

**MINUTES
CITY COUNCIL MEETING
MONDAY, MARCH 1, 2010**

CALL TO ORDER Mayor Shoals called the meeting to order at 6:30 p.m. in the City Hall Council Chambers, 154 South Eighth Street, Grover Beach, California.

MOMENT OF SILENCE

FLAG SALUTE The flag salute was led by Rosie Rodriguez, a 10-year-old, 5th grade student at Grover Beach Elementary School.

ROLL CALL

City Council: Council Members Bright, Mires, Peterson, Mayor Pro Tem Nicolls, and Mayor Shoals were present.

City Staff: City Manager Perrault, City Attorney Koczanowicz, City Clerk McMahon, Administrative Services Director Chapman, Community Development Director Buckingham, Parks and Recreation Director Petker, and Police Lieutenant Bewick were also present.

Also present were Dave Mullinax, Regional Manager of the Channel Counties Division of the League of California Cities; Geoffrey Chiapella, Transportation Planner, and Steve Devencenzi, Planning Director, for the San Luis Obispo Council of Governments (SLOCOG); Dee Santos, Parks, Recreation and Beautification Commissioner; and Stacey White, representing the U.S. Green Building Council.

CLOSED SESSION ANNOUNCEMENTS City Attorney Koczanowicz read the following announcement:

On Tuesday, February 16, 2010 after meeting in Closed Session regarding:

1. PUBLIC EMPLOYEE APPOINTMENT
Pursuant to Government Code Section 54957
Title: Public Works Director

the City Council reconvened into open session, and announced there were no reportable actions taken.

AGENDA REVIEW

Action: Upon unanimous consensus, the Council adopted the agenda as presented.

CEREMONIAL CALENDAR

1. **Drawing to Select Monthly Winners of the Local Economic Stimulus Program Shop Local, Shop Loyal Campaign - "Shop & Dine Grover Beach".**

Administrative Services Director Chapman briefly described the "Shop & Dine Grover Beach" Program and encouraged residents to support local business by shopping and dining in Grover Beach. Dee Santos, former Mayor and current Parks, Recreation and Beautification Commissioner then assisted Administrative Services Director Chapman with the random drawing. The names of the following Shop & Dine Grover Beach winners were announced: Elizabeth Spears, Megan Gaiser, Judy Puma, Forrest and Amanda Hatfield, Barbara Schanz, Steve Bergstrom, Richard Peterson, Greg Noe, Stephen Souza, and Paul Pettrichka.

PRESENTATIONS

2. **Parks & Recreation Commission 2nd Quarter Report of Activities.**

Parks, Recreation and Beautification Commissioner Santos provided a summary of Commission activities for the period October - December 2009.

Action: The report was received and filed.

3. Presentation by Stacey White on Behalf of the U.S. Green Building Council.

On behalf of the Tri-Counties Central Coast Chapter of the U.S. Green Building Council, Ms. White presented an award to Mayor Shoals for his environmental leadership in support of green schools. She explained that, in January 2010, Mayor Shoals had joined the Mayors' alliance for non-toxic, energy efficient, and productive schools, and was the first Mayor in the Tri-Counties area to do so. She stated that the Tri-Counties Chapter represented the Counties of San Luis Obispo, Santa Barbara, and Ventura Counties.

Mayor Shoals described recent City efforts to conduct an energy audit and increase energy efficiencies at City facilities. He stated that he accepted the award on behalf of the entire City Council, and the Council looked forward to opportunities to work with the school district on energy efficiency and green building efforts.

4. 2010 Regional Transportation Plan (RTP) Update with an Overview of the Preliminary Sustainable Communities Strategy (PSCS).

Steve Devencenzi, Planning Director of the San Luis Obispo Council of Governments (SLOCOG), distributed information regarding the update of the 2010 Regional Transportation Plan (RTP), the mechanism used to conduct long-range regional transportation planning. He pointed out that, to be eligible to receive millions of dollars in state and federal transportation funding, the RTP needed to be updated every five years. He described components of the plan to invest in improvements for all modes of transportation, reviewed revenue forecasts that had been prepared and funding scenarios that projected out to the year 2025, and outlined new state requirements as a result of SB 375 to reduce greenhouse gases in the transportation and land use planning process.

