



# **ACTION MINUTES** **PACIFIC GROVE CITY COUNCIL**

**Wednesday, July 16, 2008, 6:00 P.M.**  
**Council Chambers – City Hall – 300 Forest Avenue**

**NOTE: Council Member Vicki Stilwell participated the meeting remotely by speakerphone from her location at:**

**3453 Champlain Drive  
South Lake Tahoe, CA  
Phone: 530-541-1894**

**Due to Council Member Stilwell's remote participation, all votes were taken by roll call.**

## **APPROVAL OF AGENDA**

**COUNCIL ACTION: Upon motion of Council Member Miller, seconded by Mayor Cort, and carried, Council moved to move Regular Agenda Item No. 7.A to New Business as Regular Agenda Item No. 8.B, change Regular Agenda Item No. 7.B to Regular Agenda Item No. 7.A and moved approval of the Agenda.**

## **COUNCIL AND STAFF ANNOUNCEMENTS**

### **A. Council Referral Update**

- **Council Member Stilwell** requested an update regarding inventory of City assets. City Manager Colangelo explained that this would be presented as an informational item only unless otherwise directed by the Council.
- **Council Member Miller** requested an update on the negotiations regarding the Old Bath House.

### **B. Announcements**

- **Council Member Bennett** had several announcements:
  - Joint meeting to be held between the Housing Committee and the ADA Compliance Advisory Committee on July 23, 2008 from 6:00 to 8:30 p.m. at the Sally Griffin Senior Center.
  - Geraldine Low-Sabado will be giving a presentation on the history of the Chinese people in Pacific Grove at the Maritime Museum in Monterey.
  - A request of the City Manager to provide the number of public nuisance complaints on file with the Community Development Department. City Manager Colangelo informed the Council the information would be available by the coming Friday and would be made available to the public.
- **City Manager Colangelo** informed the Council:
  - The Packard Foundation has approved a \$230,000 grant for the Pacific Grove Museum of Natural History for Fiscal Year 08/09, and would be granting \$235,000 for Fiscal Year 09/10.
  - The City is in receipt of \$300,00 from the assessment of the Downtown Business Improvement District and the Council needs to consider how to allocate those funds.

## 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**

- **Louise Slagel** representing Spazier Avenue residents, addressed the Council regarding the possibly illegal expansion of Canterbury Woods into an unzoned area of the neighborhood, in spite of a cease and desist order.
- **Terry Davis** announced the Triathlon in Pacific Grove on September 13 and 14, 2008.
- **Len Perrone**, Pacific Grove Water Conservation and Quality Citizens Group, asked why none of the 43 people on the City's water waiting list had been granted water. He requested the item be placed on the Council's August 20, 2008 agenda.
- **Laura Sue Campbell** made a complaint regarding the use of marijuana in the apartment above the one where she and her husband reside.
- **Martin Sublett** also addressed the Council regarding the expansion of the Canterbury Woods facility.
- **Snick Farkas** presented the Colossus of Gold No. 276.
- **Bill Valuch** requested an update regarding the signs directing traffic to downtown Pacific Grove.

## 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, seconded by Council Member Bennett, and carried, Council moved approval of the Consent Agenda.**

### 1. APPROVAL OF CITY COUNCIL MEETING MINUTES

- A. Draft Minutes of the July 2, 2008 City Council Meeting  
**Recommended Action: Approve**

### 2. RESOLUTIONS

- A. **Resolution No. 08-044:** Consider a Resolution Authorizing the City Manager to Enter into a Contract with the Lowest Responsible Bidder for the Pacific Grove Recreation Trail Bluff Repairs  
*Council will consider a Resolution authorizing the City Manager to enter into a contract for repairs to the Pacific Grove Recreation Trail Bluff.*  
**Reference: Celia Perez Martinez, Business Manager**  
**Recommended Action: Adopt the Resolution**

