



# ACTION MINUTES PACIFIC GROVE CITY COUNCIL

Wednesday, November 19, 2008, 6:00 p.m.

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

Mayor Cort announced that Council Member Bennett would be absent.

## APPROVAL OF AGENDA

**COUNCIL ACTION:** Upon motion of Council Member Nilmeier, seconded by Council Member Davis, and carried, with Mayor Cort and Council Member Miller voting against and Council Member Bennett absent, Council moved to move Item No. 8.F to the beginning of New Business ahead of Item No. 8.A.

**COUNCIL ACTION:** Upon motion of Council Member Stilwell, seconded by Council Member Davis, and carried, with Council Member Bennett absent, Council moved approval of Agenda with changes as noted.

## COUNCIL AND STAFF ANNOUNCEMENTS

- A. Council Referral Update
- B. Announcements

- **Council Member Stilwell** announced the Annual Christmas at the Inns, sponsored by the PG Chamber of Commerce.
- **Mayor Cort**
  - Provided clarification on the purpose of Measure U. It is a general tax, not specific and use of the resulting funds will receive input from the Budget and Finance Committee.
  - Regarding water, the region will be getting a tiered rate increase. He would like to see an ad hoc committee look into water conservation methods and report back to the Council.
  - A new City Manager has not been hired yet. An interim City Manager will be hired until a permanent replacement is found.
- **City Attorney Laredo** read out the results of the Closed Session Special Meeting, which are noted on the minutes for that meeting.

## 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**

- **John Moore** thanked the outgoing Council Members then voiced his objections to recent actions.

- **Richard Stilwell** requested the Council halt the Ordinance adopted at the last Council meeting eliminating the volunteer firefighters from the Municipal Code.
- **Sally Aberg**, Pacific Groove, announced several upcoming holiday events.
- **Moe Ammar**, Chamber of Commerce President thanked Public Works for the light decorations downtown. He also thanked the City Manager and staff for the great job on cleaning the trash cans located downtown and wished everybody Happy Holidays.
- **Jim Quinn** announced the 3<sup>rd</sup> Annual Celtic Night on November 21, 2008.
- **Bill Valuch**, Business Improvement District, encouraged shopping in the downtown area for the holidays.
- **Michael Puckett and Molly McGee** announced the Holiday Parade of Lights.
- **Carmelita Garcia** on behalf of the Pacific Grove Police Citizen's Academy, announced their annual Share Your Holiday event. She also said they were distributing a holiday safety tips brochure.
- **Ken Cuneo** referred to the importance of a good library in a great civilization. He also announced that the benefit for Joel Woods family had netted \$1,225 given to his family.
- **Snick Farkas** presented Colossus of Gold No. 284.
- **Joy Colangelo** felt that Oral Communication should be moved the end of the Agenda to allow more public participation in items on the Agenda and allow Council to begin considering those items earlier in the meeting.

## CONSENT AGENDA

*(The Consent Agenda consists of those items which are routine and for which a staff recommendation has been prepared. One motion will cover all items on the Consent Agenda. The motion to approve will authorize the action or recommendation indicated. Pursuant to City Council Policy No. 000-14 a Councilmember, member of the audience or staff may request that an item be placed on the regular agenda for further discussion. )*

**COUNCIL ACTION: Upon motion of Council Member Miller, seconded by Council Member Davis, and carried, with Council Member Bennett absent, Council moved approval of the Consent Agenda.**

### 1. APPROVAL OF CITY COUNCIL MEETING MINUTES

- A. Minutes of the November 5, 2008 City Council Meeting  
**Recommended Action: Approve**

### 2. RESOLUTIONS

- A. **Resolution No. 08-057:** Consider a Resolution Authorizing Examination of Sales, Transactions, and Use Tax Records  
*Council will consider a Resolution authorizing the examination of sales, transactions and use tax records. The State Board of Equalization requires a Resolution from the local jurisdiction giving permission to view the records.*  
**Reference: Director of Management and Budget Jim Becklenberg**  
**Recommended Action: Adopt the Resolution**
- B. **Resolution No. 08-058:** Consider a Resolution Authorizing the City Manager to Enter into a Contract with the Lowest Responsible Bidder for the Installation of a Flashing Lighted Crosswalk on Sunset Avenue at 19th Street

*Council will consider a Resolution authorizing the City Manager to enter into a contract with Monterey Peninsula Engineering, the lowest responsible bidder for the installation of a flashing lighted crosswalk on Sunset Avenue at 19th Street.*

