FINAL MINUTES

CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
COUNCIL CHAMBER
Thursday, April 7, 2016
7:00 PM

1. **CALL TO ORDER**

Mayor Rubio called the meeting to order at 7:00 PM.

2. **ROLL CALL – ESTABLISHMENT OF QUORUM**

PRESENT: Alexander, Campbell, Oglesby, Pacheco, Rubio
ABSENT: None

3. **INVOCATION AND PLEDGE OF ALLEGIANCE**

4. **REVIEW OF AGENDA**

Legal Counsel Freeman indicated that the draft ordinance that is in the Council packet is not the correct item and has been continued to the next meeting. He encouraged anyone who wishes to speak on that item to do so under public comment.

5. **PUBLIC COMMENT**

Mayor Rubio invited comments from the public.

- Steve Bloomer, president of the Seaside High Alumni association spoke to a fundraiser to be held on April 16th and invited the Council and the public to attend. The funds go to providing scholarships to the Seaside High School
- Dawn Poston, ED for the Monterey Horse Park spoke to comments questioning the quality and number of events, and number of visitors and jobs that the project is projected to generate. She spoke to the difference between a race track and a horse park.
- Diana Cotton spoke to the issue of water, and asked if they would consider making the Pure Water Monterey project pipeline a public entity having it paid through WMPMD or MRWPCA so it would be owned by the public and be less expensive with interest.
- Sue Hawthorne indicated how nice it is to have videos of the public meetings so you can watch from home but for those that come to the meetings, she asked that if there was a way to replace the chamber cushions to be more comfortable.

Mayor Rubio responded to the comments made. He said that Cal Am is working with MCWD, MRWPCA and FORA to provide the pipelines. The Cal Am pipeline considers a different alignment and he does not know where that money will be coming from. City Manager Malin is working to bring back a few options for consideration regarding the council seating cushions.

6. **PUBLIC AGENCY COMMUNICATIONS**

Jim Vosson spoke to efforts to develop websites to provide promotion for the businesses the Chamber represents. He encouraged people to visit Montereybaycoolwebsites.com.

Charles Brown, Trustee from Monterey Peninsula College indicated the College President's address is coming up on April 22nd with the honorees being Dan and Joanne Albert. He reported that enrollment stands at 14,587 Students, down from previous years and that the largest source of students comes from Monterey and he encouraged Seaside to remind their residents of the great education MPC offers. He closed by recognizing Deputy Chief Lumpkin for is induction into the MPC Hall of Fame.

7. PRESENTATIONS

A. PRESENTATION OF THE MARCH 2016 HOUSE OF THE MONTH AWARD

Mayor Rubio and Neighborhood Improvement Program Committee Ray Bennett awarded Kathleen Porter for her efforts to beautify her home.

B. PRESENTATION OF THE 2016 BUSINESS OF THE FIRST QUARTER AWARD

Mayor Rubio and Neighborhood Improvement Program Committee Ray Bennett awarded to the Press Club on Fremont Street as Business of the First Quarter 2016.

8. CONSENT CALENDAR

A Member of the public requested to pull Item 8C. Council Member Pacheco requested to pull Item H and Council Member Alexander had questions on Items E & F. Council Member Campbell requested a word change from illegal to legal on Minutes, under Council Comments.

On motion by Council Member Alexander and seconded by Mayor Pro Tem Ian Oglesby and passed by the following vote the City council approved the Consent Calendar balance with the exceptions of items C, E, F and H.

RESULT:	**Adopted**
MOVER:	Council Member Dennis Alexander
SECONDER:	Mayor Pro Tem Ian Oglesby
AYES:	Ralph Rubio, Ian Oglesby, Dennis Alexander, Jason Campbell, Dave Pacheco
NOES:	None

A. APPROVE MINUTES OF MARCH 17, 2016 REGULAR MEETING

Action: Approved as Amended

B. APPROVE AND FILE CITY CHECKS

Action: Approved & Accepted

C. CONSIDER THE APPROVAL OF THE TRAFFIC ADVISORY COMMITTEE (TAC) RECOMMENDATIONS

Mayor Rubio invited the member of the public to speak.