3. REPORTS OF STAFF

- A. Highlights of the June 20, 2008 Monterey Regional Waste Management District Board Meeting  
*Gary Bales, the City's representative to the Monterey Regional Waste Management District Board, will report on activities and actions by the Monterey Regional Waste Management District Board*  
**Reference: City Manager Colangelo**  
**Recommended Action: Receive**
- B. Claim for Damages No. G2008-08 / BYWATER, Florence  
*Council will consider a claim from an injured party and determine whether to approve the claim or deny and refer the matter back to staff. It is recommended that Council approve the claim. If Council chooses to deny the claim, the claimant will have six (6) months to file legal action.*  
**Reference: Charlene Wiseman, Deputy City Manager**  
**Recommended Action: Approve claim and refer the matter back to staff**
- C. Claim for Damages No. G2008-09 / HUBB, Gary W.  
*Council will consider a claim from an injured party and determine whether to approve the claim or deny and refer the matter back to staff. It is recommended that Council approve the claim. If Council chooses to deny the claim, the claimant will have six (6) months to file legal action.*  
**Reference: Charlene Wiseman, Deputy City Manager**  
**Recommended Action: Approve claim and refer the matter back to staff**
- D. Claim for Damages No. G2008-10 / HUNTER, Matthew  
*Council will consider a claim from an injured party and determine whether to approve the claim or deny and refer the matter back to staff. It is recommended that Council approve the claim. If Council chooses to deny the claim, the claimant will have six (6) months to file legal action.*  
**Reference: Charlene Wiseman, Deputy City Manager**  
**Recommended Action: Approve claim and refer the matter back to staff**
- E. Claim for Damages No. G2008-11 / WARTENBERG, Mary Len  
*Council will consider a claim from an injured party and determine whether to approve the claim or deny and refer the matter back to staff. It is recommended that Council approve the claim. If Council chooses to deny the claim, the claimant will have six (6) months to file legal action.*  
**Reference: Charlene Wiseman, Deputy City Manager**  
**Recommended Action: Approve claim and refer the matter back to staff**
- F. Claim for Damages No. L-2008-05 / SCHARINGER, Helga  
*Council will consider a claim from an injured party and determine whether to approve the claim or deny and refer the matter back to staff. If the claim is denied as recommended, the claimant will have six (6) months to file legal action.*  
**Reference: Charlene Wiseman, Deputy City Manager**  
**Recommended Action: Deny claim and refer the matter back to staff**

4. REPORTS OF COMMISSIONS, BOARDS, AND STANDING COMMITTEES

- A. Meeting Minutes of the June 12, 2008 Housing Committee  
**Recommended Action: Receive**
- B. Meeting Minutes of the June 19, 2008 Planning Commission  
**Recommended Action: Receive**
- C. Meeting Minutes of the July 8, 2008 Architectural Review Board  
**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. 1) **Ordinance No. 08-020:** Hold a Public Hearing on a Second Reading of an Ordinance to Accept an Irrevocable Offer to Dedicate an Open Space Easement, Recorded Instrument No. 1987-51597 (CDP No. 3-85-56) Executed by William H. McKaig, Jennie R. McKaig, Bruce Beall McKaig and Hazel Hiller McKaig, Which will Expire on August 20, 2008, for Property Located at 472 Asilomar (APN 007-072-025 and – 026); and
- 2) Authorize the Mayor to Sign the Certificate of Acceptance; and
- 3) Direct the City Clerk to Submit the Signed Certificate of Acceptance to the County Recorder for Filing/Recordation.

*On July 2, 2008 Council introduced an Ordinance to accept an Irrevocable Offer to Dedicate an Open Space Easement, recorded instrument no. 1987-51597 (CDP no. 3-85-56) executed by William H. McKaig, Jennie R. McKaig, Bruce Beall McKaig and Hazel Hiller McKaig for property located at 472 Asilomar (APN 007-072-025 and – 026). If adopted, the Ordinance will go into effect 30 days from the date of adoption.*

**Reference: Sarah Hardgrave, Senior Planner**

**Recommended Actions:**

- 1) **Adopt the Ordinance.**
- 2) **Authorize the Mayor to sign the Certificate of Acceptance.**
- 3) **Direct the City Clerk to submit the signed Certificate of Acceptance to the County Recorder for filing/recordation.**

**COUNCIL ACTION: Upon motion of Mayor Cort, seconded by Council Member Bennett, and carried, Council moved the recommended actions.**

- B. **Ordinance No. 08-021:** Hold a Public Hearing on a Second 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

*On July 2, 2008 Council introduced an Ordinance to amend Section 4.20.410 of Title 4.20 (Personnel System, Rules and Regulations) of the Pacific Grove Municipal Code. If adopted, the Ordinance will go into effect 30 days from the date of adoption.*

**Reference: Council Members Davis and Stilwell**

**Recommended Action: Adopt the Ordinance**

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

**PUBLIC COMMENT**

- **John Fisher** commended Council for bringing the Municipal Code into compliance with the City Charter.
- **Francis Grate and Maryanne Spradling** agreed with the previous comments.

