MINUTES
CITY COUNCIL SPECIAL MEETING
CARMEL-BY-THE-SEA
Tuesday, December 1, 2015

Mayor Burnett called the meeting to order at 2:30 p.m.

TOUR OF INSPECTION

Present:	Council Members Beach, Dallas, Theis, Mayor Pro Tem Talmage and Mayor Burnett
Absent:	None
Staff Present:	Michael Calhoun, Interim City Administrator Ashlee Wright, City Clerk Christy Sabdo, Contract Planner Marc Weiner, Senior Planner

There were no Public Comments. Mayor Burnett announced that the public was welcome to join the Tour of Inspection. The Council departed the Council Chamber for the Tour of Inspection at 2:35 P.M.

CLOSED SESSION

Mayor Burnett announced the items on the Closed Session agenda.

1. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
   Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: 3 cases

2. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
   Pursuant to Government Code Section 54956.9(D)(1)
   Name of Case: Chilone Payton, Plaintiff v. City of Carmel-by-the-Sea, Equal Employment Opportunity Commission Charge No. 485-2014-00453

3. **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

4. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
   Pursuant to Government Code Section 54956.9(D)(1)
   Name of Case: City of Carmel-by-the-Sea, Plaintiff v. Pacific Harvest Seafoods, Inc. Monterey County Superior Court Case No. 15CV000014

5. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Government Code Section 54956.9(D)(1)
Name of Case: Simonelli v. City of Carmel-by-the-Sea, United States District Court Case No. C 13-1250 LB

6. **PUBLIC EMPLOYEE APPOINTMENT**
   Pursuant to Government Code Section 54957

7. **LABOR NEGOTIATIONS**
   Pursuant to Government Code Section 54957.6(a)
   Agency Designated Representatives: Zutler
   Employee Organization: Ambulance

There were no Public Comments. The Council adjourned to Closed Session at 3:30 P.M.

OPEN SESSION

Council resumed in Open Session at 4:37 P.M.

Present:	Council Members Beach, Dallas, Theis, Mayor Pro Tem Talmage and Mayor Burnett
Absent:	None
Staff Present:	Michael Calhoun, Interim City Administrator Don Freeman, City Attorney Ashlee Wright, City Clerk Leslie Fenton, Deputy City Clerk Christy Sabdo, Contract Planner Marc Weiner, Senior Planner Sharon Friedrichsen, Director of Budgets and Contracts Janet Bombard, Library and Community Activities Director Paul Tomasi, Police Commander Rob Mullane, Public Works Director

Council Member Beach led the Council in the Pledge of Allegiance.

ANNOUNCEMENTS

Mayor Burnett announced the Tour of Inspection for Scenic 4 SE of 9th property.

City Attorney Don Freeman announced the Closed Session items from the November 30, 2015 Special Council meeting and stated that there were no announcements.

Mayor Pro Tem Talmage announced the Holiday Tree-lighting to be held Friday, December 5, 2015 at 4:00 P.M.

Mayor Burnett gave a brief update on water issues.

Interim City Administrator Mike Calhoun gave an update on the contract with the Monterey Fire Department.

PUBLIC APPEARANCES

Tara Twomey, Harrison Memorial Library Board of Trustees, announced that a study on updating library facilities was being undertaken using funds from a recent bequest.

Scott Phillips read an original poem.

Carlyle Seccombe requested that all vendors at the Farmer's Market be certified organic.

---End Public Comments---

ORDERS

8. AB 1068 Consideration of 1.) Project design options and 2.) A Resolution of the City Council of the City of Carmel-by-the-Sea adopting a Mitigated Negative Declaration for the Rio Park/Larson Field Shared Use Trail project, adopting findings and approving the project with mitigations and selected design options.

Brian Roseth of Monterey Bay Planning Services provided that staff report.

Council discussion followed.

Public Comment

Sue McCloud questioned the Council as to whether there had been proper study of whether a shared use trail would be the best use of Rio Park/Larsen Field property, stated potential issues, and made suggestions as to alternate uses.

Alan Williams stated that there were currently potential safety issues for children walking to Junipero Serra School around the Mission.

---End Public Comment---

Further Council discussion followed.

Action: Upon a motion made by Council Member Beach, seconded by Mayor Pro Tem Talmage, Council moved to accept the staff recommendation on upper alignment, the maximum impermeability for the surface, the inclusion of the parking lot adjustments and directed staff to work with Monterey County on the Rio Road/Atherton crosswalk and to return with two or three pricing options for the selected design option. **Adopted 5:0** Resolution 2015-119

PUBLIC HEARINGS

9. AB 1069 Consideration of the adoption of the 2015-2023 Housing Element and an Ordinance amending chapters 17.64.190, 17.64.220 and 17.68.040 of the Carmel-by-the-Sea Municipal Code in accordance with state housing law.

Senior Planner, Marc Weiner provided a brief staff report. John Douglas provided supplemental information.

Public Comments

Barbara Livingston questioned components of the Housing Element as proposed.

---End Public Comments---

Council discussion followed

Action: Upon a motion made by Council Member Beach, seconded by Council Member Dallas, Council moved to accept the staff recommendation to waive in full the first reading of an Ordinance amending chapters 17.64.190, 17.64.220 and 17.68.040 of the Carmel-by-the-Sea Municipal Code in accordance with state housing law and to make minor corrections identified for full accuracy. **Adopted 5:0**

10. AB 1070 Public Meeting on Establishing the Carmel Hospitality Improvement District; Adoption of Resolution Declaring City Intention to Disestablish the Carmel Hospitality Improvement District and First Reading of an Ordinance Disestablishing the Carmel Hospitality Improvement District.