- A Resident spoke to the dangerous intersection at Kimball and Highland. They understand that staff denied stop signs because they are not warranted. She spoke to the 333 petition signatures regarding this intersection and to people who use alternate routes because of the safety issues which will skew the numbers. The red curb will help, but not eliminate the blind spot.

- Anna Lee Green, spoke to witnessing the accident and to the driver's efforts to inch out for sight issues causing a fatality. Stop signs would have prevented.
- Cheryl Rivera, homeowner on Kimball who also witnessed the accident agreed it is an unsafe incident, and the survey numbers do not take into account the grade or speed factor, and the speed factors and she spoke in support of the stop sign.
- Rebecca Pieken agreed with the other speakers.
- Resident of Highland, spoke representing a neighbor that has had two car crashes into her home and is going to move because of it.
- Ray Bennett, agreed with the danger of the intersection and visibility issues.
- Resident agreed with the danger, please consider another alternative.
- The sister and Mother of the victim spoke thanking everyone here for supporting this issue, and requested something to be done to make the street safer. She suggested possibly raising the fees of penalties for driving infractions to encourage obedience of traffic laws. The stop sign is not going to bring him back but there needs to be justice for this accident. They requested increased enforcement of that street.
- Resident spoke in support of previous comments made.

City Engineer/Public Works Services Manager O'Halloran spoke to the TAC analysis and the results of the TAC meeting action. The MUTCD and the City Risk Manager both agree that the City creates that unwarranted stop sign increases collisions and there will be poor adherence to stopping therefore will have less compliance. Mr. O'Halloran answered questions from the Council.

On question regarding the MUTCD, the Council questioned the Council or TAC authority to go against the MUTCD, to which Legal Counsel Freemen responded that they are standards, not suggestions. Council Member Pacheco explained previous intersections that had similar challenges that the MUTCD also prevented the installation of stop sign because it was not warranted. The Council discussed the multiple locations that meet the same characteristic throughout the City and asked about additional traffic calming measures that could be added to the intersection to increase the safety of the intersections.

On motion by Mayor Pro Tem Oglesby and seconded by Council Member Campbell and passed by the following vote the City Council approved the TAC recommendations and requested the TAC revisit the intersection and bring back additional suggestions for further increasing the safety of the intersection at this location.

RESULT:	**Approved**
MOVER:	Mayor Pro Tem Ian Oglesby
SECONDER:	Council Member Jason Campbell
AYES:	Ralph Rubio, Ian Oglesby, Dennis Alexander, Jason Campbell, Dave Pacheco
NOES:	None

D. RESOLUTION AWARDING A CONSTRUCTION CONTRACT FOR THE DEL MONTE BOULEVARD PAVEMENT REHABILITATION PROJECT TO MONTEREY PENINSULA ENGINEERING FOR AN AMOUNT NOT TO EXCEED THREE HUNDRED FORTY THREE THOUSAND EIGHT HUNDRED FIFTY THREE DOLLARS ($343,853) AND APPROPRIATE FORTY SIX THOUSAND DOLLARS FROM THE AUTO CENTER BONDS.

Action: Approved, Authorized, & Adopted Resolution 16-28

E. RESOLUTION TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH HARDEE INVESTIGATIONS FOR CONDUCTING POLICE DEPARTMENT BACKGROUNDS AND FOR CONDUCTING POLICE DEPARTMENT INTERNAL

INVESTIGATIONS.

Action: Adopted Resolution 16-29

Council Member Alexander questioned why the backgrounds cannot be done internally and asked what the benefits are to contracting outside of the City for this. Deputy Chief Lumpkin spoke to the staffing issue over the last few years, and that investigations are time sensitive and the Department does not have capacity to dedicate officers to do investigations because they are needed on the street. The benefit to having an outside investigator ensures that it is a fair practice so there is no conflict of interest. This is for background as well as internal investigations

On motion by Council Member Alexander and seconded by Council Member Dave Pacheco and passed by the following vote the City Council approved items E and F as presented.

