



ACTION MINUTES **PACIFIC GROVE CITY COUNCIL**

Wednesday, July 2, 2008, 6:00 P.M.

Council Chambers – City Hall – 300 Forest Avenue

PRESENTATIONS

A. Presentation of Feast of Lanterns Court

Reference: Mayor Cort

Colleen Greenlee, President of the Feast of Lanterns presented the Royal Court of the 2008 Feast of Lanterns to the Mayor and City Council:

Queen Topaz – Caitlin Greenlee

Princess Garnet – Amanda Cardoso

Princess Jade – Chloe Peterson

Princess Aquamarine – Jade Hage

Princess Pearl – Brenna Sammon

Princess Turquoise – Julia Marsh

Princess Tourmaline – Megan Donaghy

Princess Amethyst – Allison Niccum

Princess Emerald – Pia Park

APPROVAL OF AGENDA

City Manager Colangelo recommended that Council approve moving items 7D and 7E up on the Agenda to follow item 7A as the three items involved a similar issue.

COUNCIL ACTION: Upon motion of Council Member Miller, seconded by Council Member Nilmeier, and carried, Council approved the Agenda with the recommended change.

COUNCIL AND STAFF ANNOUNCEMENTS

A. Council Referral Update

- **Council Member Miller** requested that staff look into alternative options to using the Monterey Herald for publishing legal ads and notices due to recent unsatisfactory service relating to notices not being published or incorrectly published.
- **Council Member Cohen** noted that despite the upcoming Independence Day holiday, the usually American flags were not on display on Lighthouse Avenue. He concurred that staff was limited and suggested the possibility of using volunteers for situations such as this or even the contracting of a professional.

B. Announcements

- **Council Member Cohen** announced the annual Fourth of July picnic to be held at Caledonia Park.
- **Council Member Miller** noted the passing of Frances Williams, wife of a former Council Member and Mayor Florus Williams.
- **Council Member Nilmeier** informed the Council that Andrew Molera State Park in Big Sur was being used as a command center for firefighters both local and those from out of the area who were fighting the fire in Big Sur.
- **Assistant Fire Chief Brown** provided an update on the fire in Big Sur.

- **Mayor Cort** introduced Griffin Marcum, son of Economic Advisory Committee member Robert Marcum, and further announced that Griffin had been picked as a pitcher for the professional baseball team, Rockford River Hawks, in Rockford Illinois.
- **Joe Riekens, Golf Course Pro**, provided an update on the condition of the greens at the City Golf Course.

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

- **Brendan Ader**, Intern for Sustainability of Pacific Grove, provided a progress report.
- **Spencer Lindsay**, requested that stencils indicating “bike path only” be applied to the bike path to help alleviate the issue of pedestrians walking on the path and causing safety hazards.
- **Snick Farkas** presented “Colossus of Gold” No. 275.

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 Bennett, seconded by Council Member Miller, and carried, Council moved approval of the Consent Agenda with changes as noted.

1. APPROVAL OF CITY COUNCIL MEETING MINUTES

- A. Draft Minutes of the June 18, 2008 City Council Meeting

Recommended Action: Approve

Council Member Cohen requested that the name of Caledonia Park be corrected in his comments during Council and Staff Announcements.

2. RESOLUTIONS

- A. **Resolution No. 08-040:** Consider a Resolution Declaring the Results of the June 3, 2008 Municipal Election

State law and the City Charter require the City Council to canvass returns and declare election results. This action is based upon the Certification of Statement of the Registrar of Voters.

Reference: City Manager Colangelo

Recommended Action: Adopt the Resolution

- B. **Resolution No. 08-041:** Consider a Resolution Authorizing the City Manager to Execute Agreements with the State Board of Equalization for Implementation of a Local Transactions and Use Tax

Council will consider a Resolution authorizing the City Manager to execute agreements with the State Board of Equalization for implementation of a local transactions and use tax approved at the June 3, 2008 election.

Reference: Jim Becklenberg, Director of Management and Budget

Recommended Action: Adopt the Resolution

- C. **Resolution No. 08-042:** Consider a Resolution Calling for a Municipal Election, Consolidating the Election with the November 4, 2008 Statewide General Election, and Requesting Monterey County Elections Officials Complete Election Tasks

The Council will consider a Resolution, which calls for a General Municipal Election to be held on November 4, 2008, and requests the Monterey County Elections Department to provide for consolidation of the election with the general statewide election on that day.

Reference: City Manager Colangelo

Recommended Action: Adopt the Resolution

- D. **Resolution No. 08-043:** Consider a Resolution Authorizing the City Manager to Enter Into a Lease Agreement for the Purchase of Equipment for Wastewater Division for the City of Pacific Grove

Council will consider a Resolution which authorizes the City Manager to enter into a lease purchase agreement to acquire a New Vector V-Series Ramjet Machine for the City of Pacific Grove.

