

ACTION MINUTES

REGULAR MEETING OF THE CITY COUNCIL TUESDAY, SEPTEMBER 22, 2015 COUNCIL CHAMBERS, 215 EAST BRANCH STREET ARROYO GRANDE, CALIFORNIA

1. CALL TO ORDER

Mayor Hill called the Regular City Council Meeting to order at 6:00 p.m.

2. ROLL CALL

City Council: Council Members Jim Guthrie, Tim Brown, Barbara Harmon, Mayor Pro Tem Kristen Barneich and Mayor Jim Hill were present.

City Staff Present: City Manager Dianne Thompson, City Attorney Heather Whitham, City Clerk/Director of Legislative and Information Services Kelly Wetmore, Director of Administrative Services Debbie Malicoat, Director of Community Development Teresa McClish, Recreation Services Director John Rogers, Chief of Police Steve Annibali, Fire Chief Steven Lieberman, Building Official Johnathan Hurst, and Associate Planner Matt Downing.

3. MOMENT OF REFLECTION

4. FLAG SALUTE

Jennifer Silva and Patti Redding, representing Daughters of the American Revolution, led the Flag Salute.

5. AGENDA REVIEW

Council Member Guthrie requested, and the Council concurred, that the Council consider Agenda Items 8.h. and 11.a. together regarding the Dog Park.

5.a. Closed Session Announcements.

None.

5.b. Ordinances Read in Title Only.

Council Member Brown moved, Council Member Guthrie seconded, and the motion passed unanimously that all ordinances presented at the meeting shall be read by title only and all further readings be waived.

6. SPECIAL PRESENTATIONS

6.a. Honorary Proclamation Declaring September 17 - 23, 2015 as Constitution Week.

Mayor Hill presented an Honorary Proclamation declaring September 17-23, 2015 as Constitution Week. Jennifer Silva and Patti Redding, representing Daughters of the American Revolution, accepted the Proclamation.

6.b. Mayor's Commendation Presented to Tyler and Leslie Brown – Water Conservation Champions.

Mayor Hill presented a Mayor's Commendation to Tyler and Leslie Brown recognizing them as Water Conservation Champions for reducing their residential water use by 50% since 2009.

7. CITIZENS' INPUT, COMMENTS, AND SUGGESTIONS

Mayor Hill invited public comment. Speaking from the public were Patty Welsh, Arroyo Grande, thanked the Men's Club for the work on the Paulding Wall and requested that a pedestrian walkway be added; Janine Rands, requested that the Council consider an ordinance to ban polystyrene foam products; Julie Tacker, Los Osos, commented on the Brown Act Cure and Correct letter she sent to the Council regarding the East Grand and Courtland project, and expressed concerns about the Water Systems Consulting agreement; Judith Bernstein, Arroyo Grande, requested the Council consider an ordinance to ban polystyrene foam products and replace them with recyclable products; Brad Snook, Surfrider Foundation, requested the Council consider an ordinance to ban polystyrene foam products; and Marian McCooper, requested the Council consider an ordinance to ban polystyrene foam products.

8. CONSENT AGENDA

Mayor Hill commented that Item 8.h. was pulled to be considered with Item 11.a. He then invited public comment on the remaining Consent Agenda items. No public comments were received.

Action: Council Member Guthrie moved, and Mayor Pro Tem Barneich seconded the motion to approve Consent Agenda Items 8.a. through 8.i., with the exception of item 8.h., with the recommended courses of action. The motion passed on the following roll-call vote:

AYES: Guthrie, Barneich, Brown, Harmon, Hill
NOES: None
ABSENT: None

8.a. Consideration of Cash Disbursement Ratification.

Action: Ratified the listing of cash disbursements for the period September 1, 2015 through September 15, 2015.

8.b. Consideration of Statement of Investment Deposits.

Action: Received and filed the report listing the current investment deposits of the City, as of August 31, 2015, as required by Government Code Section 53646(b).

8.c. Consideration of a Resolution Determining that Police Officer Tammie Neufeld Suffers from an Industrial Disability.

Action: Adopted a Resolution entitled: ***"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DETERMINING THAT POLICE OFFICER TAMMIE NEUFELD SUFFERS FROM AN INDUSTRIAL DISABILITY PURSUANT TO GOVERNMENT CODE SECTION 21156"***.

8.d. Consideration of Amendment No. 2 to the Contractor Services Agreement with Waterboys Plumbing for the Plumbing Retrofit Program.

Action: Approved Amendment No. 2 with Waterboys Plumbing, Inc. in the amount of \$25,532 to continue the Plumbing Retrofit Program.

8.e. Monthly Water Supply, Demand and Marketing Update.

