

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MONTEREY
TUESDAY, May 6, 2003
4:00 – 5:30 and 7:00 – 11:00 P.M.
COUNCIL CHAMBER, FEW MEMORIAL HALL
MONTEREY, CALIFORNIA

CALL TO ORDER:

Mayor Albert called the meeting to order at 4:05 p.m.

Council Members

Present: Councilmembers Canepa, Della Sala, Roberson, Vreeland, Mayor Albert
Absent: None

City Staff:

Present: City Manager, City Attorney, City Clerk, Assistant City Manager, Community Development Director, Finance Director, Public Facilities Director, Fire Chief, Recreation and Community Services Director, Library Director, Police Chief, Deputy Public Works Director, Principal Personnel Analyst, Property & Housing Manager

CONSENT ITEMS

City Manager Meurer recommended that the Public Hearing for Item #1 be opened during the afternoon session and continued to the evening because separate advertisements had noticed the hearing for 4:00 and 7:00 p.m. He said that a member of the public requested an opportunity to comment on Item #C10.

On a motion by Councilmember Canepa, seconded by Councilmember Vreeland, and carried by the following vote, the City Council approved the Consent Agenda, except Item C10:

AYES: 5 COUNCILMEMBERS: Canepa, Della Sala, Roberson, Vreeland, Albert
NOES: 0 COUNCILMEMBERS: None
ABSENT: 0 COUNCILMEMBERS: None

Approval of Minutes

- C1. April 10, 2003
Action: Approved
- C2. April 14, 2003 (City Clerk)
Action: Approved
- C3. April 15, 2003 (City Clerk)
Action: Approved
- C4. April 23, 2003 (City Clerk)
Action: Approved

Ordinances

- C5. Second Reading – Amending Chapter 22 of the City Code to Prohibit Loitering at or near Public Restrooms (Police)
Action: Adopted Ordinance No. 3322

Resolutions

- C6. Authorizing Annual Adjustment to Marina Berthing Rates (Public Facilities)
Action: Adopted Resolution No. 03-46
- C7. Authorizing Acceptance of Offer to Dedicate – Transfer of Lateral Easement for Public Access to Beach at the Rear of Spindrift Inn on Cannery Row from Coastal Conservancy to City of Monterey (APNs: 001-021-01 and 001-021-02) (Community Development)
Action: Adopted Resolution No. 03-47
- C8. Authorizing Retention of Outside Auditor for Fiscal Year 2002-03 (Finance)
Action: Adopted Resolution No. 03-48
- C9. Fund Transfers for Casanova Oak Knoll Community Center Ceiling Fans, Via Paraiso Park Backboard and Appropriation of Funds for El Estero Lake Improvements Phase III *****NIP***** (Public Works)
Action: Adopted Resolution No. 03-49

Other

- C10. Approving Conditions for Use Permit for 2450 N. Fremont (Community Development Department)
Action: Removed from Consent; discussed; approved with minor amendments (3-2, Roberson, Vreeland voting no)

City Manager Meurer introduced the item, and the City Attorney reviewed the conditions. He noted that these conditions are far more strict than those for other, similar uses. He stated that while condition #16 contains no objective measurement, it holds the applicant to two standards—the City Code and their own sound study—and uses the City's normal enforcement procedures.

Community Development Director Wojtkowski asked Council to amend condition 6d to indicate "office retail" buildings instead of "all" buildings. On question, Mr. Wojtkowski clarified that the property owner must approve the wall referred to in condition 6a. On question, City Attorney Connors explained condition 6c regarding the hours for trash pick up.

Mayor Albert opened the floor for public comment. Richard Ruccello, Casanova Oak Knoll Neighborhood Association, said that the noise criteria as set forth in condition #16 are subjective and asked if an objective guideline could be established. Gary Carlson, 25 Melway Circle, spoke regarding condition 6a, saying that he hopes that the ARC will take a close look at the construction of the wall as it relates to the topography so it is not too high. Carl Maxie, EMC Planning, spoke in support of the conditions as presented in the staff report. Having no further requests to speak, Mayor Albert returned the matter to the City Council.

City Attorney Connors explained that the City's noise ordinance is subjective and works very well when combined with the City's enforcement procedures. Councilmembers discussed condition #16, noting that complaints would be recorded and the strict standard requiring installation of a decibel meter if there are recurring complaints.

