

**MINUTES
CITY COUNCIL MEETING
TUESDAY, JULY 5, 2011**

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 Council Member Bright.

ROLL CALL

City Council: Council Members Bright, Molnar, Mayor Pro Tem Nicolls, and Mayor Shoals were present. Council Member Peterson was absent.

City Staff: City Manager Perrault, City Attorney Koczanowicz, City Clerk McMahon, Community Development Director Buckingham, Public Works Director/City Engineer Ray, Police Chief Copsey, and Parks and Recreation Director Petker were also present.

Also present were Fire Chief Hubert and Battalion Chief Heath, Five Cities Fire Authority; and San Luis Obispo County Chair and 3rd District Supervisor Adam Hill.

CLOSED SESSION ANNOUNCEMENTS

City Attorney Koczanowicz read the following announcement:

On Monday, June 20, 2011 after meeting in Closed Session regarding:

1. Conference with Labor Negotiators
Pursuant to Government Code Section 54957.6.
Agency Negotiator(s): City Manager, City Attorney, Administrative Services Director, Assistant Administrative Services Director, Human Resources Coordinator, Police Lieutenant, and Police Chief.
Employee Group(s): All employee groups (represented and unrepresented)
2. Conference with Legal Counsel - Existing Litigation
Pursuant to Government Code Section 54956.9(a)
City of Grover Beach v. Listyo et al CV 110015

the City Council reconvened into open session and announced the following: in reference to Closed Session Item No. 1 - no reportable action was taken; in reference to Closed Session Item No. 2 - the Council approved settlement in principle (3-0-2, Council Member Peterson and Mayor Shoals absent).

AGENDA REVIEW

Action: Upon consensus (Council Member Peterson absent), 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".**

Mayor Shoals stated that due to budget constraints this would be the last drawing held for the "Shop & Dine Grover Beach" Program. He noted that the program had been a success and thanked citizens and businesses for their participation. A random drawing was held and the names of the following Shop & Dine Grover Beach winners were announced: Nadia Anderson (two separate cards were drawn with the same name), Betty Ashton, Barry Hauge, Candee Mar, B. McMahon, Debbie Peterson, Duke Sterling, Lori Sterling, and Jim Wilson.

2. Announcement Regarding San Luis Obispo County Community Project Grant for Automated External Defibrillators.

San Luis Obispo County Chair and 3rd District Supervisor Hill described plans for installing automated external defibrillators (AEDs) at public facilities in the South County area. Fire Chief Hubert thanked Supervisor Hill for appropriating County funds to purchase the equipment, noting that an AED would be installed at Grover Beach City Hall. The Council thanked Supervisor Hill for the donation, as well as for his work representing communities in the South County.

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. Adam Hill, Chair and 3rd District Supervisor, San Luis Obispo County, described recent collaborative efforts between Grover Beach and the County, as well as the allocation of County funds for community events such as the Sizzlin' Summer Concert series and Stone Soup Music Faire, and to support the People's Kitchen program.
- B. Brenda Auer, Grover Beach, thanked all those who voluntarily assisted earlier that day to clean up the beach after the Independence Day three-day holiday weekend, and suggested hosting an Independence Day event next year to promote Grover Beach.
- C. Nate Spooner, Grover Beach, requested to speak regarding the issue of vacation rentals. It was announced that there would be an opportunity to receive public comments later in the meeting regarding vacation rentals, as it was already a scheduled matter for discussion.
- D. Jeff Pienack, Chair, Surfrider Foundation, expressed concerns regarding operations and management of the South San Luis Obispo County Sanitation District.
- E. Brad Snook, Volunteer Coordinator, Surfrider Foundation, expressed concerns regarding operations and management of the South San Luis Obispo County Sanitation District.

PUBLIC HEARINGS

3. 2011 Weed Abatement Cost Protest Hearing.

Mayor Shoals read the title to the foregoing item, declared the Public Hearing open, and deferred to staff for a report. Battalion Chief Heath stated that property inspections had been completed on May 1, 2011 and 57 lots were found to be in violation of the Weed Abatement Program. Abatement notices were sent to property owners, re-inspections to determine compliance were conducted on June 16, 2011, and properties found to be in violation were abated by a weed abatement contractor during the period June 18 - 25, 2011. Property owners interested in protesting the cost of abatement were notified of this evening's Cost Protest Hearing.

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

Arnie Dowdy, Parks, Recreation & Beautification Commissioner, requested that an area of public right-of-way located at the corner of South 16th Street and Huntington Avenue be abated as soon as possible.

There were no further public comments received and the Mayor closed the Public Hearing.