Council Member Theis recused herself because of her business membership in the Hospitality Improvement District and left the dais.

Sharon Friedrichsen provided the staff report.

Public Comments – None

Action: Upon a motion made by Council Member Beach, seconded by Council Member Dallas, Council moved to adopt a Resolution declaring City intention to disestablish the Carmel Hospitality Improvement District and waive in full the first reading of an ordinance disestablishing the Carmel Hospitality Improvement District. **Adopted 4:0:1 Resolution 2015 121**

Council Member Theis returned to the dais.

11. AB 1071 Second Reading of an Ordinance amending Section 2.52.385, Appeals Hearing Process, of the Personnel Ordinance.

Public Comment – None

Action: Upon a motion made by Vice Mayor Talmage, seconded by Council Member Beach, Council mover to waive in full the second reading of Ordinance amending Section 2.52.385, Appeals Hearing Process, of the Personnel Ordinance. **Adopted 5:0**

12. AB 1072 First Reading of an Ordinance of the City Council of Carmel-by-the-Sea declaring beach fires a public nuisance.

Mayor Burnett read a letter from Richard Stedman, Air Pollution Control Officer, Monterey Bay Unified Air Pollution Control District, into the record.

City Attorney Don Freeman provided a brief staff report.

Council discussion followed.

Public Comment

Nancy Cherogarcia and Scott Phillips spoke against declaring beach fires a public nuisance.

Jeanne McCullough, Carlyle Seccombe, Cathy McFarland, Donna Shore, spoke in favor of finding a compromise for beach fires.

Maggie Eaton, Mike Cate, Glen Nash, Mary Hespin, Hugo Ferlito, Kathy Bang, Gary Bang, Karen Ferlito, Barbara Livingston spoke in favor of declaring beach fires a public nuisance.

---Public Comment Closed---

Council discussion followed.

Council Member Dallas requested that the e-mail from Jack Galante be included in the record of the minutes.

Action: Upon a motion made by Mayor Pro Tem Talmage, seconded by Council MemberBeach the Council moved to waive the first reading in full of an Ordinance of the City Council of Carmel-by-the-Sea declaring beach fires a public nuisance. **Adopted 3:2** (Council Members Theis and Dallas noes).

Mayor Burnett called a recess at approximately 7:32pm. At 7:41 the meeting resumed.

13. AB 1073 Consideration of an Ordinance of the City Council of the City of Carmel-by-the-Sea amending Section 17.14.40 and adding Section 17.14.240 of the Municipal Code defining and prohibiting medical marijuana dispensaries, cultivation of marijuana and all commercial medical marijuana uses in the City.

City Attorney Don Freeman presented the staff report.

Council discussion and questions followed.

Public Comments:

Heidi a collective owner, cultivator and medicinal user spoke of the benefits of medicinal marijuana.
Rebecca Barrymore spoke in favor of medical marijuana.

Unknown speaker spoke that those already using it will still have access.

Unknown resident read a letter.

Ryan of "Monterey County Normal" spoke that people need to be educated on the use of medicinal marijuana.

---End Public Comment---

Council discussion and questions followed.

Action: Upon a motion by Vice Mayor Talmage, seconded by Council Member Dallas Council moved to waive the 1st Reading and approve the Ordinance as written. **Adopted 5:0**

14. AB 1074 Consideration of an appeal of the Planning Commission's decision to approve Design Study (DS 15-105) and the associated Coastal Development Permit for the construction of a new single-family residence located in the Single-Family Residential (R-1), Park Overlay (P), and Beach and Riparian Overlay (BR) Zoning Districts. This application is being appealed by neighboring property owner: Tim Allen.

Senior Planner Marc Wiener presented the staff report.

Council discussion and questions followed. Mayor Burnett opened the Public Hearing to statements from the appellant and applicant.

Appellant Tim Allen stated his concerns with the size of the garage, lot size and how the grade measurement was calculated.

Mayor and Council members disclosed contact received by those involved in the appeal. Council Member Theis announced that she had been contacted by Rob Carver via e-mail but did not respond. Mayor Burnett announced that Carver & Schicketanz had been the architect on a project he was involved with and had referred to City Attorney Don Freeman on information regarding the appeal. Council Member Beach announced that she had met with Rob Carver to look at the drawings. Vice Mayor Talmage announced that he was contacted by both sides but did not talk with either. Council Member Dallas announced that he had been contacted by both sides and that he had talked with Mr. Lombardo.

Pam Silkwood, representative for the applicant, spoke to the numerous hearings on this application and referenced several Municipal Code sections.

Robert Carver showed photos of the changes and requested that plate height be raised and roof pitch be changed.

Public Comments:

Ronald Corradini shared a letter from Tim Allen to local realtors.
Barbara Livingston advised Council to beware of phantom grades.

Jonathan Spencer spoke in support of the applicant.

---End Public Comment---

Anthony Lombardo, speaking for the appellant, shared letters discussing the surveys and measurement of properties.

Council discussion and questions followed.

Action: Upon a motion by Council Member Beach, seconded by Council Member Theis the Council moved to deny the appeal. **Approved 5:0**

Because the appeal was denied this became a new project before the Council, they could either approve the Planning Commission project or make changes.

Action: Upon a motion by Council Member Theis, seconded by Vice Mayor Talmage the Council moved to uphold the Planning Commission decision. **Approved 3:2** (Beach, Burnett opposed)

ADJOURNMENT

There being no further business, Mayor Burnett adjourned the Open Session at 9:50 pm.

APPROVED:

Jason Burnett

Jason Burnett, Mayor

ATTEST:

Ashlee Wright

Ashlee Wright, City Clerk

Leslie Fenton

Leslie Fenton, Deputy City Clerk