- C. **Resolution No. 08-047:** Hold a Public Hearing to Consider an Appeal of a Use Permit to Allow a Farmers' Market on Lighthouse Avenue Between Forest Avenue and 18<sup>th</sup> Street on Mondays

*Council will hold a public hearing to consider an appeal of a Use Permit to allow a Farmers' Market on Lighthouse Avenue between Forest Avenue and 18<sup>th</sup> Street, on Mondays. An alternative location has also been noticed for the City Council's consideration, on Lighthouse Avenue from 13<sup>th</sup> Street to 15<sup>th</sup> Street. An alternative day, Saturday, has also been noticed for the Council's consideration.*

**Reference: Sarah Hardgrave, Senior Planner**

**Recommended Action: Deny the appeal and approve the Use Permit**

**COUNCIL ACTION: Upon motion of Council Member Davis, seconded by Council Member Stilwell, and carried, with Council Member Bennett voting against and with Council Member Cohen recusing himself due to possible conflict of interest, Council moved the recommended action with the following conditions:**

- 1) **The applicant will take steps to keep the affected intersections open; and**
- 2) **The Planning Commission shall hold an initial 90-day review of the Use Permit to determine if significant unresolved issues of concern have arisen.**

**APPELLANT**

- **Dr. Jennifer Wernsing**, owner of Cottage Veterinary Care, a business located in an area impacted by the farmers market, indicated the basis of her appeal was for a change in location only, not day or time of operation.

**APPLICANT**

- **Iris Peppard**, Everyone's Harvest, said they were open to a change in location but a change in day would present challenges.

**PUBLIC COMMENT**

- **The following speakers expressed support for changing the location of the farmers market to between 13<sup>th</sup> and 15<sup>th</sup> Streets on Lighthouse:**  
Tim McMahon, Marietta Bain, Doug Hodges, Carmelita Garcia, David Palacci, Laurie Sandblom, Ron Schenk, Jeanne Graham, Bill Valuch, Mike Becker
- **The following speakers expressed support for holding the farmers market at either location:**  
Michelle Magdalena, Jacqueline Barton, Kay Miller, J. Perry, Ingrid Tower, Jennifer Haydu, David Dilworth, Moe Ammar
- **Sonya Liddy** provided a petition signed by downtown businesses in support of moving the location of the farmers market to between 13<sup>th</sup> and 15<sup>th</sup> Streets on Lighthouse Avenue.
- **Joan Hittner** requested the Council consider Jewell Park as a location for the farmers market.
- **Peter Eichorn**, one of the farmer/vendors of the farmers market, told the Council he could only participate in the market on Monday not Saturday.
- **Crystal Deathridge** gave an account of her experience with the farmers market in Clovis, CA.
- **Gary Peterson** expressed support for keeping the location of the farmers market between Forest Avenue and 18<sup>th</sup> Street on Lighthouse Avenue.

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. **OLD BUSINESS**

- A. **Resolution No. 08-046:** Receive a Report and Consider a Draft City Council Policy Providing Heightened Code Enforcement of Substandard Housing and Resources to At-Risk Tenants  
*Council will receive a report and consider a proposed Council policy providing heightened code enforcement of substandard housing and resources to at-risk tenants per direction given to staff at the Council meeting of May 7, 2008.*  
**Reference: Julie Uretsky, Housing Planner**

**Recommended Action:** Receive report and provide direction to staff on the proposed policy and draft resolution and ordinance.

**COUNCIL ACTION:** Upon motion of Council Member Davis, seconded by Council Member Nilmeier, and carried, Council moved to receive the report and adopt the Resolution adding Council Policy No. 600-6 with changes to Provision No. 4 removing the words “police, fire” and changing “shall” to “should” in the sentence beginning “Any such units. .”

**COUNCIL ACTION:** Upon motion of Council Member Miller, seconded by Council Member Nilmeier, and carried, Council moved to continue considering items on the Agenda after 10:00 p.m.

8. NEW BUSINESS

**COUNCIL ACTION:** Upon motion of Council Member Davis, seconded by Council Member Nilmeier, and carried, Council moved to move Regular Agenda Item 8.B to the first item under New Business.

- B. **Resolution No. 08-045:** Consider a Resolution to Place a Referendum on the November 4, 2008 Ballot on the CalPERS Issue  
*Council will consider a proposal to place a referendum on the November 4, 2008 ballot on the CalPERS issue 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 the California Public Employees Retirement System (CalPERS) and replace it with a defined contribution plan similar to a 401(k) plan. The Council, if it chooses to place the advisory measure on the November 4, 2008 ballot, shall also adopt the draft Resolution as presented, or as that draft may be modified to conform to other direction of the Council.*

**Reference:** Council Member Lisa Bennett

**Recommended Action:** Adopt the Resolution

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

PUBLIC COMMENT

- **John Moore** indicated support for the City’s separation from CalPERS and felt the move would not impact recruitment of quality employees.
- **Susan Goldbeck** expressed the opinion that other cities would follow Pacific Grove’s example and said she wasn’t sure the public understood the issue.
- **Bill Kampe** said the outcome of the ballot measure won’t assist in the final decision of the Council. He also felt the public needed a better understanding of the issue.
- **John Fisher** said it wasn’t clear what the referendum was looking for and more information needed to be made available to the public regarding the issue.
- **Carmelita Garcia** said she did not support the referendum as the Council has already taken the first steps necessary to look into separation.

