

REGULAR MEETING
Tuesday, October 6, 2020
4:30 PM

This meeting was held via teleconference due to the Shelter in Place Order issued by Monterey County and Governor Newsom's Executive Order N-29-20

CALL TO ORDER AND ROLL CALL

Mayor/Chair Potter called the meeting to order at 4:31

Present: Council Members Reimers, Baron, Theis, Mayor Pro Tem Richards, Mayor Potter

PUBLIC APPEARANCES

The following member of the public spoke:

Karen Ferlito
Josh Madfis
Maira LaMountain

ANNOUNCEMENTS

Item A: City Administrator Announcements

The City Administrator stated the City has purchased more signs regarding wearing masks in the Village, these will replace those that have been stolen and vandalized, and stated the banners that were designed by Visit Carmel and placed along Ocean Avenue were removed in error and would be put back up in the coming days.

Item B: City Attorney Announcements

The City Attorney and Mayor stated the City Council met in Closed Session on October 5, 2020 and discussed the matters listed on the agenda with no reportable action.

Item C: Councilmember Announcements

Council Member Reimers discussed the success of the Mutt Mitt donation program.

Council Member Baron discussed the upcoming Climate Committee meeting.

CONSENT AGENDA

Council Member Theis stated she needs to recuse from Item 8 and Item 11 because she owns a hotel and both items directly impact her business.

Council Member Reimers stated she needs to recuse from Item 14 because one of the proposed locations is located near her home.

Council Member Baron requested Item 6, Item 11 and Item 13 be removed for separate discussion.

Council Member Baron commented on Item 4, Item 9 and Item 10. Council Member Baron stated he is in favor of changing the timing of the appointments to the City's Boards and Commission to be better timed after the election, he thanked Council Member Reimers for her work on the Mutt Mitt donation program and thanked Carmel Cares and everyone involved in volunteering and donating to the City.

CONSENT AGENDA CONTINUED...

Mayor Pro Tem Richards requested clarification on Item 10 regarding insurance for those working/volunteering in the City's right-of-way.

Mayor Potter thanked the community for the fundraising efforts and the increase in volunteering in the community.

On a motion by Council Member Baron and seconded by Mayor Potter, the City Council approved the Consent Calendar with the exception of Item No.'s 6, 8, 11, 13 and 14 by the following roll call vote:

AYES: BARON, REIMERS, THEIS, RICHARDS, POTTER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Council Member Theis left the meeting at this time

Item 8:

On a motion by Council Member Reimers and seconded by Mayor Pro Tem Richards, the City Council approved Consent Calendar Item 8 by the following roll call vote:

AYES: BARON, REIMERS, RICHARDS, POTTER
NOES: NONE
ABSENT: NONE
RECUSED: THEIS

Council Member Theis returned to the meeting at this time

Item 6:

Council Member Baron discussed the proposed changes to Policy C89-02. He requested appointment of the Mayor Pro Tempore take place at the "first meeting after the City Council is seated" in election years; requested posting of agendas be changed to 'six days' before regular meetings; requested the proposed change of 'Chair' to 'Mayor' in Section III, A not be made; requested an addition to the Policy regarding all motions, even those that are not seconded are included in the Minutes.

Mayor Potter requested the sentence "The Mayor Pro Tempore shall not serve more than two consecutive one-year terms" be removed.

On a motion by Council Member Baron and seconded by Mayor Pro Tem Richards, the City Council approved Consent Calendar Item No. 6, as amended, by the following roll call vote:

AYES: BARON, REIMERS, THEIS, RICHARDS, POTTER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

CONSENT AGENDA CONTINUED...

Council Member Theis left the meeting at this time.

Item 11:

Council Member Baron discussed the timing of the required future meetings as it relates to the upcoming election and having a different make-up of the City Council considering the items on November 3, 2020 and December 8, 2020.

The following member of the public spoke on this item:

Amy Herzog

On a motion by Council Member Baron and seconded by Council Member Reimers, the City Council approved Consent Calendar Item No. 11, by the following roll call vote:

AYES: BARON, REIMERS, RICHARDS, POTTER
NOES: NONE
ABSENT: NONE
RECUSED: THEIS

Council Member Theis returned to the meeting at this time

Item 13:

Discussion among the City Council included discussion of allowing umbrellas on the beach and establishing an end date for the beach restrictions. Discussion included not knowing where the County will be in terms of the State color tier as it relates to certain restrictions.

