

## **ACTION MINUTES**

### **REGULAR MEETING OF THE CITY COUNCIL TUESDAY, JUNE 12, 2018 COUNCIL CHAMBERS, 215 E. BRANCH STREET ARROYO GRANDE, CALIFORNIA**

#### **1. CALL TO ORDER**

Mayor Hill called the City Council Meeting to order at 6:05 p.m.

#### **2. ROLL CALL**

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

Staff Present: City Manager Jim Bergman, City Attorney Heather Whitham, Director of Legislative and Information Services/City Clerk Kelly Wetmore, Director of Administrative Services Debbie Malicoat, Director of Public Works Bill Robeson, Interim Director of Recreation Services, Chief of Police Beau Pryor, Director of Community Development Teresa McClish, Associate Planner Kelly Heffernon, and Planning Manager Matt Downing

#### **3. MOMENT OF REFLECTION**

#### **4. FLAG SALUTE**

Billy Mitchell, representing South County Presenters Toastmasters, led the Flag Salute.

#### **5. AGENDA REVIEW**

Following a brief discussion regarding the order of agenda items, Council Member Harmon moved to move Item 12.a. up on the Agenda following consideration of the Consent Agenda. Council Member Brown seconded, and the motion passed unanimously by voice vote.

##### **5.a. Closed Session Announcements.**

None.

##### **5.b. Ordinances Read in Title Only.**

Council Member 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. COMMUNITY COMMENTS AND SUGGESTIONS**

Mayor Hill invited public comment. Speaking from the public were Patty Welsh, Arroyo Grande, expressing concerns regarding impacts to the Miner's Hardware parking lot during the Strawberry Festival, concerns regarding traffic on Huasna Road, and requested that law enforcement do something about the traffic hazards; Todd Mitchell, Grover Beach, stated he is part of the Spectrum Center using Camp Arroyo Grande and stated they were happy to be back; Fran Askins, Arroyo Grande, referred to the proposed project on East Cherry Avenue and expressed opposition to opening up Launa Lane for emergency access; and Coleen Tooley, expressed opposition and concerns with the proposed project on East Cherry Avenue with regard to traffic and water. No further comments were received.

**8. CITY MANAGER/DIRECTOR REPORTS**

There were no reports.

**9. CONSENT AGENDA**

In response to questions by Council Member Barneich regarding the Grace Lane Assessment District (Item 9.g.) as it relates to the large fund balance, Director of Public Works Robeson stated that there are a number of large capital projects that are managed within the District, including maintenance every five years of the long driveway to the affordable housing units, maintenance of the large open space area, and annual weed abatement. Public Works Director Robeson noted that annual weed abatement generally takes place in May; however, a contract is currently being negotiated and weed abatement is anticipated to take place in June or July.

Mayor Hill invited public comment on the consent agenda items. No public comments were received.

**Action:** Council Member Barneich moved, and Council Member Brown seconded the motion to approve Consent Agenda Items 9.a. through 9.j., with the recommended courses of action. The motion passed on the following roll-call vote:

**AYES:** Barneich, Brown, Harmon, Ray, Hill

**NOES:** None

**ABSENT:** None

**9.a. Consideration of Cash Disbursement Ratification.**

**Action:** Ratified the listing of cash disbursements for the period May 16, 2018 through May 31, 2018.

**9.b. Consideration of Fiscal Year 2018-19 Appropriation Limit.**

**Action:** Adopted a Resolution entitled: ***“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADOPTING A TAX PROCEEDS EXPENDITURE APPROPRIATION LIMIT FOR FISCAL YEAR 2018-19”.***

**9.c. Consideration of Approval of Minutes.**

**Action:** Approved the minutes of the Regular City Council Meeting of May 22, 2018 and the Special City Council Meeting of May 29, 2018, as submitted.

**9.d. Consideration of Amendment No. 1 to Agreement for Consultant Services with Arroyo Grande & Grover Beach Chamber of Commerce.**

**Action:** Approved and authorized the Mayor to execute Amendment No. 1 to the Agreement for Consultant Services with the Arroyo Grande & Grover Beach Chamber of Commerce for administration of the Arroyo Grande Tourism Business Improvement District.