Councilmember Vreeland, moved to approve the conditions for the Use Permit, except #2 and #16, adding that the ARC pay particular attention to the masonry wall, referenced in condition 6a, on the residents' side, and the motion died for lack of a second.

It was moved by Councilmember Della Sala, seconded by Councilmember Canepa, and carried by the following vote, to approve the Conditions of Approval for the Use Permit, as presented, except an addition to #6a that the ARC pay particular attention to the height of the retaining wall and modifying #6d changing "all" to "office retail" building:

AYES: 3 COUNCILMEMBERS: Canepa, Della Sala, , Albert
NOES: 2 COUNCILMEMBERS: Roberson, Vreeland
ABSENT: 0 COUNCILMEMBERS: None

C11. 3051 Monterey Salinas Highway - Approving Group I Water Use to be Placed on Commercial Waiting List - 0.706 Acre Feet of Water for New Religious Assembly, "St. John's Greek Church" (Community Development)

Action: Approved

C12. Approving Addition of City of Monterey to Proposed State Legislation (Assembly Bill 1412) Regarding Permission to Bring Increase in Sales Tax Before Voters (City Manager)

Action: Approved

*****End of Consent Agenda*****

PUBLIC COMMENTS

Michele Knight, Adventures by the Sea, voiced concerns regarding a notice from the City advising that portions of the recreation trail would be closed from May through August. She stated that construction during the busiest time of the year would be inconvenient for tourists and could cause adverse financial impacts to her business. She suggested delaying construction. Ron Allen, Bay Bikes, voiced similar concerns regarding the closing of portions of the recreation trail throughout the summer, but supported making the improvements to the trail when it would be less disruptive.

PUBLIC HEARING

1. Planning Commission Recommendation on Action Plan for Housing Programs and Community Grants for the 2003-04 Housing and Community Development (HCD) Budget (Administrative Action - Categorically Exempt From Environmental Requirements) (Community Development)

Action: Opened Public Hearing; received testimony; continued to evening session

Mayor Albert opened the Public Hearing. Marilyn Dorman, Executive Director of the Housing Advocacy Council, thanked the Council and offered to answer any questions about her organization. Having no further requests to speak, the Mayor explained that the hearing would be continued to the evening session and action on this item would be taken at that time.

PUBLIC APPEARANCE

2. Policy Direction on Tribal Gaming (Mayor)

Action: Tabled pending further discussion of the issues

Mayor Albert introduced the item, noting that the Council historically has taken a very firm stand against gaming and gambling. He said that the Council must reassure their position of opposing gambling in the City and nearby areas, because of recent developments at the State and Federal levels concerning gaming on Indian lands. He said that FORA has discussed granting land to the Esselen Nation. City Manager Meurer said that Mr. Houlemard of FORA has assured him that if Fort Ord property is transferred, adequate deed restrictions can be placed on the land to prevent gaming uses. City Attorney Connors said that he has some concerns that deed restrictions would not provide adequate measures to restrict sovereign land. Mr. Meurer reminded Council that they

have provided grants to the Esselen Nation to help them tell their history. Councilmembers voiced concerns regarding potential impacts of casinos and gaming on local governments.

Mayor Albert opened the floor to Rudy Rosales, Tribal Chairman of Ohlone/Coastanoan Esselen Nation. Mr. Rosales said that Esselen has never discussed a casino, and it is outrageous that the Mayor would call Sam Farr and ask him to withdraw support for tribal status. He said that his main goal is the heritage center at Fort Ord, and he is deeply offended by the accusation that his intention is to develop a casino. He read from the tribe's proposal to FORA, and clarified that the tribe is split between opening or not opening a casino. He explained the benefits of tribal status, and said that all he wants to do is teach the history of California Indians. He reiterated that he has no intention of putting a casino at Fort Ord, and Esselen Nation has no such intention.

Mayor Albert opened the floor for public comment. Debbie Green introduced officers of the tribe, Phil Green and Lorraine Escobar, and read a letter from the Esselen Nation to the City Council in opposition to the Council's taking a position opposing tribal status. Philip Lafferty, doctoral student, said that he has been helping the Esselen Nation through the Federal acknowledgement process. He said he has never heard that gaming is a motivating factor in seeking tribal status, the tribe has never discussed it, and the media's stories were erroneous. Allen Leventhol, tribal ethno-historian, said that the Council has no idea about legal realities at the federal level. He said that this tribe needs to be restored and deserves all of the associated rights. He stated that this treads on McCarthyism and is a witch-hunt.

