

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

Tuesday, October 04, 2016

CALL TO ORDER

Mayor Dallas called the meeting to order at 4:00 p.m.

Present: Councilmembers Hardy, Richards, and Mayor Dallas

Absent: Councilmembers Reimers and Theis

Staff: Chip Rerig, City Administrator
Ashlee Wright, City Clerk
Marc Weiner, Community Planning and Building Director

TOUR OF INSPECTION

Item A: Carmel Sands property located on the northeast corner of San Carlos Street and Fifth Avenue.

OPEN SESSION

Council resumed in open session at 4:32 p.m.

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

Absent: Councilmember Reimers

Staff: Chip Rerig, City Administrator
Don Freeman, City Attorney
Janet Bombard, Library and Community Activities Director
Ashlee Wright, City Clerk
Marc Weiner, Community Planning and Building Director
Rob Mullane, Public Works Director
Paul Wood, Finance Manager
Paul Tomasi, Police Commander

PLEDGE OF ALLEGIANCE

City Administrator Chip Rerig led the pledge of allegiance.

EXTRAORDINARY BUSINESS

Item A: Centennial Committee update

Sue McCloud, Police Commander Paul Tomasi, and Tom Brocato provided an update on Centennial Committee activities and the proposed centennial parade route.

Item B: Cal-Am pipeline presentation

Cal-Am representatives Catherine Stedman and Ian Crook gave a presentation on Monterey Peninsula water supply pipeline project.

PUBLIC APPEARANCES

The following members of the public spoke: Chuck Henderson, Tara Twomey, no name given, no name given, James Oltom, Jonathan Sapp, Ruth Smith, no name given, Harry Finkle, Lee Rosen, Richard Kreitman, Paul Rodriguez, and Sue McCloud.

ANNOUNCEMENTS

Item A: Announcements from Closed Session

The City Attorney announced that the Council there were no updates on Items A or B, that Council received updates on Items C,D, E, and F, stated that the Council received an update on Item G on the negotiations with PG&E for recompense to the City, that Item H had been scheduled for a bench trial October 24, 2016, provided background information on Item I, stated that Item J had been settled subject to getting full release from further lawsuits against the City, provided background in Item K and stated that a case management conference had been refused by the plaintiff.

- Item A:** CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: 2 cases
- Item B:** PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Attorney
- Item C:** LABOR NEGOTIATIONS
Pursuant to Government Code Section 54957.6(a)
Agency Designated Representatives: Zutler
Employee Organization: Ambulance
- Item D:** LABOR NEGOTIATIONS
Pursuant to Government Code Section 54957.6(a)
Agency Designated Representatives: Zutler
Employee Organization: General Employees, Management, Police Department
- Item E:** LABOR NEGOTIATIONS
Pursuant to Government Code Section 54957.6(a)
Agency Designated Representatives: Zutler
Employee Organization: Management
- Item F:** LABOR NEGOTIATIONS
Pursuant to Government Code Section 54957.6(a)
Agency Designated Representatives: Zutler
Employee Organization: Police
- Item G:** LITIGATION ONE MATTER
BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA Order Instituting Investigation and Order to Show Cause on the Commission's Own Motion into the Operations and Practices of Pacific Gas and

Electric Company with respect to Facilities Records for its Natural Gas Distribution System Pipelines. Investigation 14-11-008 (Filed November 20, 2014)

Item H: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(D)(1)
Name of Case: Gerit Sand; Cobblestone Bakery, a sole proprietorship, Plaintiff v. City of Carmel-by-the-Sea, Defendant - Monterey County Superior Court Case No. M130393

Item I: 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

Item J: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(D)(1)
Jennifer DaSilva, Plaintiff v. City of Carmel-by-the-Sea; Luke E. Powell individually and in his official capacity as a Police Officer for the City of Carmel-by-the-Sea, County of Monterey; Monterey County Sheriff's Office, and Does 1 through 50, inclusive - Monterey County Superior Court Case No. M132929

Item K: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(D)(1)
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

Item B: Announcements from City Council Members

Councilmember Richards announced the upcoming HID meeting to be held at 3:00 p.m. at Sunset Center and a Marketing meeting to be held at 1:30 p.m.

Mayor Pro Tem Theis stated that the Monterey Regional Waste Management District celebration had been rescheduled for November 19, 2016 from 10:00 a.m. to 2:00 p.m.

Mayor Dallas thanked staff for their work on the Pumpkin Roll event, stated that between 1,000 and 1,500 pumpkins were rolled and that the location of the event could change next year.

Item C: Announcements from City Administrator

City Administrator Chip Rerig announced that the City would be working with Cal-Am in the future to make sure fire hydrants are in good working order and that staff were working on a white paper about Flanders Mansion.

Mayor Dallas announced that there would be a Tour of Inspection of City facilities and parks including Flanders Mansion, October 31, 2016.

Item D: Announcements from City Attorney

There were no announcements from City Attorney Don Freeman.

CONSENT AGENDA

City Administrator Chip Rerig read the consent calendar and announced the names of the new appointees to the City Boards and Commissions.

