

ACTION MINUTES

**CITY COUNCIL/SUCCESSOR AGENCY TO THE DISSOLVED ARROYO GRANDE
REDEVELOPMENT AGENCY MEETING
TUESDAY, FEBRUARY 14, 2017
COUNCIL CHAMBERS, 215 E. BRANCH STREET
ARROYO GRANDE, CALIFORNIA**

1. CALL TO ORDER

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

2. ROLL CALL

City Council/SA: Council Members Caren Ray, Barbara Harmon, Kristen Barneich, Mayor Pro Tem Brown, and Mayor Jim Hill were present.

Staff Present: Interim City Manager Bob McFall, City Attorney Heather Whitham, Director of Legislative and Information Services/City Clerk Kelly Wetmore, Community Development Director Teresa McClish, Public Works Director Geoff English and Interim City Engineer Jim Garing.

3. MOMENT OF REFLECTION

4. FLAG SALUTE

Members of Girl Scout Troop 41049 led the Flag Salute.

5. AGENDA REVIEW

5.a. Closed Session Announcements.

Regular Meeting of January 24, 2017

- a) Conference with Legal Counsel - Anticipated Litigation - Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:
One (1) potential case

City Attorney Whitham announced that the Council met in closed session on January 24, 2017 and that this report out is made pursuant to Government Code Section 54957.1(a)(2): The Council provided unanimous direction to initiate litigation. At this time, we cannot provide any particulars. Once the action is formally commenced, the particulars will be disclosed upon inquiry.

Special Meeting of February 14, 2017

- a) Conference with Legal Counsel - Anticipated Litigation - Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): One Case
Allegations of violations of the Brown Act

City Attorney Whitham announced that the Council met in closed session on February 14, 2017 and no reportable action was taken.

5.b. Ordinances Read in Title Only.

Mayor Pro Tem Brown moved, Council Member Barneich 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

None.

7. CITIZENS' INPUT, COMMENTS, AND SUGGESTIONS

Mayor Hill invited public comment. Speaking from the public were: Linda Osty, who offered an invocation; Daryl Berg, expressed concern regarding continued rains that are flooding his property in the Vista Del Mar neighborhood, and that efforts made by the developer were only temporary and inadequate; Mike Drees, South County Historical Society President, commented on the need for repairs at the historical schoolhouse and requested help from the community to fund repairs; and Ron Holt, expressed concern with the lights in the trees throughout the Village being on 24 hours a day and the use of excessive electricity.

8. INTERIM CITY MANAGER REPORT:

Interim City Manager McFall provided a status update on levels at Lake Lopez and drought conditions that still exist; stated that Stage 1 water restrictions are still in place for the City and water conservation efforts continue to be encouraged; and responded to questions from Council regarding sensors that monitor and record lake levels and that information posted on the County Public Works website is accurate.

9. CONSENT AGENDA

Council Member Harmon requested that Item 9.e. be pulled.

Council Member Ray requested that Items 9.b. and 9.f. be pulled.

City Attorney Whitham read the full title of the Ordinance in Item 9.k. as follows: ***“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING CHAPTER 13.07 OF THE ARROYO GRANDE MUNICIPAL CODE RELATING TO STAGES OF WATER SHORTAGE EMERGENCIES TO IMPLEMENT EMERGENCY WATER SHORTAGE RESTRICTIONS AND REGULATIONS.”***

Mayor Hill invited public comment on the consent agenda. Speaking from the public was Julie Tacker, who commented on Item 9.k., referred to the City's Plumbing Retrofit Program Request for Proposals (RFP), and stated that there are better, state of the art plumbing fixtures that require less water use than what is required in the RFP. No further public comments were received.

