

**MINUTES
CITY COUNCIL MEETING
TUESDAY, FEBRUARY 19, 2008**

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 Rachel Borquist, a 12-year-old, 5th grade-student from Grover Beach Elementary School.

ROLL CALL

City Council: Council Members Ashton, Bright, Lieberman, Mayor Pro Tem Nicolls, and Mayor Shoals were present.

City Staff: City Manager Perrault, City Attorney Koczanowicz, City Clerk McMahon, Community Development Director Hansen, Police Chief Copsey, Fire Chief Hubert, Public Works Superintendent Ford, and Planning Manager Diana Gould-Wells were also present.

Also present was City Engineer Garing.

AGENDA REVIEW

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

CEREMONIAL CALENDAR

1. Introduction of Newly Promoted Lieutenant John Peters.

Police Chief Copsey administered the Oath of Allegiance and re-introduced Lieutenant Peters to the City Council and members of the audience.

2. Proclamation Designating Tuesday, February 26, 2008, as "Spay Day USA".

Mayor Shoals read and presented the Proclamation to Grover Beach business owner Mary Buehnerkemper, representing the Feline Network.

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. Matthew Zieminski, Grover Beach, expressed concerns regarding a recent incident with the Grover Beach Police Department when he was stopped one evening while riding a bicycle which did not have a headlight.
- B. John Wysong, Grover Beach, objected to commercial trucks traveling on residential streets. He also requested installation of a traffic signal at Oak Park Boulevard and Brighton Avenue to accommodate school-age children disembarking from buses and then crossing the street at that intersection.

PUBLIC HEARINGS

Prior to discussion of Agenda Item No. 3, Council Member Lieberman declared a conflict of interest due to financial interests, stating that his wife had been the listing agent when the subject property was sold. He then stepped down from the dais and left the Council Chambers.

3. Appeal of Planning Commission Action Denial of a Variance Request to Allow the Residential Portion of a Mixed-Use Commercial-Residential Projected to Exceed the Allowable 50% of the Total Building Square Footage.

Appellant/Applicant: Steve Viera

Project Location: 152 North 11th Street, Grover Beach (APN: 060-237-007).

Mayor Shoals read the title to the foregoing item, declared the Public Hearing open, and deferred to staff for a report. Planning Manager Gould-Wells provided an overview of the request for a variance on a mixed-use, commercial-residential project that had been considered by the Planning Commission on November 8, 2007 and January 8, 2008. At the Commission meeting of January 8, 2008, the Commission denied the requested variance to allow 68% of the total building area to be designated for residential purposes, above the maximum residential area allowed at 50%. She stated that no action had been taken by the Planning Commission on the proposed project's Site or Architectural Plans, Use Permit or Parcel Map. Therefore, the only issue being presented for Council consideration at this time was the appeal of the requested variance.

Planning Manager Gould-Wells stated that, prior to consideration by the Planning Commission, the applicant had been offered several options for consideration: 1) decreasing the size of the residential units to reach a maximum 50% residential square footage; 2) reducing the number of residential units; 3) converting one of the residential units to an affordable housing unit; or 4) withdrawing the project from consideration. The applicant instead provided several different methods of calculating building square footage, which were inconsistent with past or current Community Development Department policies or practices. She then responded to Council questions.

Brief discussion was held regarding the method of calculating building square footage for Zoning Code purposes based upon useable living spaces, which excluded air space, carports or garages; however, the Building Code did include those areas for determining life, health, and safety regulations. It was also noted that the size of the subject property was not unique, but similar to other lots within that district. Additional discussion was held regarding possible eligibility of this project under the as-yet-to-be-adopted Planned Development (PD) Overlay District, if it included one of the three mandatory elements being considered for the proposed District.

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

Craig Smith, project architect, provided an overview of the project's review process, distributed additional project exhibits, and described various "green building" components in the project design. He stated that the options previously provided by staff were not financially viable for his client and therefore were not addressed. He objected to the method applied for calculating building square footage, citing ambiguous terminology within the Grover Beach Municipal Code and inaccurate interpretation by City staff.

Phyllis Molnar, Grover Beach, spoke in support of residential units in the downtown area and incorporating "green building" techniques.

Liz Doukas, Grover Beach, raised conflict of interest concerns, stating that one of the parties involved with this appeal had contributed to the Committee to Elect John Shoals.

Tom Murray, Board of Directors for SLO Green Build, spoke in support of development projects that incorporated sustainable building practices, and offered to assist the City with promoting "green building" projects.

Steve Viera, applicant/appellant, spoke in support of the appeal and expressed frustration with the City's review process.