Lorraine Escobar, Tribal Councilmember and Genealogist, said that small mindedness leads to extermination and destruction. She asked Council to change their position on this issue. Brianna Multon, Community Studies student at USC, said that social change must start here and now, and she urged Council to support the tribe. Susan Morley, Consulting Tribal Archeologist & CSUMB teacher, thanked Council for the Quadracentennial presentation, and she read a letter from the Mayor to Mr. Rosales. She said that she was startled to read in a local publication the April Fool's joke about development of a casino. She read a statement supporting tribal cultures and obtaining tribal status for OCEN. She said that there would be no gambling at FORA. Having no further requests to speak, Mayor Albert closed public comments.

Mayor Albert said that he is vehemently opposed to gambling in the area. He said that he sees Mr. Rosales as a leader of the Esselen Nation, and after hearing and reading his statements, he is concerned about gambling. Councilmember Vreeland noted that the City has honored the tribe over the years and she understands the concern. Councilmember Roberson suggested tabling any letters and giving everyone a chance to discuss the matter. He said that he would like to keep the gambling issue separate from tribal status.

It was moved by Councilmember Roberson, and seconded by Mayor Albert, to table the matter and give the parties a chance to further discuss the issues.

Councilmember Della Sala said that it might go a long way if the tribe voted against the development of the casinos.

The motion carried by the following vote.

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|---------|---|-----------------|--|
| AYES: | 5 | COUNCILMEMBERS: | Canepa, Della Sala, Roberson, Vreeland, Albert |
| NOES: | 0 | COUNCILMEMBERS: | None |
| ABSENT: | 0 | COUNCILMEMBERS: | None |

Mayor Albert said that he supported the motion, but still needs a lot more assurance. He recognized Mr. Rosales. Rudy Rosales said he respects the Mayor and his opinion. He gave the Mayor his word that as long as he is tribal chair he would not even consider gaming. He

guaranteed that there would not be a casino at Fort Ord as long as he is tribal chair. He invited Council to attend Esselen’s tribal council meetings on the second Sunday of every month

Mayor Albert called a recess at 5:25 p.m., then reconvened the meeting at 7:00 p.m., where all Councilmembers were present.

CLOSED SESSION

- 3. Conference with Labor Negotiator Pursuant to Government Code Section 54957.6 – Agency Negotiators: Jim Thomson, Ralph Bailey, Mike McCarthy, Bonnie Gawf – Employee Organization: General Employees of Monterey (GEM) (City Manager)
Action: Continued to evening session
- 4. Conference with Labor Negotiator Pursuant to Government Code Section 54957.6 – Agency Negotiators: Jim Thomson, Ralph Bailey, Mike McCarthy – Employee Organization: Management Employees’ Association (MEA) (City Manager)
Action: Continued to evening session

CONTINUED PUBLIC COMMENTS

Lee Steinmetz, Monterey resident, announced a forum, “The Destiny of America and The Promise of World Peace,” to be held on Thursday, May 15th at 3:00 p.m. at MPC and 7:00 p.m. in the Conference Center. He said that William Davis would be the speaker, and he invited the City Council to attend. Lou Haddad said that he wonders why Council is cutting the budget while there is \$14 million in reserve for a new Civic Center and why the Council spends so much time on water issues when they could assert Pueblo Water Rights. He stated that 15 years is too long to penalize a cruise line for polluting the Bay.

CONTINUED PUBLIC HEARINGS

- 1. Planning Commission Recommendation on Action Plan for Housing Programs and Community Grants for the 2003-04 Housing and Community Development (HCD) Budget (Administrative Action - Categorically Exempt From Environmental Requirements) (Community Development)
Action: Held continued Public Hearing; adopted Resolution No. 03-50

Property and Housing Manager Humel presented the staff report and addressed Council questions. On request, he gave an overview of the funding sources for the program and how the allocation from the federal government is calculated. Mayor Albert re-opened the Public Hearing.

Bruce Hamilton, Executive Director of the Alliance on Aging and also representing the Ombudsman program, supported the staff recommendation and thanked Council and staff for taking a leadership role by continuing to support non-profit organizations. Having no further requests to speak, Mayor Albert closed the Hearing, thanking Mr. Humel and Mr. Wojtkowski.