Action: Mayor Pro Tem Brown moved, and Council Member Ray seconded the motion to approve Consent Agenda Items 9.a. through 9.k., with the exception of items 9.b., 9.e., and 9.f., with the recommended courses of action. The motion passed on the following roll-call vote:

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

- 9.a. Consideration of Cash Disbursement Ratification**
Action: Ratified the listing of cash disbursements for the period January 16, 2017 through January 31, 2017.
- 9.c. Consideration of a Residential Lease for 202 East Le Point Street**
Action: Approved and authorized the Mayor to execute a Residential Lease between the City of Arroyo Grande as the Landlord and Jena Simmons and Chad Jackson as the Tenants for the house located at 202 East Le Point Street.
- 9.d. Deferral of Two-Year Budget Plan to Begin in Fiscal Year 2018/19 and Continuing with a One-Year Budget for Fiscal Year 2017-18**
Action: Approved deferring the next two-year budget plan to start in Fiscal Year 2018/19, and continuing with a one-year budget for Fiscal Year 2017/18.
- 9.g. Consideration of Acceptance of the 2016 Street Resurfacing Project, PW 2016-08**
Action: 1) Accepted the project improvements as constructed by American Asphalt South, Inc., in accordance with the plans and specifications for the 2016 Street Resurfacing Project; 2) Directed staff to file a Notice of Completion; and 3) Authorized release of retention, thirty-five (35) days after the Notice of Completion has been recorded, if no liens have been filed.
- 9.h. Consideration of a Resolution Approving an Application by Terry Chandler to Drill and Install a Replacement Well on Property Zoned Agriculture; APN 007-731-015; 980 East Cherry Avenue.**
Action: Adopted a Resolution entitled: ***"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE APPROVING AN APPLICATION BY TERRY CHANDLER TO DRILL A REPLACEMENT IRRIGATION WELL ON A PROPERTY ZONED AGRICULTURE; APN 007-731-015; 980 EAST CHERRY AVENUE"***.
- 9.i. Consideration to Approve an Agreement for Contractor Services with Apodaca Paving for the Corporation Yard Stormwater Improvements Project, PW 2016-14.**
Action: 1) Approved the construction plans and specifications for the Corporation Yard Stormwater Improvements Project, PW 2016-14; 2) Found that the project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301(c); 3) Directed the City Clerk to file a Notice of Exemption; 4) Transferred \$10,865 from the Public Works Administration Operating Fund to the Corporation Yard Stormwater Improvements Project, PW 2016-014; 5) Approved an Agreement for Contractor Services with Apodaca Paving in the amount of \$26,449.60; 6) Authorized the Interim City Manager to approve change orders up to 10% of the contract amount in the amount of \$2,644.96 for additional work and/or unanticipated costs during construction; and 7) Authorized the Mayor to execute the Agreement for Contractor Services.
- 9.j. Consideration to Approve an Agreement for Consultant Services with Harris Architecture & Design for the Woman's Club Building ADA Improvements Project, PW 2016-10 and Kitchen Renovation Project, PW 2016-01.**
Action: 1) Approved an Agreement for Consultant Services with Harris Architecture & Design in the amount of \$40,000 for design services for the Woman's Club Building ADA Improvements and Kitchen Renovation Projects; 2) Authorized the Mayor to execute the Agreement for Consultant Services; and 3) Appropriated \$124,051 from the Park Development Fund balance for the Woman's Club Kitchen Renovation Project.
- 9.k. Consideration of Adoption of an Ordinance Amending Chapter 13.07 of the Arroyo Grande Municipal Code Relating to Stages of Water Shortage Emergencies to Implement Emergency Water Shortage Restrictions and Regulations.**

Action: Adopted an Ordinance entitled: **“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING CHAPTER 13.07 OF THE ARROYO GRANDE MUNICIPAL CODE RELATING TO STAGES OF WATER SHORTAGE EMERGENCIES TO IMPLEMENT EMERGENCY WATER SHORTAGE RESTRICTIONS AND REGULATIONS”.**

ITEMS PULLED FROM THE CONSENT AGENDA

9.b. Consideration of Statement of Investment Deposits.

Recommended Action: Receive and file the report listing of investment deposits of the City of Arroyo Grande, as of October 31, 2016, November 30, 2016 and December 31, 2016, as required by Government Code Section 53646(b).

In response to questions from Council regarding the investment portfolio summaries, Administrative Services Director stated she would need time to review and re-issue the statements and bring this item back to the Council.

