

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MONTEREY
TUESDAY, February 20, 2007
4:00 – 5:30 and 7:00 – 11:00 P.M.
COUNCIL CHAMBER, FEW MEMORIAL HALL
MONTEREY, CALIFORNIA

CALL TO ORDER:

Mayor Della Sala called the meeting to order at 4:00 p.m.

Council Members

Present: Councilmembers Downey, Haferman, Selfridge, Sollecito, Mayor Della Sala

Absent: None

City Staff:

Present: City Manager, City Attorney, Assistant City Manager, Assistant City Clerk, Director of Plans, Engineering & Environmental Compliance, Finance Director, Fire Chief, Public Facilities Director, Recreation and Community Services Director, Human Resources Director

PRESENTATIONS

§P1. Recognition of Defense Language Institute Quarterly Joint Service Awards (City Manager 701-17)

Action: Recognition given

City Manager Meurer noted the applicant for C12 has requested a continuance and that C10 is an emergency resolution to assist those businesses impacted by the 467 Alvarado fire. Councilmember Downey requested that C1 minutes in reference to My Museum be amended and Councilmember Haferman requested C2 be pulled for discussion. Councilmember Selfridge applauded the City's purchase of Mohr Motors.

CONSENT ITEMS

On a motion by Councilmember Downey, seconded by Councilmember Selfridge, and carried by the following vote, the City Council continued C12 to March 6, 2007 public appearance agenda:

AYES:	5	COUNCILMEMBERS:	Downey, Haferman, Selfridge, Sollecito, Della Sala
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None

On a motion by Councilmember Downey, seconded by Councilmember Selfridge, and carried by the following vote, the City Council approved the remainder of the Consent Agenda, except Item C2 that was pulled for discussion with C1 amended as noted:

AYES:	5	COUNCILMEMBERS:	Downey, Haferman, Selfridge, Sollecito, Della Sala
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None

Approval of Minutes

- C1. February 6, 2007 (City Clerk 701-09)
Action: Amended; Approved

Award of Contracts

- C2. Award of Contract for Conference Center HVAC Replacement (Public Works 807-02)
Action: Pulled for Discussion; Adopted Resolutions No. 07-021 & 07-022 C.S.

Councilmember Haferman asked for clarification on the property acquisitions reserve fund and rationale for using this fund to finance this project. City Manager Meurer described the fund and how allocations and encumbrances are made to the fund.

On a motion by Councilmember Haferman, seconded by Councilmember Sollecito, and carried by the following vote, the City Council approved Resolutions 07-021 and 07-022:

AYES:	5	COUNCILMEMBERS: Downey, Haferman, Selfridge, Sollecito, Della Sala
NOES:	0	COUNCILMEMBERS: None
ABSENT:	0	COUNCILMEMBERS: None

Ordinances

- C3. Second Reading – Digging and Excavation on the former Fort Ord (Public Works 706-04)
Action: Adopted Ordinance 3384 C.S.
- C4. Second Reading - Amend the Personnel Ordinance § 25-7.08 Notification of Examination Results to Permit the Release of POST Written Test Scores to Police Officer Candidates and to Change all References of Personnel Director to Human Resources Director throughout Chapter 25 (City Department 50-03)
Action: Adopted Ordinance 3385 C.S.

Resolutions

- C5. Approving New Short-Term Lease to Allen Montasser, Lessee, d.b.a Valero Gas - 595 Munras Avenue (Public Facilities 206-03)
Action: Adopted Resolution No. 07-023 C.S.
- C6. Amend Resolution 06-102 To Revise Scope of Work and Transfer of Funds for the Monterey Sport Center Natatorium Dehumidifier Replacement Project ***CIP*** (Public Works - 807-02)
Action: Adopted Resolution No. 07-024 C.S.
- C7. Amending Resolution 07-03 Appropriation of Additional Funding for the Presidio of Monterey Public Works Authority Fund (Public Works 206-03)
Action: Adopted Resolution No. 07-025 C.S.

