

## **REGULAR MEETING**

**Tuesday, July 3, 2018**

### **OPEN SESSION**

**4:30 PM**

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#### **CALL TO ORDER AND ROLL CALL**

Present: Councilmembers Richards, Hardy, Theis, Reimers, Mayor Dallas  
City Administrator Rerig, Ass't. City Administrator Gulllo, City Attorney  
Mozingo, Public Safety Director Tomasi, Community Planning & Building  
Director Wiener, Public Works Director Harary, Fire Chief Gaudenz.

#### **PLEDGE OF ALLEGIANCE**

#### **ANNOUNCEMENTS**

Councilmember Reimers represented the City on June 18-20, 2018 at the Association of Defense Communities National Summit in Washington, D.C. She learned that Fort Ord Reuse Authority Executive Director Michael Houlimard is well respected in the defense community, and that Fort Ord has been a successful project, although there is still more to do. In addition, on June 27 & 28, 2018, she attended the League of California Cities conference in Monterey. The session on California Pensions was outstanding. Further, the Monterey Defense Alliance Breakfast on Ocean Security was just eye opening, and it was good to see Congressman Panetta there.

Councilmember Richards attended the Finance Workshop at the League conference.

Mayor pro tem Theis said she is looking forward to the July 4 celebration.

Mayor Dallas just returned from a vacation with his daughter, and said Puerto Rico was so educational for her. Unfortunately, it still looks like a war zone with miles of homes destroyed. He also said that on June 11 from 6:00 to 7:00 p.m. he would host a question and answer session at the Carmel Youth Center.

City Administrator Rerig reminded citizens that July 4 Celebration is a no dogs/no alcohol event.

#### **PUBLIC APPEARANCES**

Hilary Duda  
Ellen Gannon  
Toby Rowland-Jones  
Jeff Baron

Gina Armstrong  
Barbara Livingston  
Karen Ferlito

## **ORDERS OF BUSINESS**

- Item 1:** Review of Forest and Beach and Planning Commissions' Recommendations regarding the design of the Police Building Renovation and Expansion Project and Provide Direction.

City Attorney Mozingo explained that some issues have arisen pertaining to the distance of the Police Department property to Mayor Dallas' home. While staff is evaluating this issue, Item 1 will be continued to the August 7, 2018 Regular meeting.

- Item 2:** Consideration of an Encroachment Permit application (EN 18-065) for a restaurant trash enclosure located in a portion of the City-owned Piccadilly Park. The project is located on Dolores Street, 4 northwest of Seventh Avenue. The project applicant is David Fink and property owner is Neil Goodhue.

Councilmember Reimers recused herself due to proximity and left the dais.

City Administrator Rerig said the July 2, 2018 letter from the Attorney for the Applicant deeply offended him, because he is protective of City staff. He said he felt the amount of negativity and blame directed at Director Wiener and his staff were unconscionable.

Director Wiener presented the staff report.

Jeff Gillis presented the Applicant's position, and asked the Council to grant Mr. Fink's request.

David Fink said he has spent \$46,000 so far on something that was approved in 2006. He said that a food waste bin has been added to trash requirements since 2006, which makes it imperative that the trash enclosure be 8' X 5'.

### **SPEAKING FROM THE FLOOR IN SUPPORT OF THE APPLICANT:**

Aaron Rayer  
Jeff Baron  
Ben Beesley  
Bashar Sneh  
Rich Pepe  
John Gillis

City Attorney Mozingo said he has read the July 2, 2018 letter from Mr. Miller, and said the encroachment was not included in the permit issued in 2006. In fact, there was never an encroachment for this permit. Mr. Mozingo listed the salient points of the case from 2006 to the present.

Councilmember Richards said he wanted to find a way to accommodate the need for four cans and a tallow container, but does not want anything else stored there.

Mayor pro tem Theis compared space needs for cans in 2006 and now. The cans now are larger, and one additional can has been added for organics. What is proposed is not too large, but there is a concern that the fire door may not open all the way, and she would not want to see any other things stored in there except for trash containers.

Mayor Dallas said the only problem with the current plans is that the door is not going to be able to swing wide open. The only reason the mayor said he is willing to consider this is to have the restrooms in perpetuity and receive sewer and water. It makes the trade easier to do.

Councilmember Hardy said the City has bent over backwards trying to accommodate Mr. Fink. She said she is willing to make the enclosure a bit bigger than 8' X 3', but it must have a roof and must be lower than eight feet.

In answer to a question from the City Attorney, Mr. Jeff Giles said that if a compromise were reached on this matter, the lawsuit would be withdrawn.

