



ACTION MINUTES

PACIFIC GROVE CITY COUNCIL

Council Chambers – City Hall – 300 Forest Avenue
6:00 p.m. – Wednesday, March 19, 2008

Note: The Council will not begin consideration of any item on this agenda later than 10:00 p.m. unless, by majority vote, the Council decides to consider an item or items after 10:00 p.m. Any items on this agenda not considered this evening will be continued to a future meeting. It is possible, although not likely, that public hearings will begin at 6:00 p.m. However, it is the policy of the City Council to begin calling public hearing items no later than 7:00 p.m.

Copies of the agenda packet are available for review at the Pacific Grove Library located at 550 Central Avenue; the reception counter in City Hall at 300 Forest Avenue, Pacific Grove; and on the internet at: <http://www.ci.pg.ca.us/agendas>

PRESENTATIONS

- A. Presentation by Ventana Wildlife Society
Representative(s) from the Ventana Wildlife Society will present the Society's findings and tagging results from the November 2007 through February 2008 monarch butterfly overwintering period.

Reference: Mayor Cort

APPROVAL OF AGENDA

COUNCIL ACTION: Upon motion of Mayor Cort, seconded by Council Member Bennett, and carried, Council moved approval of the Agenda, with revisions as noted below.

COUNCIL AND STAFF ANNOUNCEMENTS

- A. Council Referral Update
- **Council Member Cohen** asked who has purview over the news racks? Are the stores notified previous to their placement?
 - City Manager Colangelo answered that the locations for the news racks had been identified in the related Agenda Report and those that had been misplaced had been moved to the proper location. He also informed the Council that the Public Works' staff have been directed to mark locations slated for news rack placement and to coordinate with business owners before placing them..
 - **Council Member Cohen** also requested a status update placement of a sign on 17 Mile Drive directing visitors to the portion of Lighthouse Avenue located in downtown Pacific Grove as well as a sign on Lighthouse Avenue directing visitors to go down Lighthouse Avenue.
 - **Council Member Nilmeier** noted that the sign which was placed on Ocean View was on top of the historic marker. It had been agreed that it would be placed underneath the marker.
 - City Manager Colangelo answered that he would look into the status of the signs.

- **Council Member Davis** requested that the formation of the administrative enforcement panel which was established through Ordinance No. 07-022, which was adopted by the Council on November 7, 2008, be added to the Council Referral list.

Announcements:

- **Council Member Stilwell** announced the Pacific Grove Chamber of Commerce's "Meet the Press" welcome reception for Alec Murdock, a new reporter at the Hometown Bulletin, to be held March 20, 2008, beginning at 5:00 p.m., at J. Worthington's Furniture.
- **Council Member Davis** referred to an article in the Hometown Bulletin stating that the City Council had provided input for the Museum's strategic plan. He clarified that the Council had not yet met to discuss that plan and the reference in the article was incorrect.
- **Council Member Bennett** added to Council Member Davis' comments by noting that the plan was still in the developmental stages and had not been finalized yet.
- **Council Member Scott** announced the passing of Aletha Worrall at the age of 100 years old. He noted that she had been a teacher for 40 years before retiring.
- **Mayor Cort** had several announcements:
 - He attended the Pacific Grove Chamber of Commerce's Annual Membership Luncheon on March 14, 2008 where he gave a State of the City Address. There was further discussion regarding setting a time where the Mayor could repeat his speech for the general public.
 - He participated in this morning's "Mayors for Meals," a Meals on Wheels activity, by serving meals to several residents. He noted that it was a revealing experience.
 - A benefit concert co-sponsored by Pacific Grove High School seniors and the American Cancer Society, "Make Music/Fight Cancer," will take place on Friday, April 4, 2008, at Robert Down Elementary School beginning at 7:00 p.m.

ORAL COMMUNICATIONS

(Comments from the audience will not receive Council action. Comments must deal with matters subject to the jurisdiction of the City and the Council and will be limited to three minutes. Comments regarding agenda items, not on the consent agenda, shall be heard prior to Council's consideration of such items at the time such items are called. Whenever possible, letters should be submitted to the Council in advance of the meeting.)