**9.e. Consideration of Resolutions for the 2018 General Municipal Election for the Election of Certain Officers of the City.**

**Action:** 1) Adopted a Resolution entitled: ***“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES”;*** 2) Adopted a Resolution entitled: ***“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN LUIS***

**OBISPO TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE”; and 3) Adopted a Resolution entitled: “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018”.**

**9.f. Consideration of Resolution Declaring Surplus Property.**

**Action:** Adopted a Resolution entitled: **“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DECLARING AN EXISTING MILITARY GENERATOR MOUNTED ON A UTILITY TRAILER AS SURPLUS PROPERTY AND AUTHORIZING ITS TRANSFER TO THE ALLAN HANCOCK COLLEGE POLICE ACADEMY”.**

**9.g. Consideration of Approval of Engineer’s Reports and Adoption of Resolutions Declaring the City’s Intention to Levy and Collect Assessments for the Parkside Village Assessment District, Grace Lane Assessment District and Landscaping and Lighting District No. 1, within Tract 1769, for Fiscal Year 2018-2019.**

**Action:** 1) Approved the Engineers’ Reports for the Parkside Village Assessment District, Grace Lane Assessment District, and Landscaping and Lighting Assessment District No. 1, within Tract 1769, for Fiscal Year 2018-2019; 2) Adopted Resolutions entitled: **“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DECLARING ITS INTENTION TO LEVY AND COLLECT ANNUAL ASSESSMENTS RELATED TO THE PARKSIDE VILLAGE ASSESSMENT DISTRICT FOR FISCAL YEAR 2018-2019”;** **“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DECLARING ITS INTENTION TO LEVY AND COLLECT ANNUAL ASSESSMENTS RELATED TO THE GRACE LANE ASSESSMENT DISTRICT FOR FISCAL YEAR 2018-2019”;** **“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DECLARING ITS INTENTION TO LEVY AND COLLECT ANNUAL ASSESSMENTS RELATED TO THE ARROYO GRANDE LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 1, WITHIN TRACT 1769, FOR FISCAL YEAR 2018-2019”;** and 3) Set a public hearing for June 26, 2018 at 6:00 p.m. for the Parkside Village Assessment District, Grace Lane Assessment District, and Landscaping and Lighting Assessment District No. 1, within Tract 1769.

**9.h. Consideration of an Award of Contract to G. Sosa Construction, Inc. for Construction of the 2018 Concrete Repairs Project, PW 2018-03.**

**Action:** 1) Awarded a contract for the 2018 Concrete Repairs Project to G. Sosa Construction, Inc. in the amount of \$128,900; and 2) Authorized the City Manager to approve change orders for 10% of the contract amount, \$12,890 for unanticipated costs during the construction phase of the project.

**9.i. Consideration of an Award of Contract to V. Lopez Jr. & Sons G.E.C., Inc. for Construction of the 2018 Street Repairs Project, PW 2018-04.**

**Action:** 1) Awarded a contract for the 2018 Street Repairs Project to V. Lopez Jr. & Sons, G.E.C., Inc. in the amount of \$705,350.90; and 2) Authorized the City Manager to approve change orders for 10% of the contract amount, \$70,535.09 for unanticipated costs during the construction phase of the project.

**9.j. Consideration of Agreement of Lease Renewal for Portion of Car Corral Public Parking Lot Located Between 103 and 109 E. Branch Street for an Additional Five-Year Term from August 1, 2018 to July 31, 2023.**

**Action:** 1) Approved the Agreement of Lease ("lease") with The David Family Trust, Nancy T. Loomis Revocable Living Trust, and the Matthews Children's 1997 Irrevocable Trust; and 2) Authorized the Mayor to execute the lease on behalf of the City.

The next agenda item was heard out of order.

**12. NEW BUSINESS**

**12.a. Consideration of Options Relating to Amending the Arroyo Grande Municipal Code Regarding the City Licensing of Cannabis Delivery Services.**

City Manager Bergman presented the staff report and recommended the Council: 1) Provide direction related to the City Council's intent to prohibit all commercial cannabis activities in the City other than delivery from businesses that have a legally established premises located outside of the City Limits; and 2) Provide staff direction to amend Chapter 16.62 of the Arroyo Grande Municipal Code (AGMC) and repeal the City's Cannabis Delivery Service licensing provisions in AGMC Chapter 5.95 of Title 5, so that any State licensed cannabis retailer with its physical premises located outside of the City can deliver cannabis into the City. Staff responded to questions from Council.

Cynthia Gonzales and Tami Peluso, representing Elite Care, responded to questions from Council.

