



MEETING MINUTES

CITY COUNCIL

CLOSED SESSION MEETING

Wednesday, September 15, 2021, 5:00 P.M.

Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

THIS MEETING WILL BE HELD VIRTUALLY AND IS COMPLIANT WITH THE GOVERNOR’S EXECUTIVE ORDERS ALLOWING FOR A DEVIATION OF TELECONFERENCE RULES REQUIRED BY THE BROWN ACT.

Join the Zoom Meeting to participate live at:

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CALL TO ORDER

Mayor Peake called the meeting to order at 5:00 p.m. City Clerk Kandell conducted roll call with the following Council present via Zoom Meeting: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.

APPROVAL OF AGENDA

Action: Upon motion by Councilmember Coletti and seconded by Councilmember Amelio, the Council approved the agenda.

Motion carried 7-0, by the following roll call vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.

NOES: None.

ABSENT: None.

CLOSED SESSION

PUBLIC COMMENT ON CLOSED SESSION MATTERS

No public comment was received.

- A Public Employment, (Government Code §54957)
Title: City Manager Performance Evaluation



DRAFT MEETING MINUTES

**CITY COUNCIL
REGULAR MEETING**

Wednesday, September 15, 2021, 6:00 P.M.

Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA.

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MEETING INSTRUCTIONS

The public may also view the meeting on the Peninsula Channel 25.

CALL TO ORDER

Mayor Peake called the meeting to order at 6:00 p.m. City Clerk Kandell conducted roll call with the following Council present via Zoom Webinar: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, and Poduri. Councilmember Tomlinson arrived at the meeting at approximately 6:03 p.m.

PLEDGE OF ALLEGIANCE:

Councilmember Poduri led the pledge of allegiance.

1. APPROVAL OF AGENDA

Action: Mayor Peake recommended Closed Session items 15A and 15B be considered no later than 9:30 p.m.

Action: Upon motion by Councilmember McAdams and seconded by Councilmember Amelio, the Council approved the agenda.

Motion carried 7-0, by the following roll call vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.

NOES: None.

ABSENT: None.

2. **PRESENTATIONS**

3. **COUNCIL AND STAFF ANNOUNCEMENTS (City-Related Items Only)**

A. Reports on Closed Session items from September 9, and September 15, 2021, meetings:

9/8/2021

Conference with Real Property Negotiators (Government Code § 54956.8)

Property: Portions of Sloat Avenue and Ocean View Boulevard

City Negotiators: City Manager Ben Harvey, City Attorney David Laredo, Attorney Elizabeth Hull, Best Best & Krieger

Negotiating Party(ies): Debra Geiler and Mike Zimmerman

Under negotiation: Price and terms of payment

City Attorney David Laredo reported this single item was discussed at the Special Meeting closed session convened at 4:30 p.m. on September 8, 2021. Council conferred with City Negotiators City Manager Harvey, City Attorney Laredo, and Special Counsel Elizabeth Hull of Best Best & Krieger to review process and substance related to price and terms of payment for portions of Sloat Avenue and Ocean View Boulevard associated with possible development of the ATC site.

Upon motion by Councilmember Tomlinson and seconded by Councilmember McAdams, Council unanimously authorized staff to prepare a nonbinding letter of intent to be shared with developers of the ATC site stating the City’s present intention to negotiate in good faith for sale of the portion of land under discussion.

Motion carried 7-0, by the following roll call vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.

NOES: None.

ABSENT: None.

Upon motion by Councilmember Coletti and seconded by Councilmember McAdams, Council unanimously voted to continue the discussion to an uncertain future date.

Motion carried 7-0, by the following roll call vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.

NOES: None.

ABSENT: None.

The meeting adjourned at 5:30 p.m.

9/15/2021

Public Employment, (Government Code § 54957)

Title: City Manager Performance Evaluation

City Attorney Laredo reported Council reviewed the process and format to be used for future performance evaluations of the City Manager. No substantive action was taken.

Upon motion by Councilmember Tomlinson and seconded by Councilmember Amelio, Council determined to continue its discussion on this matter to October 6, 2021, at a 5:00 p.m.

Motion carried 7-0, by the following roll call vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.
NOES: None.
ABSENT: None.

The closed session was adjourned at 5:55 p.m.

B. Council and staff made general announcements

4. **GENERAL PUBLIC COMMENT**

Public comment was received from Anthony Ciani and Dan Miller.

CONSENT AGENDA

Action: Consent Agenda item 9A was pulled and considered immediately following the Consent Agenda. Consent Agenda item 9B was pulled and considered as Regular Agenda item 12A.

Action: Upon motion by Councilmember Coletti and seconded by Councilmember Amelio, Council approved the Consent Agenda as amended.

Motion carried 7-0, by the following roll call vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.
NOES: None.
ABSENT: None.