**Reference: Celia Perez Martinez, Business Manager**

**Recommended Action: Adopt the Resolution**

3. REPORTS OF STAFF

- A. Authorize City Arborist to Issue Tree Removal Permit in Monarch Butterfly Habitat Zone at 283 Grove Acre Avenue, a Private Residence

*Council will consider authorizing the City Arborist to issue a tree removal permit for 283 Grove Acre Avenue. Council action is required as it is within 100 yards of the Monarch Butterfly Sanctuary and it is currently Monarch Butterfly season.*

**Reference: Celia Perez Martinez, Business Manager**

**Recommended Action: Approve authorization**

- B. Consider Approval of Rental Agreement with County Ambulance Service Provider

*Council will consider approving a rental agreement with American Medical Response (AMR). This action is necessary due to the change in County ambulance providers from West-Med to AMR.*

**Reference: Fire Chief Miller**

**Recommended Action: Approve the Agreement**

4. REPORTS OF COMMISSIONS, BOARDS, AND STANDING COMMITTEES

- A. Meeting Minutes of the September 23, 2008 Budget and Finance Committee

**Recommended Action: Receive**

- B. Meeting Minutes of the November 12, 2008 Historic Resources Board Site Review

**Recommended Action: Receive**

- C. Meeting Minutes of the November 12, 2008 Historic Resources 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. Hold a Public Hearing to Review the Planning Commission's Approval of Use Permit No. 2975-08 to Demolish and Reconstruct More than Twenty-Five Percent of a Non-Conforming Use Pursuant to Municipal Code Section 23.68.050(c)  
*On October 15, 2008 Council called up the Planning Commission's approval of Use Permit No. 2975-08. Council will review that decision and consider staff's recommendation to deny the Use Permit.*

**Reference: Sarah Hardgrave, Senior Planner**

**Recommended Actions:**

- (1) Hold the Public Hearing; and**
- (2) Deny the Use Permit.**

**COUNCIL ACTION: Mark Travaille, representing the Wobbers (applicants), requested the item be continued to the second meeting of January 2009 due to Mr. Wobber's health issues. Upon motion of Council Member Davis, seconded by Council Member Stilwell, and carried, with Council Member Bennett absent, Council moved to continue the item to the second meeting of January 2009.**

- B. Ordinance No. 08-025: Hold a Second Reading of an Ordinance Creating an In-Lieu Fee for Use of Public Water Credits**  
*On November 5, 2008 Council introduced and held a first reading of an Ordinance creating an in-lieu fee for use of public water credits. Council will hold the second reading and consider adoption of the Ordinance. If adopted, the Ordinance will go into effect on November 24, 2008.*

**Reference: Chief Planner Lynn Burgess**

**Recommended Action: Adopt the Ordinance**

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

- C. Ordinance No. 08-26: Hold a Second Reading of an Ordinance Ratifying Expenditures in FY 2007/08 and Amending the Approved Budget of the City of Pacific Grove for FY 2008/09**

*On November 5, 2008 Council introduced and held a first reading of an Ordinance ratifying expenditures in FY 2007/08 and amending the approved budget of the City of Pacific Grove for FY 2008/09. Council will hold the second reading and consider adoption of the Ordinance. 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 Stilwell, seconded by Council Member Miller, and carried, with Council Member Bennett absent, Council moved the recommended action.**

#### **PUBLIC COMMENT**

- **John Moore** said the item should be continued until there was a meeting to determine how Measure U funds would be allocated.
- **Ken Cuneo** expressed the need for civility when addressing the Council.

- D. Ordinance No. 08-27: Hold a Second Reading of an Ordinance Amending the Municipal Code to Exempt Public Urban Runoff and Storm Water Management Facilities from the City's Sewage Collector System Fee**

*On November 5, 2008 Council introduced and held a first reading of an Ordinance Amending the Municipal Code to Exempt Public Urban Runoff and Storm Water Management Facilities from the City's Sewage Collector System Fee. Council will hold the second reading and consider adoption of the Ordinance. If adopted, the Ordinance will go into effect 30 days from the date of adoption.*

**Reference: Jim Becklenberg, Director of Management and Budget**

**Recommended Actions: Adopt the Ordinance**

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

- E. **Ordinance No. 08-28:** Hold a Second Reading of an Ordinance to Amend and Codify the City's Conflict-of-Interest Code

*On November 5, 2008 Council introduced and held a first reading of an Ordinance to Amend and Codify the City's Conflict-of-Interest Code. Council will hold the second reading and consider adoption of the Ordinance. If adopted, the Ordinance will go into effect 30 days from the date of adoption.*