Mayor Hill invited public comment. Speaking from the public were: Teresa Mangano, in support of Elite Care, explained that her mother has cancer and that alternative methods have helped keep her mom pain free and stated that delivery service is needed in this area; LeAnn, in support of Elite Care and about the cannabis industry; Speaker (no name provided), commented that this is a confusing and complicated issue and stated there is no simple way to harmonize the City ordinance with State regulations, and encouraged the Council to the extent possible to find a way to resolve the issue; Tony Batista, Arroyo Grande, in support of medical cannabis and Elite Care delivery services; Carmen Velasco, in support of Elite Care and the quality delivery services they provide; Robert Olson, acknowledged that the Council is not wanting to deny Elite Care the ability to deliver, stated that the issue is where to store the product, and opposed a commercial location in the City expressing concern about the potential for increased crime; Devin Ward, ALS patient, spoke about his need for medical cannabis delivery for his treatment; Charlie Doster, in support of medical cannabis and Elite Care, his experience as a business owner in the City, and suggested that the Council consider an urgency ordinance to continue allowing delivery services; Todd Mitchell, in support of medical cannabis and Elite Care's delivery services, and encouraged the Council to approve alternative 3 to amend the City's Municipal Code to allow non-storefront cannabis retailers to locate their physical premises in the City; Jessica, Arroyo Grande, spoke about the benefits of medical cannabis and cannabis delivery services; Heidi Seastrand, in support of Elite Care and medicinal cannabis delivery services; Adam Laurent, in support of alternative 3 to allow non-storefront cannabis retailers to locate in the City, provided background information on what other cities have done, and suggested the Council look at an urgency ordinance; Ginger Johnson, asked the Council to reconsider revocation of Elite Care's delivery

permit; Patricia Price, commented that she would hate to lose this resource for medicinal cannabis delivery and spoke in support of Elite Care; Cynthia Gonzalez, Elite Care, stated she is a medical cannabis patient, commented on why her business has been put on pause due to changes in State regulations, urged the Council to allow them to execute their business plan to serve the residents in Arroyo Grande and supported alternative #3; Tami Peluso, Elite Care, stated that there is a need for further education with regard to State regulations and urged the Council to think of the patients and supported alternative #3. No further public comments were received.

**Action:** Council Member Ray stated she would like to see Elite Care continue to be able to continue operating temporarily and moved to develop an urgency ordinance that lasts through December 31, 2018, and along with that, she would like an advisory vote on the ballot in November with three things: 1) Does the City want premises for cannabis; 2) Does the City want more than that, such as retail stores, and 3) Does the City want to tax it. Mayor Hill seconded the motion.

Brief discussion ensued. City Attorney Whitham stated that the State has revoked Elite Care's license and the only way the State would reissue the license would be if the City authorized Elite Care to conduct commercial cannabis activity from the requested location or any other location in the City. She explained that commercial cannabis activity is prohibited under the City's Ordinance. With regard to passing an urgency ordinance, she explained that the Council has to make findings that the ordinance is necessary for the immediate preservation of the public peace, health, or safety, include a declaration of the facts that constitute that emergency, and must be passed by a 4/5 vote of the Council. She stated if the urgency ordinance were challenged, she did not know if there were a true emergency in this case as there are other avenues for patients to receive their medication. Following additional Council comments, the motion failed on the following roll-call vote:

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

**Action:** Council Member Barneich moved to maintain the prohibition on all commercial cannabis activity, but modify the Arroyo Grande Municipal Code to instead rely on the new State licensing and delivery regulations as they relate only to delivery services and to bring that language back to Council. Council Member Brown seconded, and the motion passed on the following roll-call vote:

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

Mayor Hill called for a break at 9:58 p.m. The Council reconvened at 10:07 p.m.

## **10. PUBLIC HEARINGS**

**10.a. Consideration of Appeal Case No. 18-001; Appeal of Determination Relating to Conditional Use Permit 18-001; Construction of a 1,784 Square Foot Accessory Dwelling Unit in the General Agricultural Zoning District; Location - 1212 Flora Road; Applicant – Murat & Nancy Akalin; Architect – Bill Isaman, Isaman Design.**

Director of Community Development McClish provided introductory comments. Planning Manager Downing presented the staff report and stated the Planning Commission recommended the City Council adopt a Resolution denying Appeal Case No. 18-001 and upholding its denial of Conditional Use Permit 18-001. Staff responded to questions from Council.

