



ACTION MINUTES

CITY OF PACIFIC GROVE

CITY COUNCIL

SPECIAL AND REGULAR MEETINGS

Wednesday, November 7, 2012

Council Chambers – City Hall – 300 Forest Avenue, Pacific Grove, CA

SPECIAL MEETING

5:01 p.m.

Mayor Garcia, Councilmembers Cohen, Fischer, Huitt, Kampe, and Miller in attendance

Mayor Garcia reported Councilmember Cuneo was excused and would arrive late because of his participation in jury selection

CALL TO ORDER

1. PUBLIC COMMENT ON CLOSED SESSION MATTERS

- John Moore- expressed concerns with law enforcement and general employee's pension laws affecting the City of Pacific Grove.
- Daniel Davis- referred to Article 6 related to employee benefits and Council responsibilities. Additionally he has an analysis of sustainable benefit calculations available for the public.

5:10 pm adjourn and enter into Closed Session

2. CLOSED SESSION

- A. Public Employee Performance Evaluation: City Manager (Gov. Code § 54957)
- B. Conference with Labor Negotiators - City Representative: Thomas Frutche, City Manager; David Laredo, City Attorney; Employee Organizations: Public Safety Labor Groups (Gov. Code § 54957.6)
- C. Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9
(one potential case)

ADJOURNMENT

REGULAR MEETING

6:00 p.m.

CALL TO ORDER

Mayor Garcia, Councilmembers Cohen, Fischer, Huitt, Kampe, and Miller in attendance

PLEDGE OF ALLEGIANCE

1. **PUBLIC ANNOUNCEMENTS OF ACTION TAKEN IN CLOSED SESSION**
David Laredo, City Attorney, reported all three items were discussed and no reportable action was taken.
2. **APPROVAL OF AGENDA**
Motion by Mayor Garcia and carried on a 6-0 vote
3. **PRESENTATIONS**
 - A. City of Pacific Grove Staff Service Award Recognitions
Staff Reference: Thomas Frutche, City Manager
Recognizing staff.
 - B. Judy Wills- presentation from the Friends of Pacific Grove Public Library Inc. for \$13,314.00, received by Lisa Maddalena, funds will be assigned to the Children's Book Fund from the 2012 Readathon.

Councilmember Ken Cuneo arrived at 6:05 p.m.

4. **COUNCIL AND STAFF ANNOUNCEMENTS (City-Related Items Only)**
The City will offer an Ethics Training for FPPC Compliance with AB 1234, hosted by City Attorney David Laredo on December 6 2012 at 9:30 AM at PGPD Police Training Room.

Councilmember Kampe thanked all PG Voters for their participation in the recent elections.

5. **ORAL COMMUNICATIONS**
 - Nina Beety- Dennis Kucinich introduced House Resolution 5368, relating to cell tower regulations; Smart Meters are being investigated by different agencies with regards to radiation and fires created by these devices, in addition to overbilling of Smart Meters are affecting consumers.

CONSENT AGENDA

City Manager Frutche advised that the Minutes in Item 6A have been corrected.
Councilmember Miller asked to remove item 7C
Nina Beety asked to remove item 10B
Dan Davis asked to remove item 10A

Upon motion by Councilmember Huitt and carried on a 7-0 vote, the Council approved the remainder of the Consent Calendar.

6. **APPROVAL OF CITY COUNCIL MEETING MINUTES**
 - A. Minutes of the October 17, 2012 City Council Special and Regular Meetings
Reference: David Concepcion, City Clerk
Action: Approved Minutes, as corrected
7. **RESOLUTIONS**
 - A. Memorandum of understanding with the City of Salinas to participate in California Office of Traffic Safety "Monterey and San Benito County AVOID the 20 campaign
Reference: John P. Miller, Police Commander
Action: Adopted Resolution 12-070 authorizing the Chief of Police to enter into a

Memorandum of Understanding with the City of Salinas to participate in the State of California, Office of Traffic Safety "Monterey and San Benito County AVOID the 20" campaign.

- B. Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Monterey Peninsula Water Supply Project (MPWSP) proposed by California American Water Company and City of Pacific Grove Small Water Projects Proposal

Reference: Sarah Hardgrave, Environmental Programs Manager

Action:

1. Provided direction to staff on draft comment letter on the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Monterey Peninsula Water Supply Project (MPWSP) proposed by California American Water Company (Cal-Am) in its application to the California Public Utilities Commission (CPUC) for a Certificate of Public Convenience and Necessity for the MPWSP; and
2. A. Received an update on the City of Pacific Grove Small Water Projects Proposal to Cal-Am as part of the MPWSP and B. Approved Resolution 12-071 authorizing the City Manager to execute an amendment to an existing agreement with James Brezack and Associates for ongoing planning and engineering development and feasibility analysis of the water supply projects presented in the City's Public Participation Proposal to the California Public Utilities Commission.