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

Planning Manager Gould-Wells and City Attorney Koczanowicz confirmed that the only issue before the Council for consideration at this meeting was whether to uphold the

Planning Commission's decision to deny the requested variance or to make specific findings to grant the appeal and overturn the Commission's decision. Council action on the appeal would not constitute denial of the project's merits, as the Planning Commission had not yet taken action on the project.

The Council praised the project's "green building" components, and encouraged the applicant to submit the project for consideration once the PD Overlay District was adopted, as the PD Overlay District was intended to provide for more flexible design requirements in the downtown corridor.

Action: It was m/s by Council Members Bright/Ashton to deny the appeal, upholding the Planning Commission's decision to deny the request for a variance for Development Permit Application No. 07-010. The motion carried on the following roll call vote:

AYES: Council Members Ashton, Bright, Mayor Pro Tem Nicolls, and Mayor Shoals.
NOES: Council Members - None.
ABSENT: Council Members - None.
ABSTAIN: Council Members - None.
RECUSED: Council Member Lieberman (*due to a conflict of interest*).

At this time, Council Member Lieberman returned to the dais.

CONSENT AGENDA

Prior to consideration of the Consent Agenda, Item No. 6 was pulled pursuant to the request of Mayor Pro Tem Nicolls.

It was m/s by Council Members Ashton/Lieberman to approve Consent Agenda Item Nos. 4, 5, 7, and 8, as recommended. The motion carried on the following roll call vote:

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

4. Treasurer's Report for the Period January 30 - February 13, 2008.

Action: Approved as submitted.

5. Minutes of the Following City Council Meetings:

- **Special Joint City Council / Parks, Recreation & Beautification Commission Meeting of Thursday, November 15, 2007; and**
- **Regular City Council Meeting of Monday, November 19, 2007.**

Action: Approved the minutes as submitted.

7. Annual Review of Residency Requirements for Penal Code 290 Registrants -

Consideration of updated residency information requirements for Penal Code 290 registrants pursuant to Grover Beach Ordinance No. 07-01.

Action: Adopted Resolution No. 08-14 as presented.

Resolution No. 08-14: A Resolution of the City Council of the City of Grover Beach, California, Identifying Protected Facilities for Residency Requirements for Penal Code 290 Registrants Pursuant to City of Grover Beach Ordinance No. 07-01.

8. Award of Bid for Street Rehabilitation Project - Ramona Avenue (North 14th Street to North 16th Street) - Consideration of bids received to rehabilitate a segment of Ramona Avenue.

Action: 1) Adopted Resolution No. 08-15 awarding the Ramona Avenue (North 14th Street to North 16th Street) Street Rehabilitation Project for FY 08 to the lowest responsive bidder, Apodaca Paving; 2) authorized the City Manager to sign and affirm change orders to the project in amounts totaling up to \$11,182.52, to be deducted from the authorized contingency; and 3) authorized the Mayor to execute the contract on behalf of the City.

Resolution No. 08-15: A Resolution of the City Council of the City of Grover Beach, California, Awarding the FY 08 Street Rehabilitation Project - Ramona Avenue: North 14th Street to North 16th Street.

REGULAR BUSINESS

9. Proposed Agreement between the City of Grover Beach and the Oceano Community Services District for Dispatch Services.

Mayor Shoals read the title to the foregoing item and deferred to staff for a report. For the information of those present, Police Chief Copsey provided background information regarding contract dispatch services for fire, rescue, and emergency medical aid that the City has provided to the Oceano Community Services District (OCSD) since 1993. The contract expired in 1997; however, the City has continued to provide dispatch services because shared emergency communication and dispatch systems reduces the total cost of providing emergency services.

Police Chief Copsey stated that staff had reviewed costs associated with this service and had presented several funding options to the OCSD for its consideration. At the February 13, 2008 Board meeting, the OCSD agreed to increase the monthly fees from \$518 per month to \$1,518 per month, with an annual review thereafter.

Mayor Shoals opened the floor to public comments on this matter, and publicly recognized OCSD President Jim Hill, and General Manager Patrick O'Reilly, who were both seated in the audience.

Jim Hill, President, OCSD, spoke in support of the continued partnership agreement for dispatch services with the City of Grover Beach.

There were no further public comments received.

The Council thanked and praised the OCSD Board for working with staff on this matter.

Action: It was m/s by Council Members Lieberman/Ashton to adopt Resolution No. 08-16 authorizing the City Manager to enter into an Agreement with the Oceano Community Services District (OCSD) for fire, rescue, and emergency medical aid dispatch services. The motion carried on the following roll call vote:

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

Resolution No. 08-16: A Resolution of the City Council of the City of Grover Beach, California, Authorizing the City Manager to Enter Into an Agreement with the Oceano Community Services District for Fire, Rescue and Emergency Medical Aid Dispatch Services.