Reference: Celia Perez Martinez, Business Manager, Public Works

Recommended Action: Adopt the Resolution

3. REPORTS OF STAFF

- A. Designate a Voting Delegate and Alternate for the 2008 League Of California Cities Annual Conference

Council will designate a voting delegate and an alternate to attend the League of California Cities annual conference. The League requires that each City designate members to vote on League issues during the Business Session of the conference.

Reference: City Manager Colangelo

Recommended Action: Designate a voting delegate and alternate

COUNCIL ACTION: Council designated Mayor Cort as voting delegate and Council Member Miller as alternate.

- B. Consider Approval of a Cover Page for City Council Agendas

At the Council meeting of May 21, 2008, Council requested that staff draft a cover page for the Council Agenda. The proposed informational cover page would include data and instructions to assist participation by the public.

Reference: City Manager Colangelo

Recommended Action: Approve using cover page for Agenda

4. REPORTS OF COMMISSIONS, BOARDS, AND STANDING COMMITTEES

- A. Meeting Minutes of the June 24, 2008 Architectural Review Board
Recommended Action: Receive
- B. Meeting Minutes of the May 29, 2008 Cultural Arts Commission Special Meeting
Recommended Action: Receive
- C. Meeting Minutes of the June 19, 2008 Planning Commission
Recommended Action: Receive
- D. Meeting Minutes of the April 8, 2008 Recreation Board
Recommended Action: Receive
- E. Meeting Minutes of the April 8, 2008 Traffic Safety Commission
Recommended Action: Receive

REGULAR AGENDA

5. PUBLIC HEARINGS

(With regard to public hearings involving a quasi-judicial determination by the Council, the proponent of an item shall be given 10 minutes to speak and all others in support of the proponent's position will be given three (3) minutes each. A designated spokesperson for opposition to the item shall be given 10 minutes to speak and all others in opposition will be given three (3) minutes each. In public hearings not involving a quasi-judicial determination by the Council, all persons will be given three (3) minutes to speak, whether in support or opposition to the item. Very brief rebuttal and surrebuttal may be allowed in the sole discretion of the Council.)

- A. **Ordinance No. 08-017:** Hold a Public Hearing on a Second Reading and Adopt an Ordinance to Amend the Fiscal Year 2008/09 Budget
On June 18, 2008 Council introduced an Ordinance to Amend the Fiscal Year 2008/09 Budget. If adopted, the Ordinance will go into effect 30 days from the date of adoption.
Reference: Jim Becklenberg, Director of Management and Budget
Recommended Action: Adopt the Ordinance
COUNCIL ACTION: Upon motion of Council Member Davis, seconded by Council Member Stilwell, and carried, Council moved the recommended action.

- B. **Ordinance No. 08-018:** Hold a Public Hearing on a Second Reading and Adopt an Ordinance to Amend the Municipal Code to Allow for a Single “Master” Business License for Farmers Participating in the Pacific Grove Farmers Market
On June 18, 2008 Council introduced an Ordinance to amend the Municipal Code to allow for a single “Master” business license for farmers participating in the Pacific Grove Farmers Market. If adopted, the Ordinance will go into effect 30 days from the date of adoption.
Reference: Jim Becklenberg, Director of Management and Budget
Recommended Action: Adopt the Ordinance
COUNCIL ACTION: Upon motion of Council Member Bennett, seconded by Council Member Stilwell, and carried, Council moved the recommended action.

PUBLIC COMMENT

- **Iris Peppard**, Everyone’s Harvest, assured the Council that her organization was not attempting to prevent the City from collecting revenue as a result of their requesting this Ordinance.

- C. **Ordinance No. 08-019:** Hold a Second Reading of an Ordinance to Amend Section 14.12.010 of the Municipal Code to Modify Rules to Play the Pacific Grove Golf Course

On June 18, 2008 Council introduced an Ordinance to amend Section 14.12.010 of the Municipal Code to modify rules to play the Pacific Grove Golf Course. If adopted, the Ordinance will go into effect 30 days from the date of adoption.

Reference: Jim Becklenberg, Director of Management and Budget

Recommended Action: Adopt the Ordinance

COUNCIL ACTION: Upon motion of Council Member Bennett, seconded by Council Member Nilmeier, and carried, Council moved the recommended action.

PUBLIC COMMENT

- **John Fisher**, commented that the Union Pacific Railroad has property which runs through the golf course which is used as an access by the public.