- C. Consider a resolution to support "Move to Amend" and Approving that Corporations are not People and Money is not Speech.

Reference: Councilmember Bill Kampe and Councilmember Ken Cuneo

Action: This item was pulled from the Consent Agenda.

8. ORDINANCES

- A. Second reading and adoption of an ordinance amending the FY 2012-3 Budget increasing appropriations by \$9,752
Reference: Anthony McFarlane, Administrative Services Manager
Action: Held a public hearing on second reading, and adopted Ordinance 12-018 amending the budget for Fiscal Year 2012-3.
- B. Second reading and adoption of an ordinance to establish two-hour limited parking, from 9 am to 6 pm, any day, on portions of Sloat Avenue and Ocean View Boulevard
Reference: Lynn Burgess, AICP, Advance Planning Program Manager
Recommended Action: Held a public hearing on second reading, and adopted Ordinance 12-019 establishing two-hour limited parking, from 9 am-6 pm, any day, on both sides of Sloat Avenue and the south side of Ocean View Boulevard between 1st Street and Dewey Avenue.

9. REPORTS – INFORMATION ONLY

None.

10. REPORTS – REQUIRING ACTION

- A. Authorizing Payment to Pacific Marine Salvage
Reference: Michael Zimmer, Public Works Superintendent
Action: This item was pulled from the Consent Agenda.
- B. Authorizing the Pacific Grove Museum of Natural History Museum and Cal Poly State University to count monarch butterfly populations in the Pacific Grove Monarch Sanctuary Museum
Reference: Lori Mannel, Executive Director- Pacific Grove Museum of Natural History
Action: This item was pulled from the Consent Agenda.
- C. Quarterly Treasurer's Report
Reference: Anthony McFarlane
Administrative Services Manager
Action: Received report.

11. MEETING MINUTES OF COMMISSIONS, BOARDS, AND COMMITTEES

- A. Beautification and Natural Resources Committee Meeting Minutes: September 24, 2012
Action: Received minutes.

12. ITEMS REMOVED FROM CONSENT AGENDA

- 7C.** Consider a resolution to support "Move to Amend" and Approving that Corporations are not People and Money is not Speech.
Reference: Councilmember Bill Kampe and Councilmember Ken Cuneo

Councilmember Miller expressed concern with Pacific Grove as a municipality engaging in Supreme Court decisions.
Councilmember Huitt advised that the City of Pacific Grove has an ordinance that prohibits corporate contributions for candidates,
Mayor Garcia clarified that this would be a non-binding resolution.

Public comment: Henry Azani, Nina Beety, Judy Caris, Ms. Jan Marie, Susan Hubbard, and Darby Worth spoke in favor of this item.

On motion by Alan Cohen and adopted on a 6-1 vote, Councilmember Miller voting no, the Council approved Resolution 12-072 approving that Corporations are not People and Money is not Speech.

- 10A.** Authorizing Payment to Pacific Marine Salvage
Reference: Michael Zimmer, Public Works Superintendent
Action: City Attorney Laredo advised that BOAT US, the Insurance Company for the vessel's owner paid this liability and no action was needed from the City Council.
- 10B.** Authorizing the Pacific Grove Museum of Natural History Museum and Cal Poly State University to count monarch butterfly populations in the Pacific Grove Monarch Sanctuary Museum
Reference: Lori Mannel, Executive Director- Pacific Grove Museum of

Natural History

Recommended Action: Authorize the Museum of Natural History to implement a citizen science program to count the monarch butterflies in the Pacific Grove Monarch Sanctuary.

Councilmember Cohen inquired about Cal Poly's involvement. Lori Mannel advised that Cal Poly is involved because they have trained our staff, teachers, and docents; additionally they will have a count separate from our City count to provide a comparison with our count this first year and to ensure consistency with previous years.

Nina Beety stated that the cellular tower in the vicinity must be addressed. City Manager Frutchev informed the Council that the PGUSD School District has advised that the cell tower will be removed before the end of the year.

On a motion by Mayor Garcia and carried on a 7-0 vote, the Council approved the recommended action.