Reference: Mayor Cort

- **Daniel Miller** expressed appreciation to the Council for removing the Closed Session item regarding the golf course real property negotiation to Open Session as this item is in relation to the Concorso Italiano. He also commented on the apparent lack of progress on the Old Bath House and the fact that newspapers were frequently left outside the news racks.
- **Mary Lou Pilnick** thanked the Council for their Resolution of support for the Gateway Center.
- **Victoria Karnes** read a poem about "the good old days."
- **Hayden Lord and Parker Hook**, students representing the La Crosse team from Pacific Grove High School, asked for support of their fund raiser, the "Dunk Tank," at Pacific Grove's Good Old Days event.

- **Kathy Koviak**, added her expression of thanks to the Council for supporting the Gateway Resolution.
- **Mez Benton** also thanked the Council for the Resolution of support for Gateway Center.
- **Bob Davis** announced that John Fisher was home from the hospital following surgery for colon cancer. He said that he believed more of the public would have attended tonight's meeting had they known the item regarding the Concorso Italiano would be discussed in Open Session. Mr. Davis asked the Council to consider putting it back on a future agenda.
- **David Dilworth** expressed concurrence with Mr. Davis regarding moving the Closed Session item to Open Session. Referring to the earlier presentation by Ventana Wildlife Society where it was stated that the spray being used was pheromone: Mr. Dilworth said that it was not just a pheromone spray, but that it was a pesticide. He also thanked the Council for supporting Gateway.
- **Moe Ammar** thanked the Mayor for delivering the State of the City address at the Chamber of Commerce's luncheon. He recommended the Council put the address on a future Agenda for the public's benefit.
- **Roger Pasquire** told the Council he was not in support of the Concorso Italiano as it would take place in an environmentally sensitive area, the contractor has a bad track record, the proposed agreement favors the contractor over the City, traffic issues, not economically sound and the possible scarcity of hotel accommodations.
- **Snick Farkas** presented his current installment of "Colossus of Gold."
- **Nancy Jacobs** spoke in support of Gateway Center as well as Measure U and offered to volunteer to help it pass. She indicated that she felt a Gottschalks department store would be a good use of the Holman building.
- **Adam Sepegan, representing Police Officers Association, was allowed to speak at this time regarding Item 6.A as he needed to be on duty.** He expressed the Association's support of Measure U and indicated they were forming a political group to campaign in favor of its passage.

CONSENT AGENDA

(The Consent Agenda consists of those items which are routine and for which a staff recommendation has been prepared. A Councilmember, member of the audience or staff may request that an item be placed on the regular agenda for further discussion. One motion will cover all items on the Consent Agenda. The motion to approve will authorize the action or recommendation indicated.)

COUNCIL ACTION: Upon motion of Council Member Davis, and seconded by Council Member Nilmeier, and carried, Council approved the following recommended actions unless otherwise noted:

1. APPROVAL OF CITY COUNCIL MINUTES

A. Minutes of the February 27, 2008 City Council Special Meeting

Recommended Action: Approve

2. RESOLUTIONS

A. **Resolution No. 08-010:** Consider Adopting a Resolution Authorizing the City Manager to Enter into An Agreement with Malcolm Pirnie, Inc. to Prepare a Stormwater Recycling Feasibility Study in an Amount not to Exceed \$45,000
The City Council will consider and may adopt a Resolution authorizing the City Manager to enter into an agreement with an engineering firm to study the feasibility of the currently unused reservoir at David Avenue and Carmel Avenue as a potential stormwater storage site and determine potential treatment options and locations to use the recycled water.