There was unanimous consensus of the Council to table this item until the next regular City Council meeting.

9.e. Consideration of Memorandum of Agreement with the County of San Luis Obispo to Jointly Finance and Construct a Replacement Animal Services Shelter.

Recommended Action: Approve and authorize the Mayor to execute a Memorandum of Agreement (“MOA”) in substantial conformance with the County of San Luis Obispo, and the Cities of Atascadero, Grover Beach, Morro Bay, Pismo Beach, Paso Robles and San Luis Obispo to jointly finance and construct the replacement of an animal services shelter.

Staff responded to questions regarding value engineering, the City’s proportionate share, financing costs, inserting a non-appropriation provision into the Agreement, and the makeup of the Ad Hoc Engineering Team.

Action: Council Member Harmon moved to approve and authorize the Mayor to execute a Memorandum of Agreement (“MOA”) in substantial conformance with the County of San Luis Obispo, and the Cities of Atascadero, Grover Beach, Morro Bay, Pismo Beach, Paso Robles and San Luis Obispo to jointly finance and construct the replacement of an animal services shelter and authorize the City Attorney to include a non-appropriation clause if needed. Council Member Ray seconded, and the motion passed on the following roll call vote:

AYES: Harmon, Ray, Barneich, Brown, Hill

NOES: None

ABSENT: None

9.f. Consideration of Temporary Use Permit No. 16-028; Authorization to Use City Property for a Beer and Food Festival on Saturday, October 14, 2017; Location – Heritage Square Park; Applicant – Arroyo Grande Village Improvement Association; Representative – Bob Lund.

Recommended Action: Adopt a Resolution authorizing the use of City property for a beer and food festival on Saturday, October 14, 2017.

Council Member Ray spoke in support of the festival and requested a condition be added for a designated driver ticket price. Staff confirmed that a condition is already included that provides for a food only ticket price. Mayor Hill noted that he voted no on this item last year because it should be a family event if it is held in a City park.

Action: Council Member Ray moved to adopt a Resolution entitled: **“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE APPROVING TEMPORARY USE PERMIT NO.16-028; AUTHORIZATION TO USE CITY PROPERTY FOR A BEER AND FOOD FESTIVAL ON OCTOBER 14, 2017; LOCATED AT HERITAGE SQUARE PARK; APPLIED FOR BY THE ARROYO GRANDE VILLAGE IMPROVEMENT ASSOCIATION”**. Council Member Barneich seconded, and the motion passed on the following roll call vote:

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

10. PUBLIC HEARINGS

None.

11. OLD BUSINESS

None.

12. NEW BUSINESS

12.a. Consideration of Adoption of the 2016 Update to the Pavement Management Plan and Letters of Support for Transportation Funding Bills SB1 and AB1.

Public Works Director English presented the staff report and recommended that the Council: 1) Adopt a Resolution adopting the 2016 Update to the Pavement Management Plan (PMP); 2) Endorse the “Critical Point Management” methodology for the City’s Pavement Management System; and 3) Authorize the Mayor to sign letters of support for Transportation Funding Bills, AB1 and SB1.

Joe Patterson, Rick Engineering, reviewed the Pavement Condition Index and responded to questions from Council.

Mayor Hill invited public comment. Speaking from the public were: Patty Welsh, commented on the new equipment in the Council Chambers and the ability to clearly see the information being presented; and Mike Drees, Via Bandolero, commented on the estimated cost of needed repairs being double than the current budget and that the roads will continue to deteriorate. No further public comments were received.

Council comments ensued in support of the Pavement Management Plan, the Critical Point Management methodology, and the transportation funding bills. Council Member Harmon commented on SB1 and AB1 stating she could support the provisions that redirect \$300 million

from existing cap and trade funds and \$500 million in vehicle weight fees; however, she stated she had a difficult time supporting the proposed tax increases, such as the 12 cent gas tax increase, the \$38 vehicle registration fee increase, the vehicle registration fee increase on zero emission vehicles, and the 20 cent increase to the diesel excise tax as they would impact taxpayers. She stated she understood it was important as a City to show solidarity, along with the neighboring cities, to maintain the roads, so she would reluctantly support authorizing the Mayor to send the letters.