City Attorney Koczanowicz suggested amending the proposed Resolution to add the following test (added text indicated with a double underline): 'WHEREAS, this is the time and place fixed for the hearing on the report by Five Cities Fire Authority regarding the cost of abatement of weeds and rubbish on various lots and parcels of land within the City for the year 2011 as set forth in Exhibit "A" attached hereto, (some properties included in Exhibit "A" may have made payment to the City and will be excluded)'.

Action: It was m/s by Council Member Bright/Mayor Pro Tem Nicolls to find there were no justifiable protests and adopt Resolution No. 11-42, as amended, authorizing the City Clerk to attach weed abatement costs to certain properties for assessment on the County tax rolls. The motion carried on the following roll call vote:

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

Resolution No. 11-42: A Resolution of the City Council of the City of Grover Beach Confirming the Report From the Five Cities Fire Authority Regarding the Weed and Rubbish Abatement Procedure and Making Assessments.

ORDER OF THE DAY: Upon consensus of the Council (Council Member Peterson absent), the Order of the Day was amended to consider Agenda Item No. 9 next.

9. Vacation Rental Regulations.

Mayor Shoals read the title to the foregoing item and deferred to staff for a report. For the information of those present, Community Development Director Buckingham reviewed the Council's previous direction regarding a draft Ordinance to regulate vacation rentals by creating a Vacation Rental Overlay area that would allow vacation rentals west of 4th Street; providing a "grandfather clause" to allow existing vacation rentals to continue to operate; changing the violation period and threshold number of violations before a required revocation hearing was held; requiring that the conditions for vacation rentals be posted; and requiring that vacation rental properties be maintained in a clean condition.

He displayed a map of the proposed Overlay area and noted that, since some affected properties were within the Coastal Zone, the proposed Ordinance would require approval by the California Coastal Commission. He also stated that, although the City had no existing regulations regarding vacation rentals, transient occupancy tax had been received since 2005 from several property owners and since July 2010 from a total of seven properties. Based on the proposed Overlay area, only three known vacation rental properties were located east of 4th Street. He then outlined options to allow the continued operation of vacation rentals determined to be legal non-conforming, stating that those properties would also be subject to the proposed regulations. It was also noted that, upon further research, it was not recommended that a property management company be required to manage a vacation rental. He then responded to questions from the Council.

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

The following residents spoke in support of the proposed vacation rental Ordinance:

- Nathan Spooner, Grover Beach; and
- Kay Roozen, Grover Beach, who requested more stringent restrictions and increasing the penalty amounts for violations.

Anita Shower, Grover Beach, expressed concern that the proposed Overlay conflicted with the existing conditions for properties located within Tract 123.

The following residents expressed concerns that the proposed regulations would not alleviate the disruptive behavior of some tenants occupying nearby vacation rentals:

- Tricia Witt, Grover Beach;
- Tom Carter, Grover Beach, who requested further clarification regarding the proposed "grandfather clause" to allow existing vacation rentals to continue to operate; and
- Janine Carter, Grover Beach, who described further incidents of excessive noise by tenants at a nearby vacation rental.

There were no further public comments received.

Council discussion ensued regarding the proposed regulations, with staff responding to questions regarding the 30-day period established by state law for determining a short-term rental; the City's code enforcement process; and the suggested cut-off period for determining whether an existing vacation rental might be allowed to continue to operate.

It was noted that if the City had no record of property owners having paid transient occupancy tax since July 1, 2010, the properties recently identified by residents as being operated as vacation rentals and the source of neighborhood complaints would not qualify for continued use as vacation rentals under the proposed "grandfather clause" in the draft Ordinance.

Action: Upon consensus (Council Member Peterson absent), the Council provided the following comments to staff regarding the proposed vacation rental regulations:

- The dollar amount of the fine(s) should be increased to an amount significant enough to encourage compliance;
- Staff to verify whether there were Codes, Covenants & Restrictions (CCRs) prohibiting vacation rentals within the Tract 123;
- Confirmed the proposed Vacation Rental Overlay area to be properties located west of 4th Street;
- Any unit(s) operating as a vacation rental located outside of the proposed Overlay area would be eligible to be "grandfathered in" for continued use as a vacation rental only if there was documentation that payment of transient occupancy tax (TOT) had been made to the City as of July 1, 2010;
- Regarding the known vacation rental units located outside of the proposed Overlay area, staff to provide the Council with information regarding whether the City had received complaints regarding the vacation rental use of those properties;
- Allow non-conforming vacation rental use to continue unless abandoned for more than one (1) year, consistent with other sections of the Zoning Code regarding non-conforming use. The Council acknowledged this period might be reduced to six (6) months when other zoning amendments concurrently underway were completed;
- Eliminate the requirement that a vacation rental unit be managed by a "property management" company;
- Schedule City Council review of the Vacation Rental Ordinance one (1) year after enactment to determine its effectiveness or amend the regulations as necessary; and
- Schedule a Public Hearing regarding the revised draft Vacation Rental Ordinance for a City Council meeting to be held in September 2011.