He then described the development of a "Preliminary Sustainable Communities Strategy" (PSCS) to identify a preferred way to accommodate anticipated growth in the region by the year 2035 and address the requirements under SB 375. It was noted that the PSCS would help to shape SLOCOG's 2010 RTP and decisions regarding transportation funding allocations by placing a higher priority on projects that served the "Target Development Areas" (i.e., the commercial and multifamily areas of each community). Additionally, limited funding would have an impact on the ability to maintain service levels or expand the transportation network.

The Council thanked Mr. Devencenzi for the informative presentation.

PUBLIC COMMUNICATIONS The Mayor opened the floor to any member of the public for comment on items of interest which were within the jurisdiction of the City Council, but were not listed on the agenda.

- A. Dave Mullinax, Regional Manager, Channel Counties Division of the League of California Cities, cautioned that local government would again be fiscally impacted by actions at the State level, particularly in light of the State's significant budget deficit and reduced credit bond rating. He projected that the State would again target local government by borrowing revenues. In response, the League of California Cities, transit authorities, and business, labor, and civic groups were preparing to gather signatures for a proposed initiative on the November 2010 ballot to establish a "financial firewall" to stop local revenues from being taken by the State. He offered to attend local civic group meetings to further discuss details of the proposed initiative, and he stated that the targeted deadline for gathering signatures was mid-April 2010.

PUBLIC HEARINGS

Prior to discussion of Agenda Item No. 5, Council Member Bright stated that the staff report indicated that she had a possible conflict of interest regarding this item. However, after discussion with the City Attorney, they were in agreement that she had no conflict of interest and could remain at the dais.

City Attorney Koczanowicz confirmed that Council Member Bright had no conflict of interest in participating in the discussion due to: 1) application of the seven-part test of the "small jurisdiction rule" which applied to our jurisdiction; 2) Council Member Bright's residence was located farther

than 300 feet from the subject property; and 3) the matter focused on “public utilities”, which provided no direct financial benefit to her.

5. Request for Waiver of Underground Utilities Requirement for Development Permit Application No. 06-005 Based on Financial Hardship.

Applicant: Paul Bischoff; Project Location: 1547 Brighton Avenue (APN 060-175-047)
(Continued Public Hearing from February 1 and February 16, 2010.)

Mayor Shoals read the title to the foregoing item, declared the continued Public Hearing open, and deferred to staff for a report. For the information of those present, Community Development Director Buckingham briefly described the information the Applicant had provided to demonstrate financial hardship, stating it appeared that the Applicant’s debt on the three-unit project was approximately \$300,000 more than the current market value.

He then reviewed the City’s underground utility requirements that provided the Council with the authority to either: 1) waive, 2) partially waive, or 3) defer the installation of utilities for cases where the undergrounding would create a “substantial hardship”. However, that term was not defined in the Ordinance. Although the Applicant’s financial problems were recognized, it was unclear whether that circumstance alone met the intent of the Ordinance to waive the requirement. Staff therefore recommended that the Council defer the utility undergrounding requirement and require completion prior to either: 1) map recordation, 2) sale of the property, or 3) within five years, whichever occurred first. This would allow the Applicant the opportunity to rent the three units in the interim to generate income to assist with paying the debt, and also allow up to five years for the real estate market to recover and potentially increase the project’s value. If the Council chose to defer the requirement, it could require a form of security to ensure that the requirement was fulfilled, such as a bond, letter of credit, or a second trust deed recorded against this property or another property owned by the Applicant.

Community Development Director Buckingham also stated that it was unknown how many utility poles or exactly where they would be located, since the Applicant had not yet submitted an application nor paid the fee to PG&E, the company responsible for designing the underground work. Therefore, it was also unknown whether the actual cost to underground the utilities would be more or less than the \$20,100 in-lieu fee. Staff then responded to questions from the Council.

Mayor Shoals invited comments from those in the audience who wished to be heard on this matter.