On a motion by Council Member Theis and seconded by Mayor Pro Tem Richards, the City Council approved Consent Calendar Item No. 13 as amended - striking the word 'umbrellas' in Section 2.1 and establishing an expiration date of February 3, 2021, by the following roll call vote:

AYES: BARON, REIMERS, THEIS, RICHARDS, POTTER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Council Member Reimers left the meeting at this time.

Item 14:

The City Attorney discussed the purpose of the item which is to set forth the process for Verizon for small cell facilities, it does not obligate the City to approve any cell sites and is not to approve the locations for future cell site locations.

The following members of the public spoke on Item 14 of the Consent Calendar:

Susan Nine
Jan Reimers
Kristin Doterer

CONSENT AGENDA CONTINUED...

Discussion among the City Council and staff included discussion of the purpose of the agreement which sets for the process for moving forward for the potential locations; Verizon will submit applications through the normal process. Additionally, the Council discussed involvement by the public as is the normal process; concerns can all be expressed in the public process; this agreement provides two alternative locations as opposed to five and there is no commitment to approve the applications submitted by Verizon. Discussion took place regarding not committing the City to anything and opens the possibility to battery backup which could be important during an emergency.

On a motion by Council Member Theis and seconded by Council Member Baron, the City Council approved Consent Calendar Item No. 14, by the following roll call vote:

AYES: BARON, THEIS, RICHARDS, POTTER
NOES: NONE
ABSENT: NONE
RECUSED: REIMERS

Council Member Reimers returned to the meeting at this time

Item 1: August 31, 2020 Special Meeting Minutes, September 1, 2020 Meeting Minutes, September 3, 2020 Adjourned Meeting Minutes and September 22, 2020 Special Meeting Minutes

Item 2: Monthly Reports for August: 1) City Administrator Contract Log; 2) Community Planning and Building Department Reports; 3) Police, Fire, and Ambulance Reports; 4) Public Records Act Requests, and 5) Public Works Department Report

Item 3: August 2020 Check Register Summary

Item 4: Resolution 2020-061 extending for 90 days the terms ending September 30, 2020 for the members of the Community Activities & Cultural Commission, Forest & Beach Commission, Harrison Memorial Library Board of Trustees and Historic Resources Board

Item 5: Resolution 2020-062 authorizing the City Administrator to retroactively extend the contract for animal services with the Monterey County Health Department's Animal Services Division ending June 30, 2021

Item 6: Resolution 2020-063, amending Policy C89-02 City Council Rules and Procedures

Item 7: Resolution 2020-064, amending Policy C95-01 Claims Against the City

Item 8: Resolution 2020-065 authorizing the City Administrator to execute an agreement with the Monterey County Convention and Visitors Bureau for Destination Marketing for the term of July 1, 2020 to June 30, 2021 in an amount not to exceed \$120,040

Item 9: Resolution 2020-066 accepting a donation of \$5,000 from an anonymous donor for Mutt Mitt sponsorships and approving a budget amendment in the amount of \$18,850 to the Fiscal Year 2020-2021 Adopted Budget to account for all Mutt Mitt sponsorships received as of September 21, 2020

Item 10: Resolution 2020-067 accepting donations from Carmel Cares, a volunteer organization

Item 11: Resolution 2020-068, declaring the City Council's intention to renew the Carmel Hospitality Improvement District and fixing the time and place of a public meeting and public hearing thereon and giving notice thereof

Item 12: Resolution 2020-069, authorizing application for, and receipt of, State of California Regional Early Action Program (REAP) Planning Grant Program funds

Item 13: Resolution 2020-070 amending Resolution 2020-057 regarding rules for the use of the beach in the City of Carmel by-the-Sea

Item 14: Resolution 2020-071 authorizing the City Administrator to execute an agreement regarding Verizon Wireless Small Cell Facilities

ORDERS OF BUSINESS

Item 15: Presentation on the Years Two and Three Status Report for the North Dunes Habitat Restoration Project

The Environmental Compliance Manager provided the report for this item.

The City Council requested clarification regarding the impact of the budget cuts on the project, potentially not using split-rail fence to keep dogs from trampling and discussion of public input on the boardwalk part of the project.

The following members of the public spoke on this item:

JC Myers
Karen Ferlito
Joey Canepa

Discussion among the City Council and staff included discussion of the history of the project. Additionally, the City Council thanked staff for the report and thanked Council Member Reimers for her passion for this project.

No vote required, update only.

Mayor Potter requested a brief recess at this time.

Mayor Potter reconvened the meeting at 6:56 p.m.

ORDERS OF BUSINESS CONTINUED...