10. FY 08 and Beyond - Local Street Improvement Program.

Mayor Shoals read the title to the foregoing and deferred to staff for a report. City Engineer Garing provided an overview of the Local Street Improvement Program. He outlined the procedures used to guide the objective selection of streets to be rehabilitated based on need rather than geographic location, identified the various funding sources for the \$800,000 amount designated in the FY 08 Budget for street rehabilitation, and reviewed the current practice of "bundling" together street design,

bidding, and construction for two or three street projects to more effectively manage costs and make recommendations for additional street repairs as needed, as had been done for the recent rehabilitation project on South 14th Street. Additionally, City Engineer Garing noted that North 4th Street, from West Grand Avenue to Oceanview Avenue, had been included in the list of streets to be rehabilitated as North 4th Street was initially reconstructed in 1981 and had been in service for 27 years. City Engineer Garing stated that the typical life span for a heavily traveled street like North 4th Street was for 18 to 20 years. City Engineer Garing and City Manager Perrault then responded to questions.

Brief discussion was held regarding:

- various factors in estimating when a street in "good" condition might deteriorate to a level that fell within the pavement condition index range designated for rehabilitation, such as time frames; traffic conditions and the volume of commercial, public safety, and passenger vehicles; and structural conditions;
- additional funding required to rehabilitate and construct infrastructure improvements on South 4th Street;
- whether to extend improvements on North 4th Street from Oceanview Avenue to the northern City limits;
- the criteria used for street selection, which did not factor in geographic location; and
- potentially adding streets in the eastern portion of the City to the list of streets for rehabilitation, such as: Atlantic City Avenue, West Grand Avenue from Oak Park Boulevard to 16th Street, and Brighton Avenue from North 13th Street to North 16th Street.

Action: It was m/s by Mayor Pro Tem Nicolls/Council Member Lieberman to adopt Resolution No. 08-17, which identified local streets to be rehabilitated, listed in priority order, and placing No. 4th Street on the top of the list. The motion carried on the following roll call vote:

AYES: Council Members Ashton, Bright, Lieberman, Mayor Pro Tem Nicolls, and Mayor Shoals.

NOES: Council Members - None.

ABSENT: Council Members - None.

ABSTAIN: Council Members - None.

Resolution No. 08-17: A Resolution of the City Council of the City of Grover Beach, California, Adopting the FY 08 and Beyond Local Street Improvement Program.

Action: Upon consensus of the City Council, staff was directed to:

- provide cost estimates for extending street improvements on North 4th Street from Oceanview Avenue to the northern City limits and return to the Council with recommendations as to when that segment should be scheduled for improvement;
- bring the street selection criteria back in 45 days for further Council discussion and refinement, and in time for preparation of next year's Capital Improvement Program (CIP); and
- include additional streets in next year's list of identified streets which are located in the eastern portion of the City, such as Atlantic City Avenue, West Grand Avenue from Oak Park Boulevard to 16th Street, and Brighton Avenue from North 13th Street to North 16th Street.

PULLED CONSENT AGENDA ITEMS

6. Second Reading of Ordinance No. 08-01 to Amend the Grover Beach Municipal Code to Establish a Planned Development (PD) Overlay District.

Mayor Shoals read the title to the foregoing item and deferred to staff for a report. Planning Manager Gould-Wells provided background information on the Ordinance being considered for second reading and adoption that would establish a Planned Development (PD) Overlay District. She stated that the PD Overlay would provide flexible/relaxed design standards beyond what was permitted in the underlying zoning district. Planning Manager Gould-Wells and City Attorney Koczanowicz then responded to questions.

Brief discussion was held regarding when the Ordinance would become effective following adoption, and potential amendments to some of the requirements regarding the size of public amenities and energy efficiency.

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

Tom Murray, Arroyo Grande, spoke in support of establishing a PD Overlay District, but also cautioned against adopting an Ordinance if further deliberations were needed regarding energy efficiency or public amenity requirements, adding that a neighboring agency had approved a public art amenity which was later a source of controversy for that community.

There were no further public comments received.

Further discussion was held regarding:

- additional costs incurred for projects to achieve Title 24 compliance and LEED (Leadership in Energy and Environmental Design) certification;
- how the 30% level was selected as the threshold for minimum Title 24 compliance in the proposed Ordinance, and whether to have staff conduct further research to justify setting the threshold at 30% versus 15%;
- adding further clarification to the Ordinance regarding the public amenity requirement being in scale and proportion to the proposed project; and
- increased building height limits being allowed for those mixed-use projects which included an affordable housing component.

Mayor Shoals objected to the proposed Ordinance as presented, stating it served as a disincentive rather than an incentive, as originally intended, for future development in the downtown area.