Paul Bischoff, Applicant, Grover Beach, stated that due to his financial circumstances, he would not be able to provide the City with either a bond or letter of credit, and that he was trying to avoid filing for bankruptcy. He also described the process to obtain an estimate from PG&E as “cumbersome” and the City’s requirements to underground utilities as “confusing”.

The following persons spoke in opposition to granting the Applicant’s request for a waiver:

- Tom Smith, Grover Beach, who also spoke against allowing high density developments in residential areas;
- Bonnie Smith, Grover Beach, who spoke in favor of deferring the requirement and asked why Certificates of Occupancy had already been issued for two of the units; and
- John Wysong, Grover Beach.

City Manager Perrault explained that, in an effort to work with the Applicant, he had administratively authorized issuing the two Certificates of Occupancy. The Applicant had provided the City with a security payment in the amount of approximately \$13,000, which amounted to approximately two-thirds of the in-lieu fee. If the Council decided not to defer the requirement, the security payment would remain with the City.

Brief discussion was held regarding the options presented; requiring the Applicant to provide the City with either an agreement or deed of trust; and the preferred circumstance of having homes occupied and well-maintained rather than abandoned or foreclosed, which could lead to blighted neighborhoods.

City Attorney Koczanowicz recommended, in addition to a deed of trust, having the Applicant sign an agreement that would be recorded against the title obligating performance to complete the undergrounding prior to recordation of the map, sale of the property, or within five years, whichever occurred first. He suggested that staff work with the Applicant to prepare a mutually agreeable agreement for the Council's consideration at the next meeting.

Action: It was m/s by Council Members Bright/Mires to adopt Resolution No. 10-13 denying the waiver, but granting a deferral of the underground utilities requirement to be secured by an agreement recorded on the property title. The motion carried on the following roll call vote:

AYES: Council Members Bright, Mires, Peterson, Mayor Pro Tem Nicolls,
and Mayor Shoals.
NOES: Council Members - None.
ABSENT: Council Members - None.
ABSTAIN: Council Members - None.

Resolution No. 10-13: A Resolution of the City Council of the City of Grover Beach, California, Denying the Waiver Request but Granting a Deferral for the Installation of Underground Utilities for Development Permit Application No. 06-005 (1547 Brighton Avenue, APN 060-175-047).

Additionally, Council requested that staff: 1) provide information regarding the requirements for forming a homeowner's association to Tom and Bonnie Smith; and 2) schedule the following items for discussion at a future Council meeting: (a) establishing baseline criteria to assist with determining "substantial hardship", and (b) further discussion of the \$300 per lineal foot in-lieu fee when a contractor might be able to perform the undergrounding work at less cost than PG&E.

Recess: Upon consensus of the City Council, the meeting recessed at 8:16 p.m.
Reconvene: At 8:27 p.m., the meeting reconvened with all Council Members present.

CONSENT AGENDA

Upon unanimous consensus, Consent Agenda Item Nos. 6 and 7 were approved as presented.

6. **Treasurer's Report for the Period February 10 - 23, 2010.**
Action: Approved as submitted.
7. **Minutes of the City Council Meetings of September 21, 2009 and October 5, 2009.**
Action: Approved the minutes as submitted.

REGULAR BUSINESS

8. **Resolution in Support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010.**

Mayor Shoals read the title to the foregoing item and deferred to staff for a report. City Manager Perrault stated that in 2004 California voters approved Proposition 1A with the intent of protecting local government revenues. However, certain provisions allowed the State during the past two years to take General Funds, Redevelopment Agency Funds, and Transportation Funds from local agencies. Therefore, the League of California Cities and its local government partners had proposed an initiative for the November 2010 ballot entitled "The Local Taxpayer, Public Safety and Transportation Protection Act of 2010". If the initiative qualified for the ballot and was ultimately successful in November, it would eliminate the loopholes created in state law with the passage of Proposition 1A and protect local revenues.

He then reviewed the negative fiscal impacts the City had incurred over the past year from the State's "borrowing" of \$312,000 in property tax revenues, "taking" \$378,000 in local property tax revenue from the Improvement Agency, and the additional projected loss next year to the Agency of \$77,980 in property tax revenue. He stated there was a special

mechanism created to allow the City to be made whole this year, but that it was unlikely to be available the following year. He also noted that it was unknown whether lawsuits filed against the State to block further takings of redevelopment funds would be successful.