- C8. Award of Contract for Audio Visual Services at the Monterey Conference Center (Public Facilities 405-04)
Action: Adopted Resolution No. 07-026 C.S.
- C9. Resolution Authorizing Mayor to Accept Deeds for Transferring Property of the Former Fort Ord to the City of Monterey (Public Works 803-04)
Action: Adopted Resolution No. 07-027 C.S.
- C10. Emergency Action Resolution Authorizing Temporary Waiver of Home Occupation Fee (Z.O. 38.26.G.2.b.), Notification Process (Z.O. 38.26.G.2.C.2), and Restrictions (Z.O. 38.26.G.3) for Businesses Affected by the Fire on Alvarado Street. (Community Development 407-05)
Action: Adopted Resolution No. 07-028 C.S.

Other

- C11. Settlement of Worker's Compensation Claim - C. Miller (Human Resources 408-04)
Action: Approved Settlement of Claim
- C12. Approve a Recommendation from the Architectural Review Committee Permitting the Monterey Museum of Art to Display Banners on City Street Light Poles. (Community Development 701-15)
Action: Continued to March 6, 2007 Public Appearance Agenda as requested by applicant
- C13. Report on Acquisition of Real Property
a. Improved Real Property - "Mohr Motors Parcel" at 999 Del Monte Avenue -- Window-on-the-Bay West Project Area (AP 001-801-016)
b. Improved Real Property at 735 Pacific Street (AP 001-591-007) (Public Facilities 206-03)
Action: Report Received

End of Consent Agenda

PUBLIC COMMENTS

Mayor Della Sala opened the floor for comments on items not on the agenda. Rick Johnson, Executive Director of the Old Monterey Business Association, thanked the Mayor, Council, and City staff for their rapid response to the fire and for the assistance provided to businesses impacted by the fire at 467 Alvarado Street. Mr. Johnson expressed concerns over the closure of Alvarado Street and how it is effecting businesses that are open.

Seeing no further requests to speak Mayor Della Sala closed public comments and City Manager Meurer gave an update on the fire. Mayor Della Sala adjourned the meeting to a closed session at 4:37 p.m.

CLOSED SESSION

1. Conference with Legal Counsel Pursuant to Government Code Section 54956.9(c) – Anticipated Litigation – Exposure to litigation regarding Rules and Regulations for 4th of July Ceremonies (City Attorney 703-06)
Action: Report Received; Discussed

Mayor Della Sala called a recess at 5:41 p.m. and then reconvened the meeting in open session at 7:00 p.m., where all Councilmembers were present.

ANNOUNCEMENTS FROM CLOSED SESSION

Assistant City Clerk Raynor made the announcements as noted above.

CONTINUED PUBLIC COMMENTS

Mayor Della Sala opened the floor for comments on items not on the agenda. Mary Ann Finocchi commended the Council, City staff, and Rick Johnson for working together as a team and providing assistance to businesses and others impacted by the fire. Hal Nelson thanked the Council and Neighborhood Improvement Program Committee for approval and construction of the Foothill Drop Off project. Deborah Lindsay from Sustainable Monterey County invited the Council and public to attend a program on *How to Prepare Yourself and Your Family from Food Supply Risks* March 1st at 6:45 p.m. at the Monterey Youth Center. Judy Karas asked the Council to encourage the Monterey Salinas Transit Board to identify another location in Monterey for selling monthly bus passes and spoke against the use of Roundup. Lorna Moffet requested the Council adopt a pesticide and herbicide ordinance. Andrea Wilson requested the City ban the use of Roundup and similar products in public areas and around bodies of water. Seeing no further requests to speak Mayor Della Sala closed public comment.

PUBLIC HEARINGS

2. Review and adoption of the Lower Old Town Historic Survey. The survey area generally extends from Van Buren Street to Clay Street (Community Development 201-15)
Action: Report Received; Received Public Comment; Adopted Resolution 07-029 C.S.

