



SPECIAL MEETING MINUTES

CITY OF PACIFIC GROVE

CITY COUNCIL

Wednesday, March 12, 2014, 6:00 P.M.
Council Chambers – City Hall – 300 Forest Avenue, Pacific Grove, CA 93950

CALL TO ORDER – SPECIAL MEETING -- 6:00 p.m.

Mayor Kampe called the Special Meeting to order at 6 p.m. Mayor Kampe and Councilmembers Cohen, Cuneo, Fischer, Huitt, Lucius and Miller were in attendance.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Kampe.

Mayor Kampe announced that he would add Approval of the Agenda and Council and Staff Announcements to the open session Agenda information was timely and pertinent.

APPROVAL OF AGENDA

Councilmember Cuneo made the motion to approve the Agenda with the addition and the vote carried unanimously, 7/0/0.

CLOSED SESSION

1. PUBLIC COMMENT ON CLOSED SESSION MATTERS

John Moore stated if the City initially placed the initiative on the ballot funds would have been saved

Donald Murphy requested Council to set a time certain for open session for those watching at home.

Francis Grate presented a handout which was published March 7 in the *Cedar Street Times*.

6:06 p.m. the Council, City Attorney Laredo and City Manager Tom Frutchey adjourned to Closed Session.

CLOSED SESSION

- A. Conference with Legal Counsel - Existing Litigation, (Gov. Code § 54956.9(a))
 - A. Aberg, Grate, Davis vs. City of Pacific Grove Case # M123256

The Council and staff returned from Closed Session at 7:23 p.m. and stated there would be a 5 minute break before the start of Open Session; the meeting would resume at 7:28 p.m.

Report of Closed Session was provided in Open Session by City Attorney Laredo stating a question and answer period was held with no reportable action.

OPEN SESSION

2A COUNCIL AND STAFF ANNOUNCEMENTS (City-Related Items Only)

City Manager Frutchev provided an update regarding the birthing of pup seals. He noted the City had requested from the Coastal Commission a waiver which was received.

City Manager Frutchev stated the City was ready to hire the needed positions of Police Administrative Support Manager, Police Commander, Police Records Supervisor, Economic Development Director, and Finance Director. He noted these positions would be handled by an outside company. The positions of Engineering Technician for Public Works and City Clerk would be handled by the City.

Mayor Kampe noted he attended an award dinner for young entrepreneurs and the City received a Certificate for their support.

2B. GENERAL PUBLIC COMMENT

Francis Grate noted the recent construction by a hotel near the Monarch Sanctuary was trenching on Monarch property impeding upon the protected area.

City Manager Frutchev responded with sewer problems; the hotel was under a Cease-to-Exist Order which was a Health and Safety concern. He noted repairs were made and proper permitting was obtained.

3. UNFINISHED AND ONGOING BUSINESS

A. Status and Direction re *Aberg, et al v. Pacific Grove*

Reference: Thomas Frutchev, City Manager, David C. Laredo, City Attorney

Recommended Action:

1. Discuss the status of *Aberg, et al v. Pacific Grove*, Case No. M123256, and provide direction.

Report of Closed Session was provided by City Attorney Laredo stating the Council received a status report and then a question and answer period was held with no reportable action.

Special attorney for the City, Mr. Michael Colantuono gave an overview of the Aberg case, discussing the residents' initiative, certification by the Registrar of Voter's office, the Writ of Mandate, the call for election, and the Judge's review and response. Two critical dates which would provide direction are June 26, and July 31, 2014.

Mr. Colantuono stated the City is in a "Catch 22" due to the following:

Issues:

- 1) What is legal
- 2) Funding the lawsuit
- 3) The amount of money spent to date

Options:

- 1) Does the City continue to litigate
- 2) Does the City determine the litigation process is slow and decide to hold the election
- 3) How to dissolve this issue, either by court or by public opinion with a ballot vote

PUBLIC COMMENT

Margaret Thum stated the Judge instructed the City to place the initiative on the ballot within 30 days. She discussed “clawback” pension payments.

Ms. Thum suggested the City work together with CalPERS..

Councilmember Lucius noted concerns regarding clawback pensions.

Councilmember Cuneo stated the phrase “*ab initio*” was used in the initiative.

Councilmember Lucius commented there were many unresolved questions. stating she would prefer to wait for the June 26 response.

Councilmember Huitt spoke stating Councilmember Lucius’ response is effective and discussed declaratory relief. He acknowledged there is no clear answer, and welcomed debate.

Mayor Kampe noted the alternate paths to determine:

- 1) Withdraw the cross-complaint
- 2) Move forward to the ballot, or
- 3) Wait for the result of the June 26, 2014 hearing before making a decision

Councilmember Fischer noted the City is caught in the middle. and suggested waiting until June 26.

Councilmember Miller hopes the response in June will be clear.

Councilmember Cohen stated he prefers to wait until June for a response.

Mayor Kampe questioned City Manager Frutchey regarding the total amount of funds spent regarding this issue to date and stated the best response would be tangible and pro-active to wait until the June response.

Mayor Kampe noted many cities are faced with this issue, including the California League of Cities

ADJOURNMENT

Mayor Kampe adjourned the meeting at 8:20 p.m.