6. **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. Budget and Finance Subcommittee
- E. Cultural Arts Commission
- F. Economic 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. Monterey County Commission on Disabilities

7. **NEW BUSINESS**

- A. Receive a Presentation from the Monterey Peninsula Water Management District (MPWMD) on the District’s “95-10 Project”

Council will receive a presentation from representatives from MPWMD on the District’s “95-10 Project,” concerning a seawater desalination facility in the Sand City/Fort Ord Area.

Reference: City Manager Colangelo

Recommended Action: Receive the Presentation

COUNCIL ACTION: Upon motion of Council Member Bennett, seconded by Council Member Cohen, and carried, Council moved the recommended action.

PUBLIC COMMENT

- **Annette Chaplin**, Sustainable Pacific Grove, represented the group's concerns regarding the impact a desal plant would have on energy supply and recommended that it be looked at as a last alternative.
- **Deborah Lindsay** expressed concern regarding the size of the project.
- **Nancy Jacobs** stated her support for the project and questioned what the cost would be.

Items 7B through 7E were heard out of the original order of the Agenda per Council's vote during Approval of Agenda. The remainder of the Agenda was considered in the following order:

- D. Receive a Status Report on City of Pacific Grove Water Waiting List
Council has requested an update on the status of the Pacific Grove Water Waiting List. Following receipt of the report Council will provide direction to staff.

Reference: Lynn Burgess, Chief Planner

Recommended Action: Receive status report and provide Council direction on this matter.

COUNCIL ACTION: Mayor Cort made a motion to table the item to a future date to allow discussion between the City Attorney and Chief Planner and further research regarding the Rudas Building and the Forest Avenue property. The motion did not received a second and failed.

COUNCIL ACTION: Upon motion of Council Member Davis, seconded by Council Member Miller, and carried, Council received the report and further directed staff to work reconcile the City's allocation of water with existing records and review the City's status as to the categories listed in the City's Municipal Code.

PUBLIC COMMENT

- **Len Perrone**, on behalf of the Water Waiting List Committee, expressed the group's opinion that the records are inaccurate and that it was not fair for two properties to delay 43 other projects.
 - **Regina Doyle**, Monterey Peninsula Water Management District Board member, indicated she would be willing to provide information and be a liaison between the City and the Board.
 - **Nancy Jacobs** told the Council that the water waiting list justifies the desalination project.
- E. Receive a Report on the California Nevada Methodist Homes Forest Hill Manor Quarterly Water Usage Monitoring

Council will Receive a report on the quarterly water usage monitoring at Forest Hill Manor pursuant to the Water Use Agreement between California Nevada Methodist Homes (CNMH) and the City of Pacific Grove.

Reference: Lynn Burgess, Chief Planner

Recommended Action: Receive the Report

COUNCIL ACTION: Upon motion of Council Member Bennett, seconded by Council Member Stilwell, and carried, with Council Members Cohen and Nilmeier abstaining due to possible conflict of interest, Council moved the recommended action.

- B. Consider Proposal to Place a Referendum on the November 2008 Ballot on the California Public Employees Retirement System (CalPERS) Issue

Council will consider a proposal to place a referendum on the November 2008 Ballot which would allow voters to express, through the ballot box, their advisory opinion on whether or not the City should terminate its defined benefit retirement plan with CalPERS and replace it with a defined contribution retirement plan similar to a 401(k) plan.

Reference: Council Members Davis

Recommended Action: Approve placing the referendum on November ballot.

COUNCIL ACTION: Upon motion of Council Member Davis to approve the proposal with a change in the referendum's language at the pleasure of the Council, seconded by Council Member Stilwell, with Council Member Stilwell voting for and Mayor Cort and Council Members Bennett, Cohen and Miller voting against, the motion failed on a vote of 3/4.

PUBLIC COMMENT

- **Don Mothershead**, Senior Recreation Leader, requested that the Council not ask the public to vote on what is an emotional issue.
- **Nancy Jacobs** said she felt a 401(k) does not benefit employees and that there needs to be more available information to make an educated decision.
- **Amy Lonsinger**, President of the Police Officers Association, said there needs to be more available information before asking voters to weigh in and requested the item not be placed on the ballot.
- **Richard Burris**, representing Local 792, indicated that all of the local agencies offer CalPERS, the proposed separation would impact the ability to recruit and retain quality employees. He further stated that the union feels it would be compelled to fight such an action.

COUNCIL ACTION: Upon motion of Mayor Cort, seconded by Council Member Nilmeier, and carried, Council moved to go into Closed Session prior to considering the next item, pursuant to California Government Code Section 54956.9, to consider potential litigation. The action was based on recommendation from the City Attorney in reference to a letter received from the attorney for the Police Officers Association.