Senior Planner Cole presented the staff report noting the survey encompasses over 400 properties. Ms. Cole stressed that approval of the survey does not designate any properties as historic, but that it streamlines the process for property owners within this area should they apply for historic zoning designation.

Mayor Della Sala opened public comment. Mary Ann Finocchi, Old Town Area Plan Chairperson, asked the Council to adopt this survey with April Harrison and Colleen Sullivan speaking in favor of adoption as well. Seeing no further requests to speak Mayor Della Sala closed public comments.

On a motion by Councilmember Haferman, seconded by Councilmember Downey, and carried by the following vote, the City Council adopted Resolution 07-029 C.S. accepting the Lower Old Town Historic Survey:

AYES:	5	COUNCILMEMBERS:	Downey, Haferman, Selfridge, Sollecito, Della Sala
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None

PUBLIC APPEARANCE

- Discussion of Parks and Recreation Commission Recommendation to City Council to Approve 4th of July Parade Rules & Regulations, Parade Application, and 4th of July Lawn Party Vendor Rules & Regulations (Recreation 302-05)
Action: Report and public comment received; Approved a maximum of 100 entrants in parade with no regulation on content of entrants; Tabled discussion of the remainder of this item to a special meeting or the next regularly scheduled meeting

City Manager Meurer introduced the item displaying the original Council action from June 11, 1990 that banned political activity as part of the City of Monterey Fourth of July celebration.

Mayor Della Sala opened public comment. Martha Norton spoke in favor of allowing political organizations in the parade. Charles Wilson spoke in favor of a well-rounded parade reflecting the community and suggested establishment of a permanent organizing director. Hayes Broderick stated the proposed rules alienate the community and prevent freedom of speech stressing that any lottery be for all entries. Bernice Craig Puris asked the Council to permit voter registration during the 4th of July celebrations. Andrea Wilson spoke against any limitations on parade entrants. Joyce Vandevere spoke in favor of an inclusive parade and against limiting entrants. George Riley asked that the public be involved in this decision, stating the lottery is a bad idea. Frank Lambert spoke against limiting parade entrants. Susan Hubbard stated she wants to participate in the parade and is against a lottery. Geradine Bizzozero spoke against limiting the number of individuals in the parade and for voter registration to be permitted during the event. Michelle Welsh spoke against censoring freedom of speech stating the local ACLU is willing to assist Monterey in this effort to ensure free speech rights are protected. Dan Turner spoke against parade entrant limitations. Bob Oliver stated he wanted Council to make the right decision so that the City does not get sued. Lorna Moffet spoke against a lottery and for the right to public assembly. Richard Bailey spoke against a lottery and for a redrafted policy. Michael Stamp described 4 plans of action the Council could take: the recommendation from the February 6 staff report, the recommendation from the February 20th staff report, a new policy created through the open public process or to make no changes. Mr. Stamp described the pros and cons of each plan. Hanan Shawar asked the Council to work together with the public to make a decision. Helen Reed spoke against political activity in the parade. Sherna Stewart spoke in favor of including political entries in the parade. Ed Leeper thanked Kay Russo for all the parades that her department has organized in the past. Seeing no further requests to speak the Mayor Della Sala closed public comments.

Mayor Della Sala called a recess at 8:41 p.m., then reconvened the meeting at 8:53 p.m.

City Manager Meurer stated there was no ban on voter registration during the celebrations, noting that staff's recommendation is to limit lawn space to food booths noting voter registration could be done in many locations along the parade route or done mobilely. Mr. Meurer stated the first question before the Council is should the City have a parade and then, if so, what does the Council want the parade to be.