Reference: City Manager Colangelo

Recommended Action: Adopt the Resolution

B. **Resolution No. 08-011:** Consider Adoption of a Resolution Authorizing the City Manager to Approve an Amendment to the City's Contract with Meyers Nave Professional Law Corporation to Provide for an Increase in Expenditures from \$15,000 to \$17,535.96 for Investigative Services Resulting from a Claim Filed Against the City by Darrin Smolinski
The City Council will consider and may adopt a Resolution authorizing the City Manager to approve an amendment to the City's contract with Meyers Nave Professional Law Corporation to make a final payment for total costs for services provided.

Reference: City Manager Colangelo

Recommended Action: Adopt the Resolution

3. REPORTS OF STAFF

A. Consider the Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2007

The City Council will receive and discuss the Comprehensive Annual Financial Report for FY 2006/07, which includes the audited financial statements and Auditor's Opinion from Independent Auditor Vargas and Company.

Reference: James L. Becklenberg, Director of Management and Budget

Recommended Action: Receive Report

COUNCIL ACTION: Upon motion of Mayor Cort, seconded by Council Member Bennett, and carried, Council moved to remove this item from the Consent Agenda and place it as the first item on the Regular Agenda as item 7.A. All subsequent numbering in the Regular Agenda was revised to reflect this action.

4. REPORTS OF COMMISSIONS, BOARDS, AND STANDING COMMITTEES

A. Meeting Minutes of the March 11, 2008 Architectural Review Board

Recommended Action: Receive

B. Meeting Minutes of the February 14, 2008 Housing Committee

Recommended Action: Receive

C. Meeting Minutes of the February 28, 2008 Housing Committee Special Meeting

Recommended Action: Receive

D. Meeting Minutes of the January 8, 2008 Library Board

- Recommended Action: Receive**
E. Meeting Minutes of the February 12, 2008 Library Board
Recommended Action: Receive
F. Meeting Minutes of the January 8, 2008 Traffic Safety Commission
Recommended Action: Receive

REGULAR AGENDA

5. REPORTS OF BOARDS, COMMISSIONS AND STANDING COMMITTEES

- A. Americans with Disabilities Act Compliance Advisory Committee
- B. Architectural Review Board
- C. Beautification and Natural Resources Committee
- D. Cultural Arts Commission
- E. Economic Advisory Committee
- F. Golf Course Advisory Committee
- G. Historic Resources Committee
- H. Housing Committee
- I. Library Board
- J. Museum Board
- K. Planning Commission
- L. Recreation Board
- M. Special Events Committee
- N. Traffic Safety Commission
- O. *ad hoc* Budget and Finance Subcommittee
- P. *ad hoc* Campaign Finance Reform/Conflict of Financial Interest Subcommittee
- Q. *ad hoc* Charter Review Committee
- R. *ad hoc* Crespi Pond Oversight Subcommittee
- S. Monterey County Commission on Disabilities

6. OLD BUSINESS

- A. **Ordinance No. 08-005:** Second Reading of an Ordinance Amending Chapter 6.08 of the Municipal Code to Adopt a Transaction and Use Tax
On March 5, 2008, the City Council introduced an Ordinance Amending Chapter 6.08 of the Municipal Code to Adopt a Transaction and Use Tax. Whether or not the Ordinance is implemented will be determined by the outcome of the June 3, 2008 ballot.

Reference: City Manager Colangelo

Recommended Actions: Adopt the Ordinance

COUNCIL ACTION: Upon motion of Council Member Davis, seconded by Council Member Bennett, and carried, Council moved staff recommendation.

PUBLIC COMMENT

- **Bill Kampe** asked to what use the revenues from the proposed sales tax would be put. He suggested it would be appropriate to have a special City Council meeting as soon as possible following the June 3, 2008 elections. Mr. Kampe

also asked when the City would switch from PERS to a defined contribution employee retirement plan, and how would that be accomplished.

7. NEW BUSINESS

- A. Consider the Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2007

The City Council will receive and discuss the Comprehensive Annual Financial Report for FY 2006/07, which includes the audited financial statements and Auditor's Opinion from Independent Auditor Vargas and Company.