- C. Consider Introduction and First Reading of an Ordinance to Amend Section 4.20.410 of Title 4.20 (Personnel System, Rules and Regulations) of the Pacific Grove Municipal Code

Council will consider the introduction and first reading of an Ordinance to amend Section 4.20.410 of Title 4.20 (Personnel System, Rules and Regulations) of the Pacific Grove Municipal Code.

Reference: Council Members Davis and Stilwell

Recommended Action: Hold the first reading of the Ordinance

COUNCIL ACTION: Upon motion of Council Member Davis, seconded by Council Member Stilwell, and carried, with Mayor Cort and Council Members Miller and Cohen voting against, Council moved the recommended action.

COUNCIL ACTION: Upon motion of Council Member Davis, seconded by Council Member Nilmeier, and carried, Council directed the City Manager to continue to meet and confer with employees and include discussion of possible impact of Ordinance.

PUBLIC COMMENT

- **John Fisher** asked if any of the Pacific Grove firefighters are also considered peace officers.
- **Darius Engles**, Chief of Police, addressed the Council regarding the how and “at will” status relates to police officers.
- **Michael Groshong** addressed the Council regarding the concept of tenure for civil servants.
- **Richard Burris**, representing Local 792, shared information from an attorney suggesting that the City Charter may be illegal regarding at will status and the proposed Ordinance violates the Skelley rule.
- **Amy Lonsinger**, President of the Police Officers Association, indicated the City Charter should be changed to fit the current personnel Ordinance and State law.
- **Justin Cooper**, Vice President of the Pacific Grove Firefighters Associate, said the City needs to meet and confer with employees before adopting the Ordinance. He felt the action would endanger employees sense of security and affect their ability to perform their duties.

COUNCIL ACTION: Upon motion of Mayor Cort, seconded by Council Member Cohen, and carried, Council moved to continue consideration of items on the Agenda past 10:00 p.m.

- F. Consider Introduction and First Reading of an Ordinance Enabling the City to Accept an Open Space Easement for Property Located at 472 Asilomar

Council will consider introduction and first reading of an Ordinance to accept an Irrevocable Offer to Dedicate an Open Space Easement for property located at 472 Asilomar, Pacific Grove, CA. Council may approve or reject the first reading of the Ordinance. If approved, a summary of the Ordinance shall be published and a second reading shall be set at the next Council meeting.

Reference: Lynn Burgess, Chief Planner

Recommended Action: Hold a first reading of the Ordinance

COUNCIL ACTION: Upon motion of Council Member Miller, seconded by Council Member Bennett, and carried, Council moved the recommended action.

8. REPORTS OF COUNCIL MEMBERS

A. Meeting Reports

- Association of Monterey Bay Area Governments
 - **Council Member Stilwell** attended a special meeting to discuss funding AMBAG's new office building.
- Community Human Services
 - **Council Member Cohen** said CHS's preliminary budget was discussed and that the Director would like to give a presentation to the Council in August 2008.
- Executive Committee, Monterey Bay Division, League of California Cities
 - **Mayor Cort** restated as a result of action taken by the Council earlier in the meeting, he and Council Member Miller would be attending the annual conference.
- Fort Ord Reuse Authority
 - Nothing to report until next meeting
- Monterey County Convention & Visitors Bureau
 - Nothing to report until next meeting
- Monterey Regional Water Pollution Control Agency, JPA
 - **Mayor Cort** said the current Director was elected for another year.
- Monterey-Salinas Transit
 - Nothing to report until next meeting
- Transportation Agency for Monterey County
 - **Council Member Miller** said the results of the recent sales tax initiative were discussed.

B. Reports on Trips, Conference Attendance, and Meetings (AB 1234)

- **Council Member Davis** reported on his meeting with CalPERS actuaries in Sacramento in June.

9. ITEMS REMOVED FROM CONSENT AGENDA

10. CLOSED SESSION

(Public comment will be invited prior to the Council going into Closed Session. Comments from the audience will not receive Council action and must deal only with items on the current Closed Session list.)

- A. Pursuant to California Government Code Section 54956.9 the City Council will Meet in Closed Session to Consider Pending Litigation
- i. *California-Nevada Methodist Homes v. City of Pacific Grove*

- B. Pursuant to California Government Code Section 54957(b)(1) the City Council will Meet in Closed Session to Evaluate the Performance of the City Manager

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 to report

ORDER FOR ADJOURNMENT

Respectfully Submitted,

Ann O'Rourke

Ann D. O'Rourke, Deputy City Clerk

APPROVED BY MAYOR: _____ Date _____

ATTEST BY CITY CLERK: _____ Date _____