Mayor Della Sala moved that the Council limit the number of entries in the parade to 100 units so that it will end in approximately 1 hour and 20 minutes, and the motion was seconded by Councilmember Sollecito:

The motion failed by the following vote:

AYES:	2	COUNCILMEMBERS: Sollecito, Della Sala
NOES:	3	COUNCILMEMBERS: Downey, Haferman, Selfridge
ABSENT:	0	COUNCILMEMBERS: None

Councilmember Downey moved that for the 4th of July parade that the City does not regulate content and allows political entities or any entities into the parade, and the motion was seconded by Councilmember Sollecito:

After discussion of this motion Councilmember Downey withdrew her motion and the seconder agreed.

On a motion by Councilmember Sollecito, seconded by Mayor Della Sala, that the Council not prohibit content in an open parade and limit the parade to 100 entrants and the motion carried by the following vote:

AYES:	5	COUNCILMEMBERS: Downey, Haferman, Selfridge, Sollecito, Della Sala
NOES:	0	COUNCILMEMBERS: None
ABSENT:	0	COUNCILMEMBERS: None

On a motion by Councilmember Haferman, and seconded by Mayor Della Sala, that the Council table the remainder of this discussion to a special meeting or the next regular Council meeting with direction to staff to work with some of tonight's speakers to create language that does not create any First Amendment issues:

AYES:	5	COUNCILMEMBERS: Downey, Haferman, Selfridge, Sollecito, Della Sala
NOES:	0	COUNCILMEMBERS: None
ABSENT:	0	COUNCILMEMBERS: None

Councilmember Downey requested that voter registration tables to be available at the event.

Adjourn to Ocean View Community Services District Meeting

OCEAN VIEW COMMUNITY SERVICES DISTRICT - PUBLIC APPEARANCE

City Attorney Mall presented staff reports for OV1 through OV5, describing these items as district housekeeping actions and noting these items are not a discussion of the Ocean View Plaza project.

Mayor Della opened public comment. Michael Allen (Shouff) stated the Council should rescind the formation of the district and felt that its formation was done illegally. Barbara Bass Evans spoke against a community service district stating she did not think the Council was elected to sit on a board such as this and discussed a variety of issues to do with fiscal analyses and whether this district benefits the citizens of Monterey. Lorna Moffet spoke against the CSD and that its formation was a bad precedent in California. Seeing no further requests to speak Mayor Della Sala closed public comments.

On a motion by Boardmember Downey, seconded by Boardmember Sollecito, and carried by the following vote, the Ocean View Plaza Community Services Board approved the staff recommendations for OV1 through OV5 adopting Resolutions CSD 005, 006, 007, and 008:

AYES:	3	BOARDMEMBERS:	Downey, Sollecito, Della Sala
NOES:	2	BOARDMEMBERS:	Haferman, Selfridge
ABSENT:	0	BOARDMEMBERS:	None

OV1. Informational Report Regarding the Ocean View Plaza Community Services District (CSD) (City Attorney 701-07)

Action: Received Reports; Discussed

OV2. A Resolution of the Board of Directors of the Ocean View Community Services District Regarding Director Compensation and Reimbursement (City Attorney 701-15)

Action: Adopted Resolution CSD 005 (3-2; Haferman and Selfridge voting No)

OV3. A Resolution of the Board of Directors of the Ocean View Community Services District Designating an Alternative Depository and Appointing a District Treasurer (City Attorney 701-15)

Action: Adopted Resolution CSD 006 (3-2; Haferman and Selfridge voting No)

OV4. A Resolution of the Board of Directors of the Ocean View Community Services District Establishing its Provisional Appropriations Limits for Fiscal Year 2006-2007 (City Attorney 406-04)

Action: Adopted Resolution CSD 007 (3-2; Haferman and Selfridge voting No)

OV5. A Resolution of the Board of Directors of the Ocean View Community Services District Adopting Rules of Conduct, Policies for the Operation of the District, Policies and Procedures Governing the Purchasing of Supplies and Equipment, Records Retention Policy, CEQA Guidelines and Reserve Management Policy (City Attorney 701-15)