Action: It was m/s by Mayor Pro Tem Nicolls/Council Member Lieberman to conduct second reading, by title only, and adopt Ordinance No. 08-01. The motion carried on the following roll call vote:

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

Ordinance No. 08-01: An Ordinance of the City Council of the City of Grover Beach, California, Amending Article IX Chapter 1 of the Grover Beach Municipal Code by Adding Part 50 - West Grand Avenue Corridor Planned Development (PD) Overlay. (Second reading.)

COUNCIL COMMITTEE REPORTS

Council Member Bright stated that she had nothing to report.

Council Member Ashton reported on the meeting of the San Luis Obispo County Water Resources Advisory Board (WRAC) and the Integrated Waste Management Authority's partnership with the chemical industry and State Parks to recycle plastics.

Council Member Lieberman reported on the Fire and Emergency Services Oversight Committee meeting held on February 14, 2008.

Mayor Pro Tem Nicolls reported on the meeting of the Housing Trust Fund and Executive Director Jerry Rioux's continued recovery following a stroke.

Mayor Shoals stated he had nothing to report.

CITY COUNCIL AGENDA

None at this time.

COUNCIL COMMUNICATIONS

- A. Council Member Ashton praised members of the Grover Beach Fire Department who were recently recognized at the Department's annual awards banquet.

CITY MANAGER'S REPORTS AND COMMENTS

City Manager Perrault announced that the South County regional meeting on the issue of homelessness and services for people in transition would be held on Thursday, February 21, 2008 at the South County Regional Center in Arroyo Grande at 6:30 p.m.

He then reminded all members of the City Council to submit photographs of various examples of "good" architectural design in order to schedule a follow-up joint workshop with the Planning Commission.

CITY ATTORNEY'S REPORTS AND COMMENTS

11. Initiation of Code Amendments Regarding Term Limits and Adoption of Selection Process for Mayor Pro Tem.

City Attorney Koczanowicz provided an overview of the November 2006 voter-approved measure which changed the position of Mayor from being selected by a majority of the Council to a directly elected position for a two-year term, which resulted in the issue of term limits as outlined in the Grover Beach Municipal Code (GBMC) needing to be addressed. An outside, independent legal opinion was obtained from the firm of Colantuono & Levin, PC, a state-wide acknowledged authority on election law issues. The firm determined that GBMC Section 2304, which treated the position of a directly-elected Mayor and the position of Council Member as the same for the purpose of determining term limits, was in conflict with state law. Staff therefore recommended that the Council initiate a Code amendment to treat each as separate and distinct, which would then allow a termed-out Mayor to run for a Council seat and a termed-out Council Member to run for the position of Mayor.

He stated that the selection method, term length, and whether to apply term limits for Mayor Pro Tem also should be revisited. City Attorney Koczanowicz then reviewed several selection method options for consideration.

Brief Council discussion was held regarding various options for the expeditious selection of a Mayor Pro Tem.

Action: Upon unanimous consensus, staff was directed to return with a draft Ordinance for Council consideration amending GBMC Section 2304 to separate the terms of a directly-elected Mayor and Council Members.

Action: It was m/s by Mayor Pro Tem Nicolls/Council Members Bright to adopt Resolution No. 08-18 setting a new policy for the method of selection of Mayor Pro Tem by the Mayor, and setting the term of Mayor Pro Tem for a period of one (1) year. The motion carried on the following roll call vote:

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

Resolution No. 08-18: A Resolution of the City Council of the City of Grover Beach, California, Amending the Method of Implementing the System for Selection of Mayor Pro Tem and Repealing Resolution No. 01-77.

CLOSED SESSION

At 9:42 p.m., the Council met in Closed Session regarding the following items:

1. **Conference with Legal Counsel - Pending Litigation**
Pursuant to Government Code Section 54956.9(a)
Mireya Jaimes-Freyre v. City of Grover Beach CV 070478

2. **Conference with Legal Counsel – Pending Litigation**
Pursuant to Government Code Section 54956.9(a)
Santa Maria Valley Water Conservation District v. City of Santa Maria, etc., et al,
and Related Cross-Actions: Santa Clara Superior Court Case No. CV 770214.

Closed Session Announcements: At 10:15 p.m., Mayor Shoals reconvened the meeting into open session with all Council Members present. He then announced that there were no reportable actions taken during the Closed Session.

ADJOURNMENT

There being no further business to come before the City Council, Mayor Shoals adjourned the meeting at 10:15 p.m.

/s/JOHN P. SHOALS, MAYOR

Attest:
/s/DONNA L. McMAHON, CITY CLERK
(Approved at CC Mtg 5/19/08)