5. **APPROVAL OF CITY COUNCIL MEETING MINUTES**

A. Minutes of the September 1, 2021, City Council Closed Session and Regular Meetings

Action: Approved minutes.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

B. Minutes of the September 8, 2021, Special Closed Session Meeting

Action: Approved minutes.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

6. **RESOLUTIONS**

7. **ORDINANCES**

A. Dissolution of Golf Links Advisory Committee

Action: Held second reading and adopted Ordinance No. 21-024 repealing in its entirety Pacific Grove Municipal Code 3.42.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

B. Special Meetings and Closed Sessions

Action: Held second reading and adopted Ordinance No. 21-025 to amend Pacific Grove Municipal Code section 2.04.050 related to special meetings and closed sessions.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

8. **REPORTS – INFORMATION ONLY**

A. Check Register Report - August 2021

Action: Received the report.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

B. Core Revenue Status Report - August 2021

Action: Received the Core Revenue Status Report for August 2021.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

C. Preliminary Year-End Core Revenue Status Report for FY20/21

Action: Received the Preliminary Year-End Core Revenue Status Report for FY20/21

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

9. **REPORTS – REQUIRING ACTION**

A. Ratification of New Local Emergency Actions *This item was pulled and considered immediately following the Consent Agenda*

Reference: Ben Harvey, City Manager

Recommended Action: Receive report of emergency directives/modifications and discuss circumstances needing emergency response.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

B. Amend Archeological Monitoring Agreements with Patricia Paramoure for the ASBS and SCSMP Projects *This item was pulled and considered as Regular Agenda item 12A.*

Reference: Joyce Halabi, Deputy Public Works Director

Recommended Action:

1. Authorize Amendment #2 for the archeological monitoring agreement with Patricia Paramoure Archeological Consulting for the ASBS Capture and Diversion Project increasing the total contract amount by \$42,836.38, for a total contact amount of \$117,586.38
2. Authorize Amendment #2 for archeological monitoring agreement with Patricia Paramoure Archeological Consulting for the Sewer Collection System Master Plan projects increasing the total contract amount by \$9,377.65, for a total contact amount of \$118,627.45

CEQA: Environmental Impact Report

C. Proposed Bylaws Amendments

Action: Supported the proposed bylaws amendments prior to Delegate Jenny McAdams' vote at the Closing Luncheon and General Assembly at the League of California Cities Annual Conference.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

D. Planning Commission Appointment

Action: Confirmed appointment of Don Murphy to the Planning Commission.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

10. **MEETING MINUTES OF COMMISSIONS, BOARDS, AND COMMITTEES**

9.A. Ratification of New Local Emergency Actions *This item was pulled from the Consent Agenda*

No public comment was received.

Action: Council received report of emergency directives/modifications and discussed circumstances needing emergency response.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

REGULAR AGENDA

11. **PUBLIC HEARINGS**

A. Jewell Park Tree Appeal

Mayor Peake opened the public hearing.

City Attorney David Laredo defined a Quasi-Judicial Hearing.

Mayor Peake reported ex parte communication with the City Arborist at the elm tree regarding the sidewalk, the condition of tree, and safety. No other members of Council reported ex parte communications.

Public Works Director Dan Gho presented to Council.

Original appellants Charles Schwartz and Patty Purwin were allowed 10 minutes to present to Council.

Public comment was received from Thom Akeman, Cari Rotoli, Lisa Ciani, Carol Marquardt, Anthony Ciani, telephone caller 333, April Zobel, Jennifer Haydu, Kim Akeman, Rebecca Lee, and Inge Lorentzen Daumer.

Mayor Peake closed the public hearing.

Action: Upon motion by Councilmember Tomlinson and seconded by Councilmember Amelio, Council held a de novo public hearing for tree removal permit application 21-199, approved Tree Permit 21-199 allowing the removal of one American Elm at Jewel Park and overturning the August 17, 2021 decision of the Beautification and Natural Resource Commission (BNRC) to uphold the Tree Appeal, submitted by Patricia Purwin and Charles Schwartz, to include direction to Public Works to plant two new trees in Jewell Park.

Motion carried 6-1, by the following roll call vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, McAdams, Poduri, and Tomlinson.

NOES: Councilmember Coletti.

ABSENT: None.

Upon motion by Mayor Peake and seconded by Councilmember Amelio, Council adopted the following Finding: It is recommended that the subject tree be removed and replaced with a large specimen tree within the park that would allow for proper development. The City has no other options but to remove the tree. The tree has a significant risk rating and is a liability for the City. Per Pacific Grove Municipal Code section 12.20.040, Pruning or Removal of Protected Trees, this removal is an allowable action. The PGMC sets forth acceptable criteria for removal of a Protected Tree include (1) risk/safety assessment level of high or extreme threatening potential pedestrians and cars passengers.

Motion carried 6-1, by the following roll call vote:

- AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, McAdams, Poduri, and Tomlinson.
- NOES: Councilmember Coletti.
- ABSENT: None.