Action: Received and reviewed the monthly Water Supply, Demand and Marketing Update Report.

8.f. Authorization to Repair Battery Back-Up System for the Police Station.

Action: Approved the repair of an Uninterruptible Power Supply (UPS) battery for the Police Station from RAMTEK in the amount of \$15,862.22.

8.g. Consideration of an Award of Contract to JG Contracting Corporation for Construction of the Platino Lane and Oro Drive Intersection Drainage Improvements Project, PW 2015-08.

Action: 1) Awarded a contract for construction of the Platino Lane and Oro Drive Intersection Drainage Improvements Project to JG Contracting Corporation in the amount of \$62,412; 2) Authorized the City Manager to approve change orders for 10% of the contract amount, \$4,140, for unanticipated costs during the project; 3) Appropriated \$35,000 from the Sales Tax Fund; and 4) Directed the City Clerk to file a Notice of Exemption.

8.i. Consideration of Traffic Way Bridge Replacement Project Programming.

Action: Authorized staff to program the Traffic Way Bridge Replacement Project into the Highway Bridge Program for future grant funding.

9. PUBLIC HEARINGS

9.a. Consideration of Introduction of an Ordinance of the City Council of the City of Arroyo Grande Adding Section 15.04.030 to Title 15 of the Municipal Code Regarding Expedited Permitting Procedures for Small Residential Rooftop Solar Systems.

Building Official Hurst presented the staff report and recommended that the Council introduce an ordinance adding Section 15.04.030 to Title 15 of the Arroyo Grande Municipal Code regarding expedited permitting procedures for small residential rooftop solar systems.

Mayor Hill opened the public hearing. Hearing no public comment, Mayor Hill closed the public hearing.

Action: Council Member Brown moved to introduce an ordinance entitled: ***“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADDING SECTION 15.04.030 TO TITLE 15 OF THE MUNICIPAL CODE RELATING TO EXPEDITED PERMITTING PROCEDURES FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS”***. Council Member Guthrie seconded, and the motion passed on the following roll-call vote:

AYES: Brown, Guthrie, Harmon, Barneich, Hill

NOES: None

ABSENT: None

10. OLD BUSINESS

10.a. Consideration of Approval of Amendment No. 1 to the Consultant Services Agreement with Verdin Marketing, Inc. with a Reduced Scope of Work for the Water Conservation Public Education Program.

Community Development Director McClish introduced the item and Associate Planner Heffernon presented the staff report and recommended that the Council approve Amendment No. 1 to the Agreement for Consultant Services with Verdin Marketing, Inc. Staff and consultants Mary Verdin and Jaime Maraviglia, representing Verdin Marketing, responded to questions from Council.

Mary Verdin, Verdin Marketing, gave a presentation regarding the water conservation public education program, highlighting the intent of the program, accomplishments to date, and the proposed amendments to the agreement to maintain the ThinkH2Onow.com website, continue with social media and community outreach, and maintain paid advertising. Ms. Verdin and Jaime Maraviglia responded to questions from Council.

Mayor Hill opened the public comment period. Speaking from the public were Patty Welsh, Arroyo Grande, expressing concerns about regarding the public education program, suggested use of an intern to run the program and opposed an amendment to the Agreement; and April McLaughlin, Arroyo Grande, in opposition to the proposed amendment to the Agreement. Hearing no further comments, Mayor Hill closed the public comment.

Council comments ensued regarding the public education program; the City's partnership with Pismo Beach; the ThinkH2Onow website; and the substantial increase in the amount of water conservation program rebate applications the City has received since the public education program started. Council members expressed concerns about allocating additional funding without specific tasks being identified in the proposal and that it is inappropriate to set a budget first without knowing what the services would be; that the proposed funding should be put toward the Cash for Grass Program instead; that the City's own website includes sufficient information regarding the water conservation program and rebates; and that an additional intern could be hired to assist with the program.

Action: Council Member Brown moved to not approve the amendment and to reallocate the funding to the Cash for Grass Program. Council Member Harmon seconded, and the motion passed on the following roll-call vote:

Council Member Guthrie and Mayor Pro Tem Barneich expressed concerns regarding the impacts of the motion as it relates to the City's partnership with the City of Pismo Beach and eliminating the ThinkH2O website.

AYES: Brown, Harmon, Hill
NOES: Guthrie, Barneich
ABSENT: None

Mayor Hill called for a break at 8:08 p.m. The Council reconvened at 8:20 p.m.

11. NEW BUSINESS

11.a. Consideration of an Ordinance Adding Section 12.20.080 to the Arroyo Grande Municipal Code Relating to Dog Park Rules and Exclusion Policy.