Action: Council Member Barneich moved to: 1) Adopt a Resolution entitled: **“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADOPTING THE PAVEMENT MANAGEMENT PLAN 2016 UPDATE REPORT”**; 2) Endorse the “Critical Point Management” methodology for the City’s Pavement Management System; and 3) Authorize the Mayor to sign letters of support for Transportation Funding Bills, AB1 and SB1. Mayor Pro Tem Brown seconded, and the motion passed on the following roll call vote:

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

Mayor Hill called for a break at 8:10 p.m. The Council reconvened at 8:19 p.m.

12.b. Consideration of: 1) Participation in the Formation of the South County Homeless Taskforce; and 2) Appointment of a Council Member to Serve as a Representative on the Task Force.

Interim City Manager McFall presented the staff report and recommended that the Council consider: 1) participation in the formation of the South County Homeless Task Force; and 2) appointment of a Council Member to serve as a representative on the task force.

Mayor Hill invited representatives of the Homeless Coalition to address the Council.

Janna Nichols, 5 Cities Homeless Coalition, acknowledged the effort being made and stated she would like to participate in the discussions, and that the taskforce would allow further dialog on how to continually apply and address homeless issues.

Mike Byrd commented that a representative of the Sheriff’s Department should be included on the Task Force.

Council discussion ensued and it was suggested that Laurel Weir, Homeless Services Coordinator; Paavo Ogren, OCSD; Jana Nichols; Caltrans; and the Sheriff’s Department be included in the discussion.

Mayor Hill invited public comment. No public comments were received.

Action: Council Member Barneich moved approval of: 1) participation in the formation of the South County Homeless Task Force; and 2) appointment of Council Member Kristen Barneich to serve as a representative on the task force. Mayor Pro Tem Brown seconded, and the motion passed on the following roll call vote:

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

Prior to consideration of Item 12.c., Mayor Hill recused himself, stepped down from the dais and left the room.

Mayor Pro Tem Brown took over as Presiding Officer.

12.c. Consideration of: 1) Approval of an Investigation into Allegations Against the Mayor of Misconduct; 2) Retention of Liebert Cassidy Whitmore to Conduct an Independent Investigation and Develop Findings of Fact and Recommendations; 3) Appropriation of \$15,000 from the Unappropriated Fund Balance for the Investigation; and 4) Authorization for the Interim City Manager to Enter into an Agreement for the Investigative Services in a Form Approved by the City Attorney.

Interim City Manager McFall presented the staff report and recommended that the Council consider: 1) approval of an investigation into allegations made by members of the public against the Mayor of misconduct; 2) retention of Liebert Cassidy Whitmore to conduct an independent investigation and develop findings of fact and recommendations; 3) appropriation of \$15,000 from the unappropriated fund balance as payment for the investigation; and 4) authorization for the Interim City Manager to enter into an agreement for the investigative services in a form approved by the City Attorney. Interim City Manager McFall also recommended the City Council request the Sanitation District to be part of the investigation and share in the cost. He explained that there is no conflict of interest for Liebert Cassidy Whitmore to be involved if the Sanitation District participates in the investigation; however, if the District declines, then there is a potential for a conflict of interest; therefore, it was requested that the City Council authorize the City Attorney and Interim City Manager to find another firm if the Sanitation District does not agree to a joint investigation.

Mayor Pro Tem Brown invited public comment. Speaking from the public were Ron Alderman, stated that if this does not involve his role as Mayor, than it should be in the purview of the Sanitation District and expressed concern with the cost of the investigation; Debbie Peterson, former Mayor of Grover Beach and current Council Member, spoke in support of the Mayor and suggested that the accusers also be investigated along with fellow Board Members and the new administrator of the Sanitation District; Julie Tacker, stated that these allegations seem to be Sanitation District issues and not the City of Arroyo Grande, stated the \$15,000 could be spent in better ways, referred to Liebert Cassidy Whitmore and stated a conflict exists as they work for the Sanitation District and are too close to be involved, and asked the Council not to take action on this item tonight and to consider the source; Patricia Price, agreed with the previous speaker and stated the Council should save the money; Shirley Gibson, stated she does not know the allegations, but if there are alleged violations of the Brown Act that is resulting in exposure to litigation, then the public needs to know what happened and why; and Mary Lucey, commended Council for bringing this forward and taking action, expressed concern regarding the threat of litigation, and asked that areas of investigation where there has been misinformation should be corrected with an explanation. No further comments were received.

