Waste Management District representative Stephanie Locke reminded community members to replace the batteries in automatic irrigation systems after power outages to prevent the waste of water

Ron Stilfull stated his concerns about GreenWaste.

Monta Potter announced that the Chamber would be selling lanterns of old Carmel for the Centennial Celebration and asked businesses and residents to purchase and display these for the next year.

Carolyn Hardy and Karen Ferlito commented on the resignation of City Administrator Doug Schmitz.

Toby and his dad spoke in favor of the Pumpkin Roll and more family friendly events.

## **ORDERS**

**Item 4:** AB 1050 Beach Fires Pilot Program Options.

Rob Mullane, Public Works Director provided a brief staff report.

Air Pollution Control Officer Richard Stedman provided background on Carmel Beach air quality monitoring and an update on air quality data for Carmel Beach.

Council discussion followed.

Mayor Burnett opened public comment and requested that all comments on Item 1 and Item 2 be taken at the same time to avoid duplication. He also asked that questions for Richard Stedman be taken first.

Public Comments:

Jack Galante, Clay Olman, Denise Otterson, Barbara Livingston, no name given, Al Mition, and Scott Philips each asked questions of Richard Stedman.

Richard Stedman responded to all questions.

Toby Strasser and his father, Jack Galante, Lily, Jacob Lehman, Alan Lehman, Stephanie Lawton and her son spoke against banning beach fires.

Bobby Richards, Wayne Newton, Clay Olman, Marcia Zealous, Lorne Letendre, Linette Zimmerman, Becky Hanna, John Kenney, Scott Philips, Ben Beasley, Kimberly Rawlings, Barbara Livingston, Jeff Baron, no name given, Aram Stoney, and Richard Kreitman spoke in favor of finding a compromise or alternate solution to banning all beach fires.

Denise Otterson, Mary Liskin, Kathy McFarland, Karen Ferlito, Carolina Bayne, and Kathy Bang spoke in favor of banning all beach fires.

Chris Lehman stated that she disagreed with comments that locals did not build beach fires and questioned the accuracy of the sensors.

Monta Potter questioned the cost to the city in terms funds and staff time spent on this issue and questioned the logic of a fight with the Coastal Commission.

---End Public Comments---

*Mayor Burnett called a recess at 7:10pm. At 7:28pm the meeting resumed.*

Mayor Burnett, announced that Item 6 AB 1052 First reading of an ordinance of the City Council of the City of Carmel-by-the-Sea adding a section to Title 8 - Health and Safety of the Carmel-by-the-Sea Municipal Code relating to smoking in the commercial and other zoning districts, public lands, and rights-of-way within said districts, would be continued to a future meeting.

Mayor Burnett and Public Works Director Rob Mullane answered questions posed during public comments.

Council discussion followed.

**Action:** Upon a motion made by Mayor Burnett, seconded by Council Member Beach, Council moved to provide direction to staff to lay out a plan for allowing propane fires in two forms 1.) User supplied propane devices and 2.) Six (6) City supplied propane rings offered free to anybody; that these would be of a larger size intended to promote community gathering place; and that all of the logistics would be handled by the City and the propane provided by the City; and that the pilot program be extended up to 36 months. **Approved 3:2** (Dallas and Theis opposed.)

## **PUBLIC HEARINGS**

**Item 5:** AB 1051 First reading of an ordinance of the City Council of the City of Carmel-by-the-Sea declaring beach fires a public nuisance.

Public Comments for this item were taken with the Public Comments on Item 4 AB 1050 Beach Fires Pilot Program Options.

Council Member Theis moved to table this item, seconded by Council Member Dallas. Motion failed 2:3 (Beach, Talmage, and Burnett opposed).

**Action:** Upon a motion made by Council Member Beach, seconded by Vice Mayor Talmage Council moved to adopt Ordinance 2015-007 on first reading declaring beach fires a public nuisance with direction to the City Attorney to incorporate further health related whereas', to amend section B1 Exemptions to read "propane fires using an appropriate device," and bring back a revised version for either a second or first reading. **Adopted 3:2** (Dallas and Theis opposed).

**Item 7:** AB 1053 Consideration of an appeal of the Planning Commission's decision to deny a Use Permit (UP 15-261) application for the establishment of a specialty food store (Carmel Chocolate Factory) at a property located in the Central Commercial (CC) Zoning District.