Recreation Services Director Rogers presented the staff report and recommended that the Council introduce an ordinance adding Section 12.20.080 to Chapter 12.20 of the Arroyo Grande Municipal Code relating to Dog Park Rules and Exclusion Policy. Staff responded to questions from Council.

Mayor Hill invited public comment. Hearing no comments, Mayor Hill closed the public comment period.

Action: Council Member Guthrie moved to introduce an ordinance entitled” ***AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADDING SECTION 12.20.080 TO CHAPTER 12.20 OF THE ARROYO GRANDE MUNICIPAL CODE RELATING TO DOG PARK RULES AND EXCLUSION POLICY***”. Mayor Pro Tem Barneich seconded, and the motion passed on the following roll-call vote:

AYES: Guthrie, Barneich, Brown, Harmon, Hill
NOES: None
ABSENT: None

ITEMS PULLED FROM CONSENT AGENDA

8.h. Consideration of Approval of the Elm Street Dog Park Agreement.

Recreation Services Director Rogers presented the staff report and recommended that the Council approve the Elm Street Dog Park Agreement with the Elm Street Dog Park Association for operation of the Elm Street Park Off-Lease Dog Park. City Attorney Whitham noted that a Supplemental Memo had been distributed to the Council with a proposed revision to Section 3.H. of the draft Dog Park Agreement to add the following sentence: “*ESDPA is authorized pursuant to Section 12.20.080.C.2 of the Arroyo Grande Municipal Code to issue warning and exclusion notices.*”. She noted that, if approved by Council, the Agreement would be contingent upon adoption of the Dog Park ordinance; and noted that the ordinance takes effect 30 days following its adoption.

Mayor Hill invited public comment. Hearing no comments, Mayor Hill closed the public comment period.

In response to questions by Mayor Pro Tem Barneich concerning dog park volunteers and aggressive dogs, Jan Scott addressed the Council regarding the duties of the dog park volunteers.

Action: Mayor Pro Tem Barneich moved to approve the Elm Street Dog Park Agreement with the Elm Street Dog Park Association for operation of the Elm Street Park Off-Lease Dog Park, contingent upon the adoption of the ordinance, and adding the revision to Section 3.H. of the Dog Park Agreement as noted. Council Member Guthrie seconded, and the motion passed on the following roll-call vote:

AYES: Barneich, Guthrie, Brown, Harmon, Hill
NOES: None
ABSENT: None

11.b. Consideration of Comment Letters Regarding the Phillips 66 Rail Spur Extension Project and Rail Safety, and Information Regarding Other Concurrent and Miscellaneous Projects Related to Oil Production.

Community Development Director McClish presented the staff report and recommended that the Council: 1) Provide direction on whether to send comment letters to the County of San Luis Obispo Planning Commission and the U.S. Department of Transportation regarding the Phillips 66 Rail Spur Extension Project and rail safety respectively; and 2) Receive and file information

regarding other miscellaneous and concurrent projects of interest related to oil production. Staff responded to questions from Council.

Mayor Hill invited public comment. Speaking from the public were Lawrence Shinderman, Nipomo, in opposition to the rail spur project; Gary McKible, Nipomo, in opposition to the rail spur project; Martin Akel, Nipomo, in opposition to the rail spur project; Kevin Beauchamp, Nipomo, in opposition to the rail spur project; John Anderson, Nipomo, in opposition to the rail spur project; Thomas Ryan, in opposition to the rail spur project; Kay Gore, Arroyo Grande, in opposition to the rail spur project; Sherri Stoddard, Los Osos, in opposition to the rail spur project; Marty Musselman, Arroyo Grande, in opposition to the rail spur project; Richard Robertson, Arroyo Grande, in opposition to the rail spur project; Charles Varni, Oceano, in opposition to the rail spur project; Steve Goble, Grover Beach, in support of the rail spur project; Virlon Smoot, Arroyo Grande, in support of the rail spur project; Bill Weiner, Arroyo Grande, in opposition to the rail spur project; Shaun Quigley, Phillips 66 employee, in support of the rail spur project; Armando Rojas, Phillips 66 employee, in support of the rail spur project; Jorge Jaime, spoke in support of the rail spur project; Lori Laughbaugh, spoke in support of the rail spur project; Chris Wheeler, Arroyo Grande, spoke in support of the rail spur project; Amber Johnson, Arroyo Grande, spoke in support of the rail spur project; Terry Asa, Phillips 66 employee, spoke in support of the rail project; Chris Diaz, Phillips 66 employee, spoke in support of the rail spur project; Mark Marlett, employee, spoke in support of the rail spur project; Alice Reinheimer, Arroyo Grande, spoke in opposition to the rail spur project; Gina Whitaker, Arroyo Grande, in opposition to the rail spur project; Stacey Avilar, Grover Beach, in opposition to the rail spur project; Kathleen Mink, Arroyo Grande, in opposition to the rail spur project; Mary Eister, Arroyo Grande, in opposition to the rail spur project; Al Fonzi, Atascadero, spoke in support of the rail spur project; Jim Anderson, Phillips 66 employee, spoke in support of the rail spur project; Darin Grandfield, Pismo Beach, Phillips 66 employee, spoke in support of the rail spur project; Ivana Navaro, Pismo Beach, spoke in support of the rail spur project; Paul Adler, spoke in support of the rail spur project; David Wells, Phillips 66 employee, spoke in support of the rail spur project; Patrick from San Luis Obispo, spoke in support of the rail spur project; Shan Dooley, Pismo Beach, Phillips 66 employee, spoke in support; Jennifer Silva, Arroyo Grande, spoke in opposition to the rail spur project; Claudia Lopez, Pismo Beach, spoke in support of the rail spur project; Patty Welsh, spoke in opposition to the rail spur project; Patrick Sidden, Phillips 66 employee, spoke in support of the rail spur project; Kathy Murray, Arroyo Grande, spoke in opposition to the rail spur project; Bob Wynn, Orcutt, Phillips 66 employee, spoke in support of the rail spur project; Tracy Herrera, spoke in support of the rail spur project; and Vince Herrera, Phillips 66 employee, spoke in support of the rail spur project. Hearing no further comments, Mayor Hill closed the public comment period.