**Reference: City Attorney Laredo**

**Recommended Action: Adopt the Ordinance**

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

6. REPORTS OF BOARDS, COMMISSIONS AND STANDING COMMITTEES

- A. Administrative Enforcement Hearing Officers Panel
- B. Americans with Disabilities Act Compliance Advisory Committee
- C. Architectural Review Board
- D. Beautification and Natural Resources Committee
- E. Budget and Finance Subcommittee
- F. Cultural Arts Commission
- G. Economic Advisory Committee
- H. Historic Resources Committee
- I. Housing Committee
- J. Library Board
  - **Susan Steele**, Chair, gave a presentation to the Council regarding needed repairs to the Library. She also indicated they would be bringing a strategic plan to the Council in December or January.
- K. Museum Board
- L. Planning Commission
- M. Recreation Board
- N. Special Events Committee
- O. Traffic Safety Commission
- P. Monterey County Commission on Disabilities

7. OLD BUSINESS

- A. Consider a Draft Council Code of Ethics and Protocols Manual

*On November 5, 2008, Council Member Bennett introduced a Council Code of Ethics and Protocols Manual, entitled “The Pacific Grove Council Manual of Procedures.” Council will consider a draft Council Code of Ethics and Protocols Manual as prepared by staff.*

**Reference: City Manager Colangelo**

**Recommended Action: Provide direction to staff to finalize the document for consideration by the new Council in December**

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

8. NEW BUSINESS

**Per Council Action during Approval of Agenda, the item below was moved to the beginning of New Business:**

- F. Consider a Resolution Approving a Memorandum of Understanding with the General Employees Association

*Council will consider a Resolution approving a Memorandum of Understanding with the General Employees Association*

**Reference: City Manager Colangelo**

**Recommended Action: Adopt the Resolution**

**COUNCIL ACTION: Upon motion of Council Member Davis, seconded by Council Member Nilmeier, and carried, with Council Member Miller voting against and Council Member Bennett absent, Council moved to refer the item back to staff for consideration by the new City Manager and new City Council.**

PUBLIC COMMENT

- **Barry Dolowich** said the item should not be discussed at this time.
- **Jim Quinn** said the item should be renegotiated after the new City Manager and new City Council were in place.
- **John Moore** expressed concern regarding the City’s reserves and said the City Attorney should clarify some points of the MOU.

- A. Receive a Report and Provide Staff with Guidelines for the Expenditure of Funds Resulting from the Jeanette McIndoo Estate Bequest

*Council will receive a report and consider recommendations by staff and the Beautification and Natural Resources Committee for the utilization of a bequest from the Jeanette McIndoo Estate for the beautification, and enhancement of parks and public facilities in Pacific Grove.*

**Reference: Celia Perez Martinez, Business Manager**

**Recommended Action: Receive report and approve staff recommendations**

**COUNCIL ACTION: Upon motion of Council Member Davis, seconded by Council Member Stilwell, and carried, with Council Member Bennett absent, Council moved to eliminate Staff Recommendation No. 4 and distribute the remaining money to Staff Recommendations No. 1 and 3 and moved the recommended action.**

**PUBLIC COMMENT**

- **Tom Akeman**, Chair of the Beautification and Natural Resources Committee, requested the Council not approve Staff Recommendation No. 4 as it is an ongoing maintenance issue and the City's responsibility.
- **Jeanne Byrne** provided clarification of Staff Recommendation No. 2.
- **John Fisher** expressed concern regarding the maintenance of the trees at the City's Highway 68 entrance.
- **Jean Anton** concurred with the comments made by Mr. Akeman.
- **Carmelita Garcia** recommended that if Council did not approve Staff Recommendation No. 4, then the remaining money should go to Staff Recommendations No. 1, 2 and 3 or to clean the roof.

- B. Consider Authorizing the Museum Manager to Redesign the Museum's Natural History Garden Walkway

*Council will consider authorizing the Museum Manager to revise the Council-approved redesign of the Museum's Natural History Garden Walkway and return that design to Council for approval.*

**Reference: Lori Mannel, Museum Manager**

**Recommended Action: Authorize the Museum Manager to redesign the Walkway.**

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

**PUBLIC COMMENT**

- **David Shonman**, Chair of the Museum Board, told the Council the Board supports the recommended action and the plan for the walkway.