Murat Akalin, applicant/appellant, provided a presentation of the amended project and spoke in support of findings to approve the project.

Mayor Hill opened the public hearing. Speaking from the public was: Vivian Krug-Cotton, stated she originally opposed the project, but after the applicant agreed to modify the location, she is now in support of the project; Speaker (did not state name), spoke in support of the project. Hearing no further public comments, Mayor Hill closed the public hearing.

**Action:** Council Member Ray moved to adopt a Resolution entitled: ***“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE APPROVING APPEAL CASE NO. 18-001 AND APPROVING CONDITIONAL USE PERMIT 18-001; LOCATED AT 1212 FLORA ROAD; APPLIED FOR BY MURAT & NANCY AKALIN”***, and further, to add wording to the Resolution that the Council approves the project *“as revised and presented to the City Council on June 12, 2018 as set forth in Exhibit B”*. Council Member Barneich seconded, and the motion passed on the following roll-call vote:

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

At 11:00 p.m., pursuant to Council policy, Council Member Barneich moved to continue the meeting past 11:00 p.m. to 11:30 p.m., Mayor Pro Tem Ray seconded, and the motion passed unanimously by voice vote.

Mayor Hill requested, and the Council concurred, to move Item 11.b. up on the agenda to accommodate the consultants that were present to provide presentations.

## **11. OLD BUSINESS**

### **11.b. Consideration of Proposals for Tourism Marketing Services, Selection of a Marketing Firm, and Approval of an Agreement for Consultant Services.**

Recommended Action: 1) Review proposals received from Catalyst Marketing Company and Verdin Marketing for AGTBID marketing services; 2) Select a marketing firm; and 3) Authorize the City Manager to enter into an Agreement for Consultant Services in an amount not to exceed \$165,000 in a form approved by the City Attorney.

City Manager Bergman provided introductory comments and introduced Jocelyn Brennan, President/CEO, Arroyo Grande Chamber of Commerce.

Ms. Brennan introduced Vern Crow and the marketing team from Catalyst Marketing who presented their proposal and responded to questions from Council.

At 11:30 p.m., pursuant to Council policy, Council Member Barneich moved to continue the meeting until 12:00 a.m. Mayor Pro Tem Ray seconded, and the motion passed unanimously by voice vote.

Ms. Brennan introduced Mary Verdin and the marketing team from Verdin Marketing who presented their proposal and responded to questions from Council.

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

**Action:** Council Member Ray moved to select Verdin Marketing as the tourism marketing services firm for the Arroyo Grande Tourism Business Improvement District. Council Member Brown seconded, and the motion passed on the following roll-call vote:

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

**Action:** Council Member Harmon moved to authorize the City Manager to enter into an Agreement for Consultant Services in an amount not to exceed \$165,000 in a form approved by the City Attorney. Council Member Barneich seconded, and the motion passed on the following roll-call vote:

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

At 12:00 a.m., pursuant to Council policy, Council Member Barneich moved to continue the meeting until 12:10 a.m. Council Member Harmon seconded, and the motion passed unanimously by voice vote.

**11.a. Consideration of Fiscal Year 2018-19 and 2019-20 Biennial Budget.**

Director of Administrative Services Malicoat presented the staff report and recommended the Council adopt a Resolution approving the FY 2018-20 Biennial Budget. Staff responded to questions from Council.

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

**Action:** Council Member Barneich moved to adopt a Resolution entitled: ***“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADOPTING THE FISCAL YEAR 2018-19 AND FISCAL YEAR 2019-20 BIENNIAL BUDGET AND MAKING APPROPRIATIONS FOR THE AMOUNT BUDGETED”***. Council Member Brown seconded, and the motion passed on the following roll-call vote:

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

**13. COUNCIL COMMUNICATIONS**

Mayor Pro Tem Ray requested a discussion item regarding the placement of an advisory measure on the November ballot be placed on the next meeting agenda. Council Member Brown concurred.

**14. COMMUNITY COMMENTS AND SUGGESTIONS**

None.

**15. CLOSED SESSION**

None.

**16. ADJOURNMENT**

Mayor Hill adjourned the meeting at 12:09 a.m.

**/s/Jim Hill, Mayor**

**ATTEST:**

**/s/Kelly Wetmore, City Clerk**

**(Approved at CC Mtg 07-24-2018)**