Council comments ensued in support of and opposition to sending comment letters to the County regarding the project.

Action: Council Member Harmon moved to direct staff to take no position regarding the Phillips 66 Rail Spur Extension Project and receive and file the information regarding other miscellaneous and concurrent projects of interest related to oil production. Council Member Guthrie seconded, and the motion passed on the following roll-call vote:

AYES: Harmon, Guthrie, Hill
NOES: Brown, Barneich
ABSENT: None

Mayor Hill called for a break at 11:00 p.m. The Council reconvened at 11:06 p.m.

Mayor Hill noted that pursuant to Council policy, the Council must vote to continue the meeting past 11:00 p.m.

Action: Council Member Guthrie moved to continue the meeting until 11:30 p.m. Mayor Hill seconded, and the motion passed unanimously by voice vote.

12. COUNCIL REPORTS:

Mayor Pro Tem Barneich suggested, and the Council concurred, that Council reports be postponed until the next meeting and that the Council proceed with the closed session.

15. COMMUNITY COMMENTS AND SUGGESTIONS:

Mayor Hill invited members of the community to present issues, thoughts, or suggestions, or to comment on any scheduled Closed Session items.

Julie Tacker, Los Osos, reiterated the need for Council to review the Water Systems Consulting contract; and she invited everyone to the Special Meeting of the South San Luis Obispo County Sanitation District at 1:00 p.m. on Friday, September 25, 2015 where the Oceano billing agreement would be the topic of discussion. No further public comment was received.

13. COUNCIL COMMUNICATIONS:

Mayor Hill confirmed a Special Meeting of the South San Luis Obispo County Sanitation District to be held in Arroyo Grande on Friday, September 25th.

14. STAFF COMMUNICATIONS:

City Manager Thompson gave an update on the Brisco Road ramp closure and the revised closure period which would occur from September 29, 2015 to December 7, 2015; stated that due to a technical error in a public hearing courtesy notice relating to NKT Commercial's E. Grand Avenue and Cortland Project, a Special Meeting of the City Council would be held to re-hear the project on Thursday, October 8, 2015 and a new Notice of Public Hearing would be published in The Tribune on Friday and would be mailed to the neighborhood; and announced the upcoming Annual Harvest Festival and related activities to be held on September 25-26th.

16. CITY COUNCIL CLOSED SESSION:

At 11:17 p.m., City Attorney Heather Whitham announced the City Council would adjourn to closed session to consider the following item:

- a. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**, significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): potential litigation relating to contract with GLR Construction for Police Station Addition/Tenant Improvement Project, PW 2014-08.

Adjourned to Closed Session.

17. RECONVENE TO OPEN SESSION:

Mayor Hill reconvened the meeting to open session at 11:37 p.m. City Attorney Whitham stated that the Council provided direction to legal counsel and staff regarding the potential litigation. No reportable action was taken.

18. ADJOURNMENT

Mayor Hill adjourned the meeting at 11:38 p.m.

Jim Hill, Mayor

ATTEST:

Kelly Wetmore, City Clerk

(Approved at CC Mtg _____)