Brief discussion was held regarding a local meeting tentatively scheduled to further discuss the proposed initiative with community stakeholders.

Action: It was m/s by Council Members Peterson/Bright to adopt Resolution No. 10-14 in support of the Local Taxpayer, Public Safety and Transportation Act of 2010. The motion carried on the following roll call vote:

AYES: Council Members Bright, Mires, Peterson, Mayor Pro Tem Nicolls,
and Mayor Shoals.
NOES: Council Members - None.
ABSENT: Council Members - None.
ABSTAIN: Council Members - None.

Resolution No. 10-14: A Resolution of the City Council of the City of Grover Beach, California, Supporting the Local Taxpayer, Public Safety and Transportation Protection Act of 2010.

PULLED CONSENT AGENDA ITEMS

None at this time.

Recess: Upon consensus of the City Council, the meeting recessed at 8:33 p.m. to the Joint City Council/Improvement Agency meeting, which was also scheduled for this same evening.

Reconvene: At 9:24 p.m., the meeting reconvened with all Council Members present.

COUNCIL COMMITTEE REPORTS

Council Member Bright stated she had nothing to report.

Council Member Peterson reported on the meeting of Economic Vitality Corporation (EVC) and the meeting of the San Luis Obispo County Visitors & Conference Bureau (VCB).

Council Member Mires reported on the meeting of Water Resources Advisory Board (WRAC).

Mayor Pro Tem Nicolls reported on the meeting of the Klaproad Initiative Task Team and discussion of a report that had previously been prepared by students at California Polytechnic State University San Luis Obispo regarding construction of a campus facility to serve the homeless.

Mayor Shoals reported on the meeting of the Fire and Emergency Services Oversight Committee and federal grant funds received to acquire a ladder truck and extrication equipment.

CITY COUNCIL MEMBER ITEMS

None at this time.

COUNCIL COMMUNICATIONS

- A. Council Member Peterson stated that she had recently attended a Poverty Summit meeting that focused on discussing efforts to eradicate poverty in the County, and she planned to attend the next meeting in March.
- B. Council Member Bright announced that the Air Pollution Control District (APCD) would be holding a public workshop regarding the particulate matter study on March 3, 2010 at 6:00 p.m. at the South County Community Regional Center in Arroyo Grande.

She then thanked and praised the Police Department and City Manager Perrault for keeping the Council updated regarding the tsunami warning issued over the weekend.

CITY MANAGER'S REPORTS AND COMMENTS

9. Proposed Schedule for Preparation of the FY 11- FY 12 Budget.

City Manager Perrault provided an overview of the proposed schedule for development and presentation of the next two-year budget document, beginning on March 15, 2010 with a Status Report/State of the City presentation, followed by a series of special budget workshop sessions on March 29 and June 7, 14, and 16, and culminating with a final presentation and adoption of the budget on June 21, 2010.

He then announced that the first grant application for a municipal network had been denied; however, staff was working with the consultants to resubmit the application for the second round of grants. Costs for resubmitting the application were estimated at \$5,000 to \$6,000.

He then provided an update on the City's energy efficiency grant application. The City had been awarded \$444,000 to install energy saving equipment at City facilities, which would include changing out lighting and HVAC systems. The purchase of solar equipment was not funded. He also noted that staff was optimistic regarding a pending application with the State for an additional \$71,000 in grant funds for energy conservation.

Action: Upon unanimous consensus, the Council approved the proposed schedule for the FY 11 – FY 12 Biennial Budget as presented.

CITY ATTORNEY'S REPORTS AND COMMENTS

None at this time.

CLOSED SESSION

None at this time.

ADJOURNMENT

There being no further business to come before the City Council, Mayor Shoals adjourned the meeting at 9:42 p.m.

/s/JOHN P. SHOALS, MAYOR

Attest:

/s/DONNA L. McMAHON, CITY CLERK
(Approved at CC Mtg 09/13/2010)