Recess: Upon consensus of the City Council, the meeting recessed at 7:57 p.m.

Reconvene: At 8:10 p.m., the meeting reconvened with all Council Members present, except for Council Member Peterson who was absent from this meeting.

ORDER OF THE DAY: At this time the Order of the Day resumed to the agenda as posted.

CONSENT AGENDA

Upon consensus (Council Member Peterson absent), Consent Agenda Item Nos. 4 and 5 were approved as presented.

4. Treasurer's Report for the Period June 16, 2011 - June 29, 2011.

Action: Approved as submitted.

5. Minutes of the Following City Council Meetings:

- May 24, 2011 Special Joint City Council / Improvement Agency Meeting;
- June 6, 2011 Regular City Council Meeting;
- June 6, 2011 Joint City Council / Improvement Agency Meeting.

Action: Approved the minutes as submitted.

REGULAR BUSINESS

6. CIP 386: Authorization to Award a Contract for the Longbranch Avenue Demonstration Project.

Mayor Shoals read the title to the foregoing item and deferred to staff for a report. For the information of those present, Public Works Director / City Engineer Ray provided an overview of the four bids received for construction of the Longbranch Avenue Demonstration Project with the lowest responsive bid received from R. Simons Construction. He displayed a diagram of one project area intersection and described the modified project scope to maximize available funding and include components of the Longbranch Avenue Demonstration Project, portions of the Safe Routes to School project, Community Development Block Grant funded accessibility improvements, and street rehabilitation from 10th to 13th Streets. He stated that construction was expected to begin in late July and be completed by the end of August, and that the work schedule had been modified to reduce disruption to school operations to the extent possible. It was noted that a protest to the proposed award was received from another bidder; however, after evaluating the challenge, the protest was found to not be well-founded. He then responded to questions from the Council.

Discussion was held regarding construction costs, funding sources, additional details regarding the protest received, and potentially amending the project scope further if remaining funds became available.

Upon question, City Attorney Koczanowicz confirmed that the protest had been evaluated and additional information had been received from the contractor, and that he had no legal concerns with the Council proceeding with awarding the contract.

Mayor Shoals invited public comments on this matter. There was no response received and he closed the public comment period for this item.

Action: It was m/s by Mayor Pro Tem Nicolls/Council Member Bright to: 1) adopt Resolution No. 11-43 to award the construction contract for CIP 386 to the lowest responsive bidder, R. Simons Construction, in the amount of \$309,259.80; 2) authorize the City Manager to sign and affirm change orders to the project in amounts up to \$46,389 to be deducted from contingency; and 3) authorize the Mayor to execute the contract on behalf of the City. The motion carried on the following roll call vote:

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

Resolution No. 11-43: A Resolution of the City Council of the City of Grover Beach, California, Awarding CIP 386, the Longbranch Avenue Demonstration Project.

7. Discussion and Direction to Staff Regarding Potential Smoking Regulations in Public Facilities in the City.

Prior to discussion of this item, Mayor Pro Tem Nicolls suggested continuing the matter to the next City Council meeting to allow the Council an opportunity to review the supplemental materials just received from the San Luis Obispo County Public Health Department.

Upon consensus (Council Member Peterson absent), the Council agreed to receive a brief staff presentation and public comments, and continue this item to the next regular City Council meeting.

Mayor Shoals read the title to the foregoing item and deferred to staff for a report. In follow-up to the City Council's request at the meeting of May 2, 2011, City Attorney Koczanowicz described the State's regulations regarding smoking in public buildings or

facilities and briefly referenced smoking regulations enacted by other local jurisdictions. He stated that smoking restrictions could be enacted in residential care and health facilities, described City code enforcement procedures, and stated that estimated costs to enforce local smoking regulations would likely consist of overtime for existing personnel. He also noted that the City was generally precluded from adopting smoking regulations that would infringe on the rights of individuals in their own homes. He then responded to questions from the Council.

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

The following persons spoke in support of the City enacting local smoking regulations:

- Christina Lefevre, Health Education Specialist, Tobacco Control Program, San Luis Obispo County Public Health Department, who cited other jurisdictions that had enacted comprehensive smoking regulations, including restrictions for apartment complexes and multi-unit housing developments;
- Kathleen Karle, Manager, Tobacco Control Program, San Luis Obispo County Public Health Department, who praised the proactive efforts of the Grover Beach Police Department that resulted in the lowest incident rate countywide of tobacco sales to minors; and
- Cameron Schneider, Los Osos.