On a motion by Councilmember Canepa, seconded by Councilmember Vreeland, and carried by the following vote, the City Council approved the Planning Commission recommendation on the Housing and Community Development (HCD) program and budget, and adopted Resolution No. 03-50, authorizing the submission of a request for annual federal Community Development Block Grant (CDBG) funds for the City’s affordable housing programs:

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| AYES: | 5 | COUNCILMEMBERS: | Canepa, Della Sala, Roberson, Vreeland, Albert |
| NOES: | 0 | COUNCILMEMBERS: | None |
| ABSENT: | 0 | COUNCILMEMBERS: | None |

PUBLIC HEARINGS

- 5. 3001 Monterey/Salinas Highway (Calvary Chapel Monterey Bay) - Recommendation of Planning Commission to Rezone from I-R-130-D-2 (Industrial Administration and Research Development with Development Control) to C-O-D-2 (Office and Professional with Development Control); Applicant/Owner - Calvary Chapel (David Phillips) (Negative Declaration filed) – Ordinance (Community Development)
Action: Approved Negative Declaration; Ordinance passed to print

Community Development Director Wojtkowski presented the staff report. Councilmember Vreeland questioned and voiced concerns regarding the amount of hardscape proposed. Mr. Wojtkowski noted that the concern could be passed along to the ARC. Mayor Albert opened the Public Hearing to the applicant.

John Bridges, member of Calvary Chapel congregation, thanked the staff. He clarified that the project was designed with drainage to accommodate all of the impervious surfaces, and they understand that the patio's size is an issue that will be discussed with the ARC. He said that parking is being added, and they also have a relationship with the adjacent DPIC to share parking. He explained the history of the zoning issues associated with the project, and said that its emotional, social and spiritual benefits are important. He said that there is an on site existing well to be used for the expansion. He asked those attending the meeting in support to stand and most of the audience stood. Having no further requests to speak, Mayor Albert closed the Hearing.

On a motion by Councilmember Vreeland, seconded by Councilmember Canepa, and carried by the following vote, the City Council approved the Negative Declaration and passed to print an Ordinance rezoning a presently vacant portion of property west of Calvary Chapel to C-O-D-2 (Office and Professional with Development Control):

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| AYES: | 5 | COUNCILMEMBERS: | Canepa, Della Sala, Roberson, Vreeland, Albert |
| NOES: | 0 | COUNCILMEMBERS: | None |
| ABSENT: | 0 | COUNCILMEMBERS: | None |

- 6. 424 Adams St (JACL Hall)-Recommendation of Planning Commission and Historic Preservation Commission to Rezone from C-2 (Community Commercial) to C-2-H-1 (Community Commercial with Historic Landmark Overlay); Applicant-Japanese American Citizen's League of the Monterey Peninsula (Exempt from CEQA) – Ordinance (Community Development)
Action: Ordinance passed to print

Community Development Director Wojtkowski presented the staff report. Mayor Albert opened the Public Hearing. Larry Odo, President of the Japanese American Citizen's League, clarified an issue in the staff report regarding a convention held in 1941. Having no further requests to speak, Mayor Albert closed the Hearing.

On a motion by Councilmember Roberson, seconded by Councilmember Vreeland, and carried by the following vote, the City Council passed the ordinance to print:

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| AYES: | 5 | COUNCILMEMBERS: | Canepa, Della Sala, Roberson, Vreeland, Albert |
| NOES: | 0 | COUNCILMEMBERS: | None |
| ABSENT: | 0 | COUNCILMEMBERS: | None |

PUBLIC APPEARANCE

7. Presentation of State Theater Study as a Possible Extension of the Monterey Conference Center (Public Facilities)

Action: Report received; authorized staff to further study feasibility

Public Facilities Director Anderson introduced the item, clarified the scope of the study and introduced the consultant. John Kaatz presented details outlined in the study, reviewing strengths and weaknesses of the Monterey market. Council discussed the comparisons, suggesting that we find out the operating expenses for the Sunset Theater in Carmel and the theater in Salinas. Mr. Kaatz reviewed options regarding renovation, operations and funding. Councilmembers talked about the necessity for this project to be a joint venture, with fully participating partners that would complement each other. They commented on the potential for community involvement. Mayor Albert called a recess at 8:45 p.m., then reconvened the meeting at 8:55 p.m. Public Facilities Director Anderson announced that the consultant would be available for questions at 9:00 a.m. tomorrow in the Conference Center.