REGULAR AGENDA

13. PUBLIC HEARINGS

- A. Hold the first reading of an Ordinance limiting residential parking permits to two per residential address on Sloat Avenue and Ocean View Boulevard, between 1st Street and Dewey Avenue
Reference: Lynn Burgess, AICP, Advance Planning Program Manager
Action: On a motion by Mayor Garcia and carried on a 7-0 vote, the Council introduced and held first reading of an ordinance limiting residential parking permits to two per residential address on Sloat Avenue and Ocean View Boulevard, between 1st Street and Dewey Avenue.

14. UNFINISHED BUSINESS

- A. Economic Development Program Services
Reference: Thomas Frutchev, City Manager

Public Comment: Tammy Acevas of La Crème spoke in favor of this item and in support of an economic development program.

Sally Moore inquired about the list of deliverables and RFP related to this item.

Additionally she inquired about this items relation to the 5-year program

Daniel Davis advised that he believes the Chamber of Commerce should perform the economic development functions.

Councilmember Huitt, clarified that the Role of Economic development services will include support to the Economic Development Commission, which is currently needed.

Mayor Garcia inquired about the Monterey County Small Business Development Centers. Kurt Overmeyer explained the MCSBDC are SBA centers that provide small businesses with planning and evaluation services. Mayor Garcia

recommended the Chamber/HID offer financial support for the program. Councilmember Miller estimated that the City would have to realize an increase of \$1.75M in sales to cover expenses on economic development management services.

On a motion by Councilmember Cohen and carried on a 6-1 vote, Councilmember Miller dissenting, the Council: 1. adopted the proposed economic development work plan; and 2. approved Resolution 12-073 authorizing the City Manager to enter into an agreement with the City of Watsonville for economic development management services for the remainder of this fiscal year, in an amount not to exceed \$35,000.

- B. Contracting for Fire Protection Services Study
Reference: Thomas Frutche, City Manager

On a motion by Councilmember Miller and carried on a 7-0 vote, the Council authorized the City Manager to contract with Matrix Consulting to conduct the study.

- C. Hold second reading and adopt an ordinance to establish a temporary moratorium on occupancy of accessory uses to group quarters in R-1 districts, and, as a contingency, introduce and hold a new first reading of the same ordinance
Reference: Lynn Burgess, AICP, Advance Planning Program Manager

Councilmember Huitt recused himself, as his company does work on contract for Canterbury Woods. Councilmember Cohen recused himself stating his conflict due to his residence's proximity to the subject property

Public Comment: Daniel Davis, John Geffen, CJ Beegle, Norma Brambilla, Dwight Edwards, Maria Iskew, Marjorie Kohler, Rosie Edwards,

On motion by Mayor Pro Tempore Kampe and carried on a 4-1-2 vote with Councilmember Cuneo dissenting and Councilmembers Cohen and Huitt having recused themselves, the Council (1) held second reading and adopted Ordinance 12-020 establishing a temporary moratorium on occupancy of accessory uses to Group Quarters in R-1 Districts, after removing findings 2 C 1 and 2 C 5; and (2) introduced and held a first reading of the same ordinance, also after removing the same findings.

Motion by Mayor Garcia to take a 10-minute break, carried on a 7-0 vote, at 8:10 P.M.

Reconvene 8:20 P.M.

- D. Reports Responding to Council Subcommittee Questions on the 2002 Amendment of CalPERS Retirement Benefits to Provide 3%@50 for Public Safety Personnel.
Reference: David C. Laredo, City Attorney

Cepideh Roufougar, of Jackson Lewis LLP., advised that she conducted the

independent assessment of the four questions raised by the reviewing Council Subcommittee, additionally stated that the statute of limitations have been exceeded by these questions.

Public Comment:

Daniel Davis inquired if the public notice requirements were met, and if the future annual costs considered, referring to payments not unfunded liabilities.

Additionally, he asked to have more than 3 minutes for public comment.

David Dilworth advised that the public was provided information that was not complete; and that the subcommittee did a good job, although he did not agree with their findings.

Lee Willoughby expressed gratitude to Mayor Garcia, and Councilmembers Miller and Cuneo for their dedication to this matter.

Councilmember Huitt expressed the process where the Council reviews the documents submitted on each item along with public letters submitted.

Councilmember Cuneo advised that all of the empirical evidence provided to him about the 2002 matter leads him to understand that the public was not fully informed, but the report presented was the edited actuarial report which did not present all of the figures in the complete report

Councilmember Fischer advised that the CalPERS mission is opposite of the Municipal and state governments missions.