Action: Council Member Ray moved: 1) Approval of an investigation into allegations against the Mayor of misconduct; 2) Request the Sanitation District to join in the investigation and share costs; 3) Retain the law firm of Liebert, Cassidy, Whitmore to conduct the investigation; 4) Appropriate \$15,000 from the unappropriated fund balance for the investigation and authorize the Interim City Manager to enter into the Agreement in a form approved by the City Attorney; 5) If the Sanitation District opts not to join in the investigation, direct the Interim City Manager and City Attorney to vet and select another firm to provide the investigation with the same not to exceed amount of \$15,000, and authorizing the Interim City Manager to enter into an agreement with that firm. Council Member Barneich seconded, and the motion passed on the following roll call vote:

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

Mayor Hill returned to the dais.

13. COUNCIL COMMUNICATIONS

Council Member Ray referred to public comment regarding the lights on the trees and asked if they are on during the day. She also inquired about updating the no smoking ordinance. Interim City Manager stated he would follow up on the issue regarding the lights, and stated that the changes to the smoking ordinance would be coordinated with changes to the medical marijuana ordinance and would come back to the Council in the near future.

In response to a request by Council Member Ray, Interim City Manager McFall also reported on water releases at the dam.

Council Member Barneich provided a summary of statistics for the warming center, stated that the 5 Cities Homeless Coalition has exhausted their funding and is asking for \$5,000 each from all of the South County cities. She requested that when the Mid-Year Budget comes forward, the Council consider allocating the funds at that time. Council Member Ray concurred.

Mayor Hill thanked the members of the 5 Cities Homeless Coalition and Dwayne and Richard DeBlauw for their cooperation with providing a location for the warming shelter. He also reported on his attendance at the UCLA Land Use Seminar.

Mayor Pro Tem Brown noted that Jim Carson spent eleven years on the Traffic Commission and thanked and expressed appreciation to him for his service to the City.

14. COMMUNITY COMMENTS AND SUGGESTIONS

Mayor Hill invited public comment. Speaking from the public was Julie Tacker, who expressed concern about the cost of the redundancy project in light of the fact the plant is old, the location is in the floodplain, it is in the jurisdiction of the Coastal Commission, it is in the tsunami zone, and could flood again; stated that the Recycled Water facility should be moved to a non-flood zone away from the coastline; and that money should be spent on facilities outside of the zone. No further public comments were received.

15. CLOSED SESSION

At 9:31 p.m., City Attorney Heather Whitham announced the Successor Agency would adjourn to closed session to consider the following item:

SUCCESSOR AGENCY:

- a) **CONFERENCE WITH REAL PROPERTY NEGOTIATOR** pursuant to Government Code Section 54956.8:
Property: APN: 006-151-027; Located at Faeh Avenue and El Camino Real
Agency Negotiators: Debbie Malicoat, Finance Officer; Marty Indvik, Lee & Associates
Negotiating Parties: ELA Foods, Inc.
Under Negotiation: Price and terms of payment for sale of property

Adjourned to closed session.

16. RECONVENE TO OPEN SESSION:

At 9:39 p.m., the Council reconvened to open session. City Attorney Whitham announced that the Successor Agency met in closed session and unanimously agreed to modify the time for satisfying governmental approvals to 120 days from the date the entitlement application is deemed complete.

ADJOURNMENT

Mayor Hill adjourned the Special Meeting at 9:42 p.m.

/s/Jim Hill, Mayor

ATTEST:

/s/Kelly Wetmore, City Clerk

(Approved at CC Mtg 02-28-2017)