CEQA: Categorical Exemption, CEQA Guidelines Section 15304, Class 4, Minor Alterationsto Land

Upon motion by Mayor Peake and seconded by Councilmember Coletti, the council voted 7-0 to recess until 8:30 p.m. Motion carried 7-0, by unanimous vote.

12. **UNFINISHED AND ONGOING BUSINESS**

- A. Amend Archeological Monitoring Agreements with Patricia Paramoure for the ASBS and SCSMP Projects *This item was pulled and considered as Regular Agenda item 12A.* Public comment was received from Lisa Ciani, Inge Lorentzen Daumer, and Anthony Ciani.

Action: Upon motion by Mayor Pro Tem Smith and seconded by Councilmember McAdams, Council authorized Amendment #2 for the archeological monitoring agreement with Patricia Paramoure Archeological Consulting for the ASBS Capture and Diversion Project increasing the total contract amount by \$42,836.38, for a total contract amount of \$117,586.38; and authorized Amendment #2 for archeological monitoring agreement with Patricia Paramoure Archeological Consulting for the Sewer Collection System Master Plan projects increasing the total contract amount by \$9,377.65, for a total contract amount of \$118,627.45.

Motion carried 6-1, by the following roll call vote:

- AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, McAdams, Poduri, and Tomlinson.
- NOES: Councilmember Coletti.
- ABSENT: None.

CEQA: Environmental Impact Report

13. **NEW BUSINESS**

- A. City Council Salary and Health Benefits *This item was continued to a future meeting once completed information for this has been obtained.*

Reference: Jenny McAdams, Councilmember

Recommended Action: Discuss City Council total compensation and direct the City Manager to bring back a draft ordinance, resolution, and policy amendment for City Council review.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines

Section 15378

- B. ADA Assistance Program
Public comment was received from Anthony Ciani.

Action: Upon motion by Councilmember Amelio and seconded by Mayor Peake, Council authorized the Mayor to enter into a Memorandum of Understanding between the California Joint Powers Insurance Authority (CJPIA) and The City of Pacific Grove for purposes of authorizing work related to CJPIA’s Americans with Disabilities Act Assistance Program.

Motion carried 7-0, by the following roll call vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.
 NOES: None.
 ABSENT: None.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

14. **FULL PRESENTATIONS**

15. **CLOSED SESSION**

- A. Conference with Legal Counsel - Existing Litigation (§ 54956.9)
Mark A. Enayati, Petitioner and Plaintiff, v. City of Pacific Grove; and Does 1 through 25
Monterey County Superior Court Case No. 21CV002786

City Attorney Laredo briefed Council regarding the August 30, 2021, Complaint and Petition filed by Plaintiff Mark Enayati: ***Mark A. Enayati, Petitioner and Plaintiff, v. City of Pacific Grove; and Does 1 through 25***; Monterey County Superior Court Case No. 21CV002786. The action relates to property owned by Mr. Enayati at 212, 214, and 216 Fountain Ave.

Upon motion by Councilmember Amelio and seconded by Councilmember McAdams, Council authorized defense of the matter; instructed staff to refer the lawsuit to the Salinas law firm of Noland, Hamerly, Etienne & Hoss under direction of the City Attorney, with the request that Heidi A. Quinn hold a key role in defense efforts.

Motion carried 6-0-1, by the following roll call vote:

AYES: Mayor Peake, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.
 NOES: None.
 ABSENT: Mayor Pro Tem Smith.

- B. Conference with Legal Counsel - Existing Litigation (§ 54956.9) *Blue Wave Enterprises, LLC. & Jon Kramer v. City of Pacific Grove*
Monterey County Superior Court 21CV002740

City Attorney Laredo briefed Council regarding the August 25, 2021, Petition for Writ of Mandate filed by Plaintiffs: ***Blue Wave Enterprises, LLC. & Jon Kramer v. City of Pacific Grove*** - Monterey County Superior Court 21CV002740. The action relates to property at 176 Central

Avenue.

Upon motion by Councilmember Amelio and seconded by Councilmember McAdams, Council authorized defense of the matter; instructed staff to refer the lawsuit to the San Francisco law firm of Shute, Mihaly & Weinberger as lead trial counsel under direction of the City Attorney.

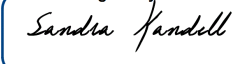
Motion carried 6-0-1, by the following roll call vote:

AYES: Mayor Peake, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.
 NOES: None.
 ABSENT: Mayor Pro Tem Smith.

ADJOURNMENT

After announcing Closed Session items 15A and 15B, Council commenced closed session at 9:16 p.m. Council adjourned at 10:02 p.m in honor of Gerry Low-Sabado.

Respectfully Submitted,

DocuSigned by:

 Sandra Kandell
 City Clerk

Approved by Mayor: DocuSigned by: Bill Peake Date 10/9/2021
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Attest by City Manager: DocuSigned by: Ben Haney Date 10/13/2021
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