Item 16: Resolution 2020-072 approving applications for Per Capita Grant Funds

The Public Works Director provided the staff report for this item.

The City Council requested clarification regarding potential grants in the future and the history of the walking path in the presentation.

The following members of the public spoke on this item:

Karen Ferlito
JC Myers
Kevin D'Angelo

Discussion among the City Council and staff included discussion of shoring up the hillside and the more urgent need for Mission Trail Nature Preserve as opposed to the North Dunes Boardwalk extension. Additionally discussion took place regarding what could and could not be done with the funds from this grant.

On a motion by Mayor Pro Tem Richards and seconded by Council Member Theis, the City Council adopted Resolution 2020-072 approving applications for Per Capita Grant Funds and directing staff to pursue the Mission Trail Nature Preserve Project, by the following roll call vote:

AYES: BARON, REIMERS, THEIS, RICHARDS, POTTER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Item 17: FY 2020-2021 Budget Status Update

The Finance Manager provided the update for this item.

The City Council requested clarification regarding revenue projections and if those projections are still trending where anticipated and clarification of the funds received for Transient Occupancy Tax and Sales Tax.

Discussion among the City Council and staff included acknowledgement of staff and the way in which the Mutt Mitt donation program has been handled. Additionally the City Council stated the sales tax revenue is sobering and the impact of COVID-19 will not be known for a while. Discussion took place on creating an ad hoc group for analyzing the impacts to the budget.

No vote required, update only.

PUBLIC HEARING

Item 18: Consideration of an Appeal (Stepanek) of a decision made by the Forest and Beach Commission of August 20, 2020 for penalties to be paid for damage to the Urban Forest and approval of the removal of cypress tree #2

The Public Works Director provided the staff report for this item.

The City Council requested clarification regarding if tree protection was required, what tree protection was in place, did the tree protection meet the City's requirements, and clarification of the size of the previous garage slab near the tree. Additionally the City Council requested clarification if the Forest & Beach Commission established replanting of trees as part of the fines imposed.

The Appellant's Attorney provided a presentation for this item.

The following members of the public spoke on this item:

Jaroslav Stepanek
Mo Massoudi
Faye Massoudi
JC Myers
Jason Clayotn
Karen Ferlito

Discussion among the City Council and staff included discussion of the history of the condition of the tree in question, hand excavation of the site, and the City Council expressed their concerns and disappointment that this happened. Additionally the City Council discussed the process, and their concerns regarding approving projects and managing the trees already on properties being developed/improved.

On a motion by Mayor Potter and seconded by Council Member Theis, the City Council voted to approve removal of cypress tree #2 at the expense of the appellant, by the following roll call vote:

AYES: BARON, REIMERS, THEIS, RICHARDS, POTTER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Discussion among the City Council and staff included discussion of the penalty to include replanting trees at a specific ratio, requiring a landscape plan to be brought to the City Council for approval, discussion of the amount the fines should be for each tree, repayment of the City's cost for the Arborist Report and determining who should pay for grinding of the stump.

PUBLIC HEARING CONTINUED...

On a motion by Council Member Baron and seconded by Mayor Pro Tem Richards, the City Council voted to impose a fine of \$33,900 which represents \$5,500 for tree #1; \$10,300 for tree #2; \$6,200 for tree #4; \$2,300 for tree #5a; \$1,450 for tree #5b; \$3,700 for tree #5c; and \$4,450 for tree #5d, by the following roll call vote:

AYES: BARON, REIMERS, THEIS, RICHARDS, POTTER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Discussion among the City Council and staff took place regarding the bond already paid by the appellant and how it applies to the fines imposed. The City Council discussed again, the need for requiring people to follow the rules and the need to assess appropriate fines for those who willfully violate the protection of trees and damage existing trees to keep this issue from happening over and over again.

On a motion by Mayor Potter and seconded by Council Member Theis, the City Council voted to require a landscape plan be brought by the appellant to the City Council for approval which will include a 2:1 replacement ratio for both trees removed (1 upper, 1 lower) at locations to be determined, required reimbursement to the City for the cost of the Arborist Report by West Coast Arborists, and required grinding of the cypress tree stump with the cost to be paid by the appellant, by the following roll call vote:

AYES: BARON, REIMERS, THEIS, RICHARDS, POTTER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

FUTURE AGENDA ITEMS

None at this time.

ADJOURNMENT

Mayor Potter adjourned the meeting at 9:36 p.m.

APPROVED:

ATTEST:

Dave Potter, Mayor

Britt Avrit, MMC
City Clerk