- Action:** Upon a motion made by Councilmember Hardy, seconded by Mayor Pro Tem Theis, Council unanimously approved the Consent Agenda as follows, with the exception of Item 8:
- Item 1:** Draft minutes for the September 12, 2016 special meeting and the September 13, 2016 regular meeting. **Approved, 4:0:1 (Councilmember Reimers absent)**
- Item 2:** Check Register for August 2016. **Approved, 4:0:1 (Councilmember Reimers absent)**
- Item 3:** Monthly Reports for August 2016. **Accepted, 4:0:1 (Councilmember Reimers absent)**
- Item 4:** SR 2016-1186 Ratification of appointments to the Harrison Memorial Library Board of Trustees, Community Activities and Cultural Commission, Forest and Beach Commission, Historic Resources Board, and Planning Commission. Ratified, **4:0:1 (Councilmember Reimers absent)**
- Item 5:** SR 2016-1187 Consideration of a Resolution of the City Council of the City of Carmel-by-the-Sea accepting a \$5,000 donation from a citizen for the Carmel Fire Ambulance Department. **Adopted Resolution 2016-069, 4:0:1 (Councilmember Reimers absent)**
- Item 6:** SR 2016-1188 Adoption of a resolution authorizing the City Administrator to execute an agreement for the purchase of a new police investigations vehicle as identified in the FY 2016/17 Vehicle and Equipment Replacement Fund. **Adopted Resolution 2016-070, 4:0:1 (Councilmember Reimers absent)**
- Item 7:** SR 2016-1189 Adoption of resolutions authorizing the City Administrator to execute various services agreements for planning and building services, public information services, and project management and implementation services in a total amount not to exceed \$45,000 for all contractual services. **Adopted Resolutions 2016-071, 2016-072, 2016-073, 2016-074, 2016-075, and 2016-076, 4:0:1 (Councilmember Reimers absent)**
- Item 9:** SR 2016-1191 Adoption of a resolution authorizing and approving the City of Carmel-by-the-Sea current pay rates and ranges (salary schedule). **Adopted Resolution 2016-078, 4:0:1 (Councilmember Reimers absent)**

The following item was pulled by member of the public Victoria Beach and considered by Council separately:

- Item 8:** SR 2016-1190 Adoption of a resolution authorizing the installation of stop signs, creating a four-way stop sign controlled intersection at San Carlos & 1st.

Public Comments

The following members of the public spoke on this item: Victoria Beach.

---End Public Comments---

Action: Upon a motion made by Councilmember Hardy, seconded by Councilmember Richards, Council moved to adopt a resolution authorizing the installation of stop signs, creating a four-way stop sign controlled intersection at San Carlos and 1st. **Adopted Resolution 2016-077, 4:0:1 (Councilmember Reimers absent)**

PUBLIC HEARINGS

Item 10: SR 2016-1192 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) and Multi-Family Residential (R-4) Zoning Districts (New planning application case numbers: DR 14-36 and UP 14-20).

Mayor Pro Tem This recused herself from considering Item 10 because she owns property within 500 feet of the property under consideration and stepped down from the dais.

Marc Weiner, Community Planning and Building Director provided the staff report, responded to Council questions, and provided clarifications. He stated that there were minor corrections that needed to be made to conditions numbers one and 21.

City Attorney Don Freeman also responded to Council questions and provided clarifications.

Appellant and property owner, Mark Stilwell, and Eric Miller, architect for the project, gave the presentation.

Public Comments

The following members of the public spoke: Mark D'Orio, Peter, Jonathan Sapp, Rich Pepe, Sue McCloud, Pam Shepherd, Monta Potter, Barbara Livingston, Dan Silvera, Catherine Campagno, no name given, Janine Chigarad, Paula Crevello, Pamela Silkwood, Grahame Robertson, Carl Pallastrini, Mike Brown, Victoria Beach, Charlotte Townsend, Clyde Sturgis, and Harry Finkle.

---End Public Comment---

Appellant and property owner, Mark Stilwell provided the rebuttal.

Marc Weiner, Community Planning and Building Director responded to questions asked during public comment and provided clarifications.

Council discussion followed.

Marc Weiner, Community Planning and Building Director, City Administrator Chip Rerig, and City Attorney Don Freeman responded to Council questions, and provided clarifications.

Action: Upon a motion made by Councilmember Hardy, seconded by Councilmember Richards, Council moved to grant the appeal and approve the Design Review (DR 14-36), Use Permit (UP 14-20), and Coastal Development permit applications, findings, with amendments to the conditions as follows: corrections made, as stated by staff, to conditions one and 21; condition 49 amend timeline "the applicant shall apply for a building permit within nine months and initiate construction within 18 months from the date of Council approval"; condition 43 amended to add the language "subject to indemnification agreement signed by the applicant"; condition 48 amended to add the language "for 3-years past final approval" for the term of the bond for the protection of the trees; and that condition 45 would remain in place. **Granted and approved, 3:0:1 (Councilmember Reimers absent, Mayor Pro Tem This recused)**

All amendments to conditions were agreed to by appellant and property owner, Mark Stilwell.

FUTURE AGENDA ITEMS - None

ADJOURNMENT

There being no further business Mayor Dallas adjourned the meeting at 7:10 p.m.

APPROVED:

ATTEST:



Steve G. Dallas, Mayor



Ashlee Wright, City Clerk