Mayor Dallas asked both Mr. Gilles and Mr. Fink if the Conditions of Approval were clear to them and if they would abide by them. Both indicated that they would do so.

Mayor Dallas moved, seconded by Councilmember Richards, to approve an enclosure that is 7 feet by 8 feet extending from the bathroom wall 4 feet from the pillar at which point it moves east. The roof should be not more than 7 feet high at the highest point sloping downward to about 6 feet, covered with shake, so no trash or boxes can be piled on top. Further, the motion includes that the lawsuit shall be dismissed with prejudice. Mr. Fink or his representative will bring back drawings to Planning within seven days, and building shall be completed by August 2 when the Final Inspection will have taken place. There will be a Plan Check fee.

Mr. Fink assured the Council that he is ready to go. Mr. Gilles said he is comfortable with the Conditions of Approval.

**Action:**

AYES: RICHARDS, HARDY, THEIS, REIMERS, DALLAS  
NOES: None

Mayor Dallas called a five-minute break at 5:38 p.m.

Council reconvened at 5:46 p.m.

## **PUBLIC HEARINGS**

**Item 3:** First Reading of Ordinance No. 2018-002, Adopting Chapter 18.04 of the Municipal Code

Mayor Dallas opened the Public hearing at 5:50 p.m.

Mayor Dallas closed the public hearing at 5:50 p.m.

Mayor Dallas commended Mr. Mozingo and his staff for their work on this ordinance, as did Councilmember Hardy, who said it represented months of work.

Councilmember Hardy moved, seconded by Councilmember Theis, to adopt Chapter 18.04 of the Municipal Code on a First Reading.

**Action:** AYES: RICHARDS, HARDY, THEIS, REIMERS, DALLAS  
NOES: None

**Item 4:** Resolution 2018 - 052, Upholding a Forest & Beach Commission Decision to Levy an Assessment in the amount of \$21,700 for the Unauthorized Removal of One Monterey Pine Tree by the California American Water Company.

Councilmember Hardy and Mayor Dallas recused themselves due to proximity.

City Administrator Rerig said the Forest and Beach Commission is always diligent in their work, and the Council did not want to be disrespectful by not bringing their recommendation forward to this meeting. But having said that, the City has no problem with Cal AM's offer to plant trees at the Forest Theater to replace the tree that was at the heart of this issue from the beginning.

### **SPEAKING FROM THE FLOOR**

Mara Miller

Noni Miller

Barbara Livingston

Councilmember Reimers made a motion, seconded by Councilmember Theis, to accept as an alternative the donation and planting of three cypress and one Monterey pine, an irrigation system and a five-year agreement to maintain the trees at the Forest Theater.

**Action:** AYES: RICHARDS, THEIS, REIMERS  
NOES: NONE  
ABSENT: NONE  
RECUSED: HARDY, DALLAS

**Item 5:** Consideration of a Coastal Development Permit (CDP 18-231) application to review and extend the Beach Fire Management Pilot Program.

Director Wiener presented the staff report with the recommendation that the program be extended through November 30, 2020.

#### SPEAKING FROM THE FLOOR

Wayne Moon  
Christine Hollenbeck  
Mrs. Andre  
Dick Andre  
Lynn Ross

Denise Otterson  
Missy Jensen  
Kathy Bang  
Barbara Livingstone  
Regina Armstrong

Councilmember Reimers thanked those who provided the smokeless units. She said she is not in favor of the status quo for two more years, and that it should probably go to propane only for a year, and then a year with no fires at all. But she reiterated she would not support the status quo for another two years.

Councilmember Richards wants to support this program, but he, too, wants to see propane-only next year.

Councilmember Hardy said 11<sup>th</sup> Avenue is called the smoke ghetto. Perhaps that's because of the placement of the air monitors? Also, it seems that when people report smoke in their houses, it's probably the smell of the smoke, but not necessarily smoke itself. She further stated she is bothered by the amount of money it costs to police the area, but knows it's necessary.

Mayor Dallas said that from where the City has come from in the last two years, the progress has been great. He said personally, he likes the Pilot Program.

Mayor pro tem Theis moved, seconded by Mayor Dallas, to approve the Coastal Development Application to extend the Pilot Program through November 30, 2020 with additional monitors, and to go to the Forest and Beach Commission in January and then come back to Council with a recommendation looking at other options at that time.

**Action:**

AYES:	RICHARDS, THEIS, REIMERS, HARDY, DALLAS
NOES:	NONE

**FUTURE AGENDA ITEMS**

**ADJOURNMENT 8:46 p.m.**

APPROVED:

ATTEST:

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Steve G. Dallas, Mayor

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Thomas A. Graves, MMC  
City Clerk