Reference: James L. Becklenberg, Director of Management and Budget

Recommended Action: Receive Report

COUNCIL ACTION: Upon motion of Council Member Bennett, seconded by Council Member Nilmeier, and carried, Council moved staff recommendation.

PUBLIC COMMENT

- **Nancy Jacobs** had several questions:
 - Is the City of Pacific Grove incorporated?
 - Who manages the City's investments?
 - Were City buildings figured into the report, or just personnel?
 - Were possible revenues from the proposed sales tax factored in?
 - City Manager Colangelo indicated he would meet with Ms. Jacobs outside of the meeting and address her questions.

- B. Hold a First Reading and Consider an Ordinance amending sections 18.04.010 and 18.32.010 of the Pacific Grove Municipal Code to adopt the 2007 edition of the California Building Standards Codes, two of The International Codes and One Uniform Code.

The City Council will hold a first reading of an Ordinance amending sections 18.04.010 and 18.32.010 of the Pacific Grove Municipal Code. Following the public hearing, the Council may approve, with or without modification, or reject the first reading of the draft. If approved, a second reading shall be set at the next Council meeting.

Reference: City Attorney Laredo

Recommended Action: Hold first reading of Ordinance

COUNCIL ACTION: Upon motion of Council Member Miller, seconded by Council Member Davis, and carried, Council moved staff recommendation.

- C. Hold a First Reading and Consider an Ordinance of the City Council of the City of Pacific Grove Adding Sections 23.08.72 and 23.08.76, Amending Section 23.73.040 and Adding Sections 23.73.042 and 23.73.045 of the Pacific Grove Municipal Code to Modify Procedures and Specify Types of Exterior Modifications to Existing Structures Which Qualify for Administrative Architectural Approval

The City Council will hold a first reading of an Ordinance to define the criteria and circumstances under which applications could be approved by staff administratively in lieu of a hearing by the Architectural Review Board.

Following the public hearing, the Council may approve, with or without modification, or reject the first reading of the draft. If approved, a second reading shall be set at the next Council meeting.

Reference: Sarah Hardgrave, Senior Planner

Recommended Action: Hold first reading of Ordinance

COUNCIL ACTION: Upon motion of Council Member Davis, seconded by Council Member Nilmeier, and carried, Council moved staff recommendation.

- D. **Resolution No. 08-012:** Hold a Public Hearing to Consider a Resolution Approving an Application for \$450,000 to the Community Development Block Grant (CDBG) Program for City-Wide Housing Rehabilitation and a Public Improvement Project Under the General Allocation Component.

The City Council will hold a Public Hearing to consider the Application and may adopt a Resolution approving an application for funding from the General allocation component of the CDBG Program and authorizing execution of the grant agreement.

Reference: Julie Uretsky, Housing Planner

Recommended Action: Adopt Resolution

COUNCIL ACTION: Upon motion of Council Member Bennett, seconded by Council Member Nilmeier, and carried, Council moved to receive the item read into the record during the presentation and to adopt the Resolution.

- E. Pursuant to California Government Code Section 54956.8, Council will Meet in Closed Session with its Real Property Negotiators, Alan Cohen and Susan Nilmeier, regarding the Pacific Grove Municipal Golf Course

Reference: City Attorney Laredo

Discussion only; no action taken

Mayor Cort and Council Member Davis recused themselves due to possible conflict of interest with Council Member Miller, Mayor Pro Tempore, acting as Chair. There was no action taken as the item was on the Agenda for discussion purposes only.

It was announced by Council Member Cohen that the sub committee consisting of himself and Council Member Nilmeier had determined it would not be in the City's best interest to enter into an agreement with Concorso Italiano, Inc. at this time due to time constraints.

PUBLIC COMMENT

- **Carmelita Garcia** expressed appreciation for the City Council's support of the Planning Commission's decision to expand the Golf Course's use permit to include additional services and uses as well as hours of operation. She suggested that an event the size of the Concorso Italiano could take place at a location other than the Golf Course, and that the Council should consider holding "green" events there, instead.