Action: Adopted Resolution CSD 008 (3-2; Haferman and Selfridge voting No)

Adjourn to City Council Meeting

COUNCIL COMMENTS

4. Councilmember Request to Agendize a Discussion on Roundup Pesticide (Councilmember Selfridge 809-06)

Action: Agendized discussion on a future Council meeting

Mr. Meurer asked for policy guidance and Councilmember Selfridge stated her request is for a discussion of City usage of Roundup. Deputy Public Works Director described staff usage of the product. Mayor Della Sala opened the floor for comments. Lorna Moffet detailed several issues she would like discussed if this item is agendized. Councilmember Downey asked that the Council, if this topic is agendized, hear from a medical expert on this topic during its discussion.

On a motion by Councilmember Selfridge, seconded by Councilmember Haferman, and carried by the following vote, the City Council approved a discussion on Roundup to be agendized for a future meeting:

AYES: 5 COUNCILMEMBERS: Downey, Haferman, Selfridge, Sollecito, Della Sala
 NOES: 0 COUNCILMEMBERS: None
 ABSENT: 0 COUNCILMEMBERS: None

- 5. Councilmember Request to Agendize a Discussion on 2300 Prescott Avenue
 (Councilmember Haferman 203-02)

Action: Motion to agendize failed

Councilmember Haferman stated his request to agendize this topic is based on a document that Mr. Shouff found after his application was denied by the City and the court injunction was in place, stating the document may substantiate the existence of Mr. Shouff's rental unit. Mayor Della Sala opened public comments. Mr. Michael Allen (Shouff) stated the injunction is based on false information and asked the Council to agendize this discussion. Seeing no further requests to speak Mayor Della Sala closed public comment.

City Manager Meurer and City Attorney Mall described the ramifications of reopening a discussion on an adjudicated illegal unit for Mr. Michael Shouff, stating this would circumvent the process and suggested instead that Mr. Shouff submit a written application to the Planning Commission based on the new information. Mayor Della Sala stated Mr. Shouff has exhausted his legal remedies, stressing that it appears it is time for him to submit a new application if he has new information.

Councilmember Haferman moved that the Council agendize a discussion on 2300 Prescott Avenue and the motion was seconded by Councilmember Selfridge:

The motion failed by the following vote:

AYES: 2 COUNCILMEMBERS: Haferman, Selfridge
 NOES: 3 COUNCILMEMBERS: Downey, Sollecito, Della Sala
 ABSENT: 0 COUNCILMEMBERS: None

COUNCIL COMMENTS

Councilmember Downey stated based on her recent tour of several Public Works divisions she is impressed by staff's efforts and their passion for their jobs. Councilmember Sollecito stated representatives from Russo and Steele Collector Automobiles told him that Monterey is the best-run city they have seen.

Mayor Della Sala read an email from Tom Rogers, the United States Agency for International Development (USAID) local government advisor to Croatia, in which Mr. Rogers praised City Manager Meurer and Monterey's relationship with Dubrovnik as the best program in USAID. Mayor Della Sala thanked staff and Access Monterey Peninsula for providing information to the public on the 467 Alvarado Street fire. The Mayor noted that the City's Web site has a sleek, new look, thanked the City Clerk's Office staff for posting the Council staff reports online in addition to the agenda, and noted that there is a new link on the Library page for help with your homework. Mayor Della Sala stated Assemblymember John Laird recently sent the City a congratulatory letter on the success of the City's recycling program.

CITY MANAGER REPORTS

City Manager Meurer stated that as follow up on 2300 Prescott Avenue he will send a letter to Mr. Shouff asking Mr. Shouff to put his request in writing and submit it to the city.

ADJOURNMENT

There being no further business to come before the City Council, Mayor Della Sala adjourned the meeting at 11:10 p.m.

Respectfully Submitted,

Approved,

Catherine A. Raynor, Assistant City Clerk

Chuck Della Sala, Mayor