- C. **Resolution No. 08-059:** Consider a Resolution Amending City Council Policy 200-5 to Reflect AAM Guidelines, Previous AAM Recommendations, the New PG Museum Mission, and the Deletion of the Museum Director Position

*Council will consider a Resolution amending Council Policy 200-5 to reflect AAM guidelines, previous AAM recommendations, the new PG Museum Mission, and the deletion of the Museum Director position.*

**Reference: Lori Mannel, Museum Manager**

**Recommended Action: Adopt the Resolution**

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

**PUBLIC COMMENT**

- **David Shonman**, Chair of the Museum Board, told the Council the Board supports the recommended action.
- **Geva Arcanin** provided clarification regarding accreditation.

- D. Consider the Issuance of Permits to Keep up to Four (4) Hens at 60 Companion Way and to Keep up to Three (3) Hens at 1127 Del Monte Boulevard

*Council will consider the issuance of permits to keep hens at the addresses indicated above. An Administrative Permit had been previously granted. An appeal of the permits has been filed which necessitates action by the Council.*

**Reference: City Manager Colangelo**

**Recommended Action: Approve the Permits**

**COUNCIL ACTION: Upon motion of Council Member Cohen, seconded by Council Member Nilmeier, and carried, with Council Member Miller voting against and Council Member Bennett absent, Council moved to approve the permits after a finding that the maintenance thereof will not be a public or private nuisance, nor detrimental to property values or human health or safety, per Municipal Code 10.08.030. Council further directed staff to review Municipal Code Chapter 10.08 for possible revision to clarify intent.**

**PUBLIC COMMENT**

- **Dave Polden**, the appellant, spoke regarding what he felt were the issues against the permit.
- **Gil Falcone**, applicant, provided reasons why he felt Mr. Polden's complaint was unfounded.
- **Christina Ammarillas**, co-applicant, provided further evidence in support of the permit.
- **Olga Perry**, applicant, provided additional information and requested the permits be approved.
- **Jess Carsal** spoke in support of Ms. Perry's request saying he had visited her property and not found any of the problems outlined in Mr. Polden's complaint.
- **Clay Payton**, spoke in support of Mr. Falcone's and Ms. Ammarillas' permit.
- **Joy Colangelo**, Sustainable PG, commented on the sustainable use of the chickens as a pest control method for the owners' gardens.
- **Vicki Pierce**, spoke in support of the permits and further indicated that Asian Bird Flu does not need to be taken seriously in the case of chickens.

- E. **Resolution No. 08-060:** Consider a Resolution Approving the Submittal of a California State Department of Parks and Recreation (DPR) Per Capita Grant Project Application for Improvements to Lover's Point Park  
*Council will consider approval of the submittal of a California State DPR Per Capital Grant Project Application for improvements to Lover's Point Park, which are integrally tied to the Bath House Remodel Project.*

**Reference: Sarah Hardgrave, Senior Planner**

**Recommended Action: Approve submittal of grant application**

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

**PUBLIC COMMENT**

- **John Fisher** said he was pleased to see that the plan being submitted to the Council was based on the original Master Plan.

**Item No. 8.F moved to the beginning of New Business.**

- G. Consider a Resolution Approving an Employment Agreement for City Manager

**Reference: City Manager Colangelo**

**Recommended Action: Adopt the Resolution**

**NO ACTION TAKEN: It was announced that a Special Meeting of the Council will be held Friday, November 21, 2008, to possibly appoint a new City Manager.**

- H. Introduce and Hold a First Reading of an Ordinance Amending the City's

Classification Plan Establishing, Deleting, and Amending Current Job

Specifications and Amending Current Salary Schedules Accordingly

*Council will consider an Ordinance amending the City's classification plan establishing, deleting, and amending current job specifications and amending current salary schedules accordingly.*

**Reference: Deputy City Manager Wiseman**

**Recommended Action: Hold the first reading of the Ordinance**

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

9. REPORTS OF COUNCIL MEMBERS

A. Meeting Reports

- Association of Monterey Bay Area Governments
- Community Human Services
- Executive Committee, Monterey Bay Division, League of California Cities
- Fort Ord Reuse Authority
- Monterey County Convention and Visitors Bureau
- Monterey Regional Water Pollution Control Agency, JPA
- Monterey-Salinas Transit
- Transportation Agency for Monterey County

B. 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 54957 the City Council will Meet in Closed Session to Consider Public Employment: City Manager

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,*

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*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.)*

**No reportable action.**

**ORDER FOR ADJOURNMENT**

Respectfully Submitted,

*Ann O'Rourke*

Ann D. O'Rourke, Deputy City Clerk

APPROVED BY MAYOR: \_\_\_\_\_ Date \_\_\_\_\_

ATTEST BY CITY CLERK: \_\_\_\_\_ Date \_\_\_\_\_