Mayor Albert opened the floor for public comments. Bob DeVoe, Doubletree Hotel General Manager, urged Council to move forward on the study of this project, saying that Monterey needs a venue that can meet, eat and exhibit 1,000 or more participants. He said that this is an economically viable thing to do. Howard Brun agreed with the previous speaker and urged Council to complete a comprehensive study and produce a business plan. Rick Johnson, Executive Director of OMBA, agreed with the previous speakers, supported moving forward, and said that OMBA was excited about the possibility of drawing residents to the downtown. Ron Weitzman, State Theater Preservation Group, recommended that the consultant pay particular attention to the three different operational models outlined in an earlier study.

Darrell Kenyon, President of the Monterey Commercial Property Owners, encouraged Council to move to the next phase and complete the study. Mike Elizondo, State Theater Preservation Group and past President of the American Institute of Architects, said that they are interested in partnerships and urged Council to move forward. Warren Dewey said he would like the opportunity to purchase an old theater, and he might wish to become a participant in this venture. He submitted a booklet of information to the City Council. Richard Tyler, Sunset Theater Director, said that there is not a cultural center in the Country that makes a profit and all of them must constantly raise funds, so fundraising partnerships are critical. He supported having an independent theater manager to handle bookings and a community board that includes City representation.

Lou Haddad noted that the theater currently generates some revenue and the loss of current revenue should be factored in. He noted that when the new theaters open, the State Theater will be less viable as a movie theater. He supported trading currently held City property rather than purchasing the building with cash. Martin Schmidt thanked everyone for considering this matter, saying that it has been a dream of his for many years. Tom Delay said that he cares for the Mighty Wurlitzer in the State Theater, and the theater is not deteriorating as badly as it was. He urged Council to move forward. Having no further requests to speak, Mayor Albert returned the discussion to the Council. Mayor Albert acknowledged Lee Hellam, who was in the audience.

It was moved by Councilmember Canepa, and seconded by Councilmember Della Sala, to authorize staff to negotiate an amendment to the consultant's (Convention, Sports and Leisure) contract, that would include a complete peer review of all studies completed on the State Theater and produce a business plan for the project:

Councilmember Della Sala stressed the importance of getting the project done. Councilmember Vreeland voiced her strong support. Councilmember Canepa said she remembers seeing vaudeville acts there as a child, and she would like to see that again. Councilmember Roberson

said that it is important to keep our eyes open, and partners are critical because the City cannot afford to buy it by itself. Mr. Della Sala said that the broad based support of the community is necessary and noted that the NIP Committee is recommending that \$25,000 from the program go toward completing the study. Mayor Albert said he appreciates the enthusiasm, and said that the City will need others' participation.

The motion carried by the following vote:

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| AYES: | 5 | COUNCILMEMBERS: | Canepa, Della Sala, Roberson, Vreeland, Albert |
| NOES: | 0 | COUNCILMEMBERS: | None |
| ABSENT: | 0 | COUNCILMEMBERS: | None |

COUNCIL COMMENTS

Due to the lateness of the hour, there were no Council comments.

CITY MANAGER REPORTS

Due to the lateness of the hour, no report was given.

CONTINUED CLOSED SESSION

- 3. Conference with Labor Negotiator Pursuant to Government Code Section 54957.6 – Agency Negotiators: Jim Thomson, Ralph Bailey, Mike McCarthy, Bonnie Gawf – Employee Organization: General Employees of Monterey (GEM) (City Manager)
Action: On a roll call vote, confidential direction given to negotiators (4-0-1, Albert absent)
- 4. Conference with Labor Negotiator Pursuant to Government Code Section 54957.6 – Agency Negotiators: Jim Thomson, Ralph Bailey, Mike McCarthy – Employee Organization: Management Employees’ Association (MEA) (City Manager)
Action: On a roll call vote, confidential direction given to negotiators (4-0-1, Albert absent)

CLOSED SESSION ANNOUNCEMENTS

City Clerk Gawf made the announcements of closed session actions as noted above.

ADJOURNMENT

Vice Mayor Canepa adjourned the meeting at 10:22 p.m.

Respectfully Submitted,

Approved,

Bonnie L. Gawf, City Clerk

Dan Albert, Mayor