- **Nancy Jacobs** felt the public needed to be educated regarding the facts and that the issue would polarize the City’s residents.
- **Francis Grate** thanked the Council for starting the separation process and felt that other cities would follow.
- **Barry Dolowich** said this would be the biggest decision the Council would make. He also indicated there was a potential \$10 million refund from CalPERS if the separation was accomplished.
- **Diana Dennis** expressed approval of the referendum and said the public would like to understand the issue.
- **Maryanne Spradling** expressed support of the referendum.
- **David Dilworth** said that although he felt CalPERS was a bad investment he was not convinced of the wisdom of placing the measure on the ballot.
- **Vince Tuminello** said the Council needs to make a decision regarding separation from CalPERS.

A. Consider a Request from Library Board for Council Support

*Council will consider a request from the Pacific Grove Library Board to:*

- 1) *Agree that a strategic plan for the Pacific Grove Library should be developed;*
- 2) *Participate in whatever fashion is appropriate in the development of the plan;*
- 3) *Commit to review the completed plan and to take its recommendations into account in future city planning.*

**Reference: Council Member Lisa Bennett**

**Recommended Actions:**

- 1) **Agree that a strategic plan for the Pacific Grove Library should be developed; and**
- 2) **Participate in whatever fashion is appropriate in the development of the plan; and**
- 3) **Commit to review the completed plan and to take its recommendations into account in future city planning.**

**COUNCIL ACTION: Upon motion of Mayor Cort, seconded by Council Member Bennett, and carried, Council moved the recommended actions.**

**PUBLIC COMMENT**

- **John Fisher** recommended the Council refer to an earlier concept for the Library as an outline for a strategic plan.
- **Vince Tuminello** expressed support for the Library’s request.

9. **REPORTS OF COUNCIL MEMBERS**

A. Consider the Appointment of an Alternate Member to the Transportation Agency of Monterey County (TAMC) Bicycle and Pedestrian Facilities Advisory Committee

*Council will consider approval of the appointment of Jan Roehl to the Transportation Agency of Monterey County (TAMC) Bicycle and Pedestrian Facilities Advisory Committee.*

**Reference: Mayor Cort**

**Recommended Action: Approve the appointment of Jan Roehl to the TAMC Bicycle and Pedestrian Facilities Advisory Committee.**

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

B. Meeting Reports

- Association of Monterey Bay Area Governments
  - **Council Member Stilwell** - Nothing to report
- Community Human Services
  - **Council Member Cohen** reported that the annual CHS awards luncheon would be held on July 17, 2008.
- Executive Committee, Monterey Bay Division, League of California Cities
  - **Mayor Cort** announced he and Council Member Miller would be attending the LCC conference in September.
- Fort Ord Reuse Authority
  - **Council Member Davis** reported on a joint meeting with the Marina Coast Water District.
- Monterey County Convention & Visitors Bureau
  - **Council Member Bennett** – Nothing to report
- Monterey Regional Water Pollution Control Agency, JPA
  - **Mayor Cort** reported that the next meeting would be the end of July.
- Monterey-Salinas Transit
  - **Council Member Cohen** attended on behalf of Council Member Stilwell and announced that MST would be starting a free trolley service between Hartnell College and downtown Salinas.
- Transportation Agency for Monterey County
  - **Council Member Miller** reported that TAMC was seeking private donations to fund the placing of the sales tax measure on the November 4, 2008 ballot.

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

10. ITEMS REMOVED FROM CONSENT AGENDA

11. 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 the City Council will Meet in Closed Session to Consider Public Employment: City Manager

- C. Pursuant to California Government Code Section 54957 the City Council will Meet in Closed Session to Consider Public Employment: City Attorney
- D. Pursuant to California Government Code Section 54957.6 the City Council will Meet in Closed Session with its Designated Representative, James J. Colangelo, Regarding Labor Negotiations: General Employees’ Association
- E. Pursuant to California Government Code Section 54956.95 the City Council will Meet in Closed Session to Consider Workers Compensation Case Summary and Settlement Recommendation
  - i. Claim No. 2007063399 / PANNELLA, Joseph
  - ii. Claim No. 2005032903 / PURDOM, John

12. 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 \_\_\_\_\_