Vice Mayor Talmage recused himself and stepped down from the dais, because he owns property within 500' of the proposed location.

Senior Planner Marc Weiner provided the staff report.

Council discussion and questions followed

Pam Silkwood, representative for the Appellant presented the appellant's case.

Council discussion and questions followed.

Public Comments:

Jonathan Sapp read the formula food establishment definition from the municipal code and stated his concerns with the recommendation of the Planning Commission for this project.

Barbara Livingston recommended removing the word "Factory" if the Council approves the appeal.

Richard Kreitman and Michael Showler commented on the amount of work the appellants had put in working on this project with staff and the Planning Commission and spoke in favor of approving the appeal.

Roderick Dewar and Valerie Lane expressed concerns with the business and spoke in favor of denying the appeal.

---End Public Comments---

In response to Public Comments representative for the appellant Pam Silkwood stated that the appellant was willing to remove the word "Factory" from the name of the business.

Council questions and discussion followed.

**Action:** Upon a motion made by Council Member Theis, seconded by Council Member Dallas, Council unanimously moved to continue the item to a future meeting and directed the appellant to return to Council with: 1) proposed alternate name choices that eliminate the use of the word "factory"; 2) updated drawings to reflect the elimination of loose candy bins and that products be 80% chocolates; 3) Bring back signage options and 4) present as to how this shop is different and unique and that it does not fit the formula food definition. **Approved 4:0:1** (Talmage abstaining because of conflict of interest – property within 500')

*Mayor Burnett called a recess at approximately 10:35pm. At 10:40 the meeting resumed.*

Vice Mayor Talmage returned to the dais.

**Item 9:** AB 1055 Adoption of an Ordinance Amending Section 2.52.385, Appeals Hearing Process, of the Personnel Ordinance.

Public Comments:

None

---End Public Comments---

**Action:** Upon a motion made by Council Member Theis, seconded by Vice Mayor Talmage Council, Council unanimously adopted on first reading Ordinance 2015-008 amending section 2.52.385, Appeals Hearing Process, of the Personnel Ordinance. **Adopted 5:0**

**Item 8:** AB 1054 Consideration of an appeal of the Planning Commission's decision to deny the reissuance of Design Review, Use Permit, and Coastal Development Permit applications for the redevelopment of the Carmel Sands hotel located in the Service Commercial (SC) Zoning District (New planning application case numbers: DR 14-36 and UP 14-20).

Council Member Theis recused herself and stepped down from the dais, because she owns property within 500' of the location.

Council Member Dallas stated for the record that he had spoken before the Planning Commission in favor of this item prior to his term on the Planning Commission and was on the Planning Commission when the project was approved. Council Member Beach stated for the record that she was on the Planning Commission when the project was originally approved. Vice Mayor Talmage and Mayor Burnett stated for the record that they voted in favor of this project when it originally came before the City Council. Mayor and Council Members disclosed communications that they had with the appellant and Planning Commission Members prior to the meeting.

Senior Planner Marc Weiner provided the staff report.

Council discussion and questions followed.

Appellant Mark Stilwell, owner of Carmel Sands, presented his case.

Council discussion and questions followed.

Public Comments:

Catherine Campagno, Roberta Miller, and Mike Brown each stated their concerns with the project and recommended that Council deny the appeal.

Barbara Livingston stated her concerns that the Planning Commission was not given all of the information they needed for a de novo hearing and City Clerk Ashlee Wright read a statement from her into the record detailing her issues with the design.

Jonathan Sapp spoke in favor of approving the appeal.

---End Public Comment---

Appellant Mark Stillwell responded to public comments and Council discussion.

Further Council discussion followed.

**Action:** Upon a motion made by Mayor Burnett, seconded by Council Member Dallas, Council moved to continue this item to a future meeting. **Approved 4:0:1** (Theis abstaining because of conflict of interest - property within 500')

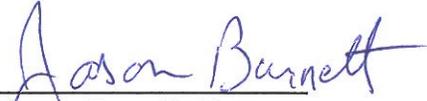
**FUTURE AGENDA ITEMS**

Greenwaste update.

**ADJOURNMENT**

There being no further business Mayor Burnett adjourned the meeting at 12:42am.

APPROVED:

  
Jason Burnett, Mayor

ATTEST:

  
Ashlee Wright, City Clerk