Councilmember Miller advised that the reports presented to the original Councilmember's were "substantially" correct, and they were not giving an actual cost, they were given an incorrect number and payment schedule. He stated that he felt there was no transparency, full disclosure, or any information that would raise red flags about this matter.

Mayor Pro Tempore Kampe fundamentally agreed with Councilmember Miller because the public interest and the past disclosure was incomplete. He felt that the extensive actuarial documents were difficult to determine, although any of the three options provided were still problematic and that this was done with the support of CalPERS. Additionally he stated the City must move forward and provide a constructive action which would decrease our legal liability,

On motion by Councilmember Fischer and carried on a 6-1 vote with Mayor Garcia dissenting, the Council received City Attorney's and Special Counsel's separate analyses and responses to questions surrounding the 2002 amendment of the City's contract with CalPERS that enhanced public safety retirement benefits.

Implementation of State of California Pension Reform Act
Reference: Ken Cuneo, City Council Member

- E. On motion by Councilmember Huitt and carried on a 7-0 vote, the Council 1. Received the report; and 2. Directed staff to initiate meet and confer sessions with employee groups.

Participation in the Regional Taxi Authority's taxi voucher program.
Reference: Anthony McFarlane, Administrative Services Manager

- F. Tom Hicks presented form MST advising that MST offers two programs, one for

seniors and another for people with disabilities, this program is mainly for seniors 65 or older, and disabled and resident of Pacific Grove.

On motion by Councilmember Cuneo and carried on a 7-0 vote, the Council adopted a resolution authorizing the City's participation in the Monterey-Salinas Transit taxi voucher program for all residents age 65 or older or disabled.

On motion by Councilmember Cohen and carried on a 7-0 vote, the Council authorized the City's appointed representative to the Regional Taxi Authority, Councilmember Alan Cohen, to seek appropriate changes in the program, including a reduction in the guaranteed \$17.00 fare amount.

15. NEW BUSINESS

A. None

16. FULL PRESENTATIONS

A. None.

17. REPORTS OF COUNCIL MEMBERS


- A. Fort Ord Reuse Authority Meeting Minutes August 10, 2012
Action: Minutes Received
- B. Fort Ord Reuse Authority Meeting Minutes August 29, 2012
Action: Minutes Received
- C. Fort Ord Reuse Authority Meeting Minutes September 14, 2012
Action: Minutes Received
- D. Monterey Bay Unified Air Pollution Control District Minutes: September 19, 2012
Reference: Mayor Carmelita Garcia
Action: Minutes Received
- E. Monterey County Airport Land Use Commission Notice of Cancellation:
September 24, 2012
Reference: Mayor Carmelita Garcia
Action: Notice Received
- F. Monterey County Airport Land Use Commission Notice of Cancellation: October
22, 2012
Reference: Mayor Carmelita Garcia
Action: Notice Received
- G. Monterey County Commission on Disabilities Meeting Minutes: September 24,
2012
Reference: Mayor Carmelita Garcia
Action: Minutes Received
- H. Monterey County Convention & Visitors Bureau Meeting Minutes: August 22,
2012

- H. Monterey County Convention & Visitors Bureau Meeting Minutes: August 22, 2012
Reference: Mayor Carmelita Garcia
Action: Minutes Received
- I. Monterey County Convention & Visitors Bureau Notice of Cancellation: October 24, 2012
Reference: Mayor Carmelita Garcia
Action: Notice Received
- J. Monterey County Mayors Association Meeting Minutes: October 5, 2012
Reference: Mayor Carmelita Garcia
Action: Notice Received
- K. Monterey Peninsula Regional Water Authority Meeting Minutes: September 27, 2012
Reference: Mayor Carmelita Garcia
Action: Minutes Received
- L. Monterey Regional Water Management District Board Meeting Highlights: October 19, 2012
Reference: Mayor Carmelita Garcia
Action: Minutes Received
- M. Monterey Regional Water Pollution Control Agency Meeting Minutes: September 24, 2012
Reference: Mayor Carmelita Garcia
Action: Notice Received

ADJOURNMENT

Council adjourned the regular meeting at 10:11 P.M.

Respectfully submitted,


David Concepción
City Clerk

Approved by Mayor: Bill Kampe Date 12/21/12

Attest by City Manager: Thomas Puschey Date 1-3-13