8. REPORTS OF COUNCIL MEMBERS

A. Meeting Reports

- Association of Monterey Bay Area Governments
 - **Council Member Stilwell** informed the Council that there was an increase in member agency dues and that AMBAG recommended the Council approve the increase at a future meeting.
- Community Human Services
 - **Council Member Cohen** told the Council that CHS was now receiving overdue payments from the County.
- Executive Committee, Monterey Bay Division, League of California Cities
 - **Mayor Cort** announced that the matter of State Water Resources Control Board (SWRCB) versus Cal-Am, a grave concern among Peninsula Cities, would be discussed in tonight's Closed Session. He will be signing a letter to SWRCB voicing this concern. There will be discussion of counter methods to the Cease and Desist Order.
- Fort Ord Reuse Authority
 - **Council Member Davis** announced that the FORA meeting had been cancelled.
- Monterey County Convention & Visitors Bureau
 - **Council Member Bennett** told the Council that she had attended her first meeting this afternoon and found it highly informative and was impressed by MCCVB's professionalism. She will be meeting with staff to discuss how to enhance Pacific Grove's tourist industry.
- Monterey Regional Water Pollution Control Agency, JPA
 - **Mayor Cort** informed the Council there was nothing to report.
- Monterey-Salinas Transit
 - **Council Member Stilwell** announced that the American Public Transportation Association will be holding a Youth Summit to advance the use of public transportation among high school aged youth. More information is available at: <http://www.apta.com/youthsummit/intro.cfm>
- Transportation Agency for Monterey County
 - **Council Member Miller** told the Council the next meeting will be on March 26, 2008, beginning at 9:00 a.m. in the Monterey County Ag Commissioners Conference Room. He said that he would not be able to attend that meeting and requested an alternate from the Council go in his stead. It will be an important meeting with members voting on whether or not to tie the Regional Development Impact Fee to the proposed Transportation Sales Tax and it is vital that Pacific Grove be represented.

The Council agreed that Council Member Davis be appointed to serve as alternate. It was also noted that Robert Huitt had been serving as alternate but it was necessary to have an elected official at TAMC meetings. Council Member Miller commended Mr. Huitt for faithful service and on a job well done.

- Reports on Trips, Conference Attendance, and Meetings (AB 1234)
None

9. ITEMS REMOVED FROM CONSENT AGENDA

None

10. CLOSED SESSION

- A. Pursuant to California Government Code Section 54956.9, Council will Meet in Closed Session with Legal Counsel to Consider Pending Litigation
- i. *State Water Resources Control Board (SWRCB) v. Cal-Am*
- B. Consider Claim for Damages No. L2007-29 – Smolinski
- C. Pursuant to California Government Code Section 54956.8, Council will Meet in Closed Session with its Real Property Negotiators, Alan Cohen and Susan Nilmeier, regarding the Pacific Grove Municipal Golf Course
COUNCIL ACTION: Upon motion of Council Member Stilwell, seconded by Council Member Bennett, and carried, with Mayor Cort and Council Member Davis recusing themselves due to possible conflict of interest, the Council moved to remove this item from Closed Session and place it as the last item on the Regular Agenda as item 7.E for discussion purposes only, no action by the Council to be taken at this time.
- D. Pursuant to California Government Code Section 54957.6 Council will meet in Closed Session with its Designated Representative, James J. Colangelo, Regarding Labor Negotiations with the City Attorney

11. PUBLIC ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

(Following Closed Session, the Council shall reconvene in open session, prior to adjournment, and make disclosures as required by Government Code sections 54957.1 and 54957.7. If this announcement is made in the City Manager's Conference Room, public participants shall be invited for the purpose of hearing the announcement. Alternatively, the Council may reconvene in the City Council Chambers to enable the public to hear the announcement.)

Nothing reported

ORDER FOR ADJOURNMENT

Respectfully Submitted,

Ann D. O'Rourke

Ann D. O'Rourke, Deputy City Clerk

APPROVED BY MAYOR: _____ Date _____

ATTEST BY CITY CLERK: _____ Date _____