There were no further public comments received.

Brief discussion was held regarding continuing this item to a future City Council meeting to allow the Council time to review the 60+ pages of supplemental materials just received from the County Health Department, and requesting input from the Parks, Recreation & Beautification Commission regarding smoking regulations in public facilities.

Action: Upon consensus (Council Member Peterson absent), the Council continued this item to the regular City Council meeting of Monday, September 19, 2011, and requested that staff forward the information to the Parks, Recreation & Beautification Commission for comments regarding smoking restrictions in public facilities.

8. Letter from the City of Arroyo Grande Requesting a Joint Meeting Regarding the Consolidation of Law Enforcement Services.

Mayor Shoals read the title to the foregoing item and deferred to staff for a report. For the information of those present, City Manager Perrault reviewed the request from the City of Arroyo Grande for the City of Grover Beach to participate in a joint meeting regarding the consolidation of law enforcement services. He noted that the City of Grover Beach had recently discussed the consolidation of dispatch services, but had not discussed the consolidation of law enforcement services.

Brief discussion was held to first request clarification of Arroyo Grande's intent regarding "contracting" or "consolidating" law enforcement services prior to considering a specific meeting date.

Action: Upon consensus (Council Member Peterson absent), the Council authorized the City Manager to respond to the request in writing and request further clarification from the City of Arroyo Grande regarding the topic to be discussed.

PULLED CONSENT AGENDA ITEMS

None at this time.

COUNCIL COMMITTEE REPORTS

Council Member Molnar stated she had nothing to report.

Mayor Pro Tem Nicolls stated he had nothing to report.

Council Member Bright reported on the meeting of the South Central Coast Basin-wide Air Pollution Control Council, and announced that Ventura City Council Member Brian Brennan had recently been appointed to the California Coastal Commission.

Upon question, Mayor Pro Tem Nicolls responded that the South San Luis Obispo County Sanitation District was in the process of preparing a written response to the Grand Jury report regarding the Sanitation District.

Council Member Peterson was absent from this meeting.

Mayor Shoals stated he had nothing to report.

CITY COUNCIL MEMBER ITEMS

None at this time.

COUNCIL COMMUNICATIONS

None at this time.

CITY MANAGER'S REPORTS AND COMMENTS

10. Update Regarding State Budget Decisions and Impacts on the City of Grover Beach and Improvement Agency.

City Manager Perrault stated the Governor had just last week signed the State budget, as well as two budget trailer bills referred to as AB 1X 26 and AB 1X 27 regarding redevelopment agencies. AB 1X 26 eliminated redevelopment agencies as of October 1, 2011 and prevented agencies from incurring additional indebtedness. AB 1X 27 would allow redevelopment agencies to continue to exist, but operate in a more limited capacity and would require payments to the State's School and Education Relief Augmentation Fund (SERAF), plus annual payments thereafter. He stated that, as a result of the Governor's actions, the City's bond issues that were anticipated to have been completed by the evening of June 29th were not able to close.

He noted that the California Redevelopment Association (CRA) and the League of California Cities would likely file a lawsuit to stay implementation of the trailer bills until the Court decided the constitutionality of the bills, and that staff would provide a more detailed analysis at the next City Council meeting. If the Council decided to continue the redevelopment agency, the Council/Agency could again consider issuing bonds for public projects. If the Council decided to eliminate the redevelopment agency, the City's economic development programs would need to be revised.

Brief discussion was held regarding the benefits of continuing local redevelopment efforts and estimated payment amounts for continuing the agency.

CITY ATTORNEY'S REPORTS AND COMMENTS

None at this time.

CLOSED SESSION

At 9:32 p.m., the Council met in Closed Session regarding the following items:

- 1. Conference with Labor Negotiators**
Pursuant to Government Code Section 54957.6.
Agency Negotiator(s): City Manager, City Attorney, Administrative Services Director, Assistant Administrative Services Director, Human Resources Coordinator, Police Lieutenant, and Police Chief.
Employee Group(s): All employee groups (represented and unrepresented)

2. **Public Employee Performance Evaluation**
Pursuant to Government Code Section 54957
Employee: City Manager

Closed Session Announcements: At 9:52 p.m., Mayor Shoals reconvened the meeting in open session with all Council Members present (except Council Member Peterson who was absent from this meeting) and announced there were no reportable actions taken during Closed Session.

ADJOURNMENT

There being no further business to come before the City Council, Mayor Shoals adjourned the meeting at 9:52 p.m.

/s/ JOHN P. SHOALS, MAYOR

Attest:

/s/ DONNA L. McMAHON, CITY CLERK
(Approved at CC Mtg 08/01/2011)