RESULT:	**Approved**
MOVER:	Council Member Dennis Alexander
SECONDER:	Council Member Dave Pacheco
AYES:	Ralph Rubio, Ian Oglesby, Dennis Alexander, Jason Campbell, Dave Pacheco
NOES:	None

F. RESOLUTION TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH PARAGON INVESTIGATIONS FOR CONDUCTING POLICE DEPARTMENT INTERNAL INVESTIGATIONS AND FOR CONDUCTING POLICE DEPARTMENT AUDITS.

Action: Approved Resolution 16-30

G. APPROVAL OF APPOINTMENTS TO THE NEIGHBORHOOD IMPROVEMENT PROGRAM COMMISSION

Action: Approved Appointments

H. APPROVE A REQUEST FOR FUNDING FROM THE UNITED WAY OF MONTEREY COUNTY FOR TAX PREPARATION SERVICES

Action: Approved Funding Request

Uri Anderson from the United Way Monterey was present to answer questions. Council Member Pacheco questioned the cost of the services and how much of it directly benefited Seaside Residents. Ms. Anderson responded that the cost to the County for tax preparation services was over $200,000 and over 300 Seaside residents were served with the tax preparation services last year.

On motion by Council Member Pacheco and seconded by Council Member Alexander and passed by the following vote the City Council approved the donation request of $5,000 to the United Way of Monterey County.

RESULT:	**Approved**
MOVER:	Council Member Dave Pacheco
SECONDER:	Council Member Dennis Alexander
AYES:	Ralph Rubio, Ian Oglesby, Dennis Alexander, Jason Campbell, Dave Pacheco
NOES:	None

9. PUBLIC HEARING

A. **<u>APPEAL OF USE PERMIT APPLICATION NO. UP-15-02: FIRST BAPTIST CHURCH, PROPERTY OWNER, AND VERIZON WIRELESS, APPLICANT, ARE APPEALING THE PLANNING COMMISSION DENIAL OF A USE PERMIT TO INSTALL A TELECOMMUNICATION FACILITY AND FREESTANDING TOWER ON THE PREMISE OF THE FIRST BAPTIST CHURCH LOCATED AT 1949 WARING STREET IN THE RS-8 ZONING DISTRICT. THE PROJECT IS CATEGORICALLY EXEMPT, CLASS 3 FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.</u>**

Action: Approved appeal and passed Resolution 16-31

Senior Planner Rick Medina presented the appeal of use permit application UP 15-02. He spoke to the project description, history, planning commission findings, potential City Council actions and use permit considerations for the application. He explained the applicant is requesting to create a replica church tower to conceal cell tower antennas and related equipment. He closed by noting the staff recommendation is for approval.

Trip May, contracted legal counsel from The Telecom Law Firm spoke to his position to represent governments across the country for wireless telecommunication issues. He explained the telecom act puts certain limitations on your land use authority. There are ways that you need to interpret your own code 1) base your findings based on substantial findings and 2) you cannot have an effective prohibition. He further explains that if there is a significant gap, the federal law requires you to approve the project that closes the gap for radio frequency emissions (RF), Also the federal government prevents you from passing regulations that are in conflict with federal guidelines for emissions, that is outside local jurisdiction. Mr. May answered questions from the Council.

Council Member Pacheco indicated that the city cannot deny based on perceived or not perceived quality of life issues (only if it is based on radio frequency emissions) to which Mr. May agreed. Council Member Campbell requested clarification on the three things that we can make decisions or regulations on 1) code violations 2) potential alternatives 3) code regulations clarifying that we can require compliance with FCC rules, but cannot condition or regulate on the basis of radio frequency.

The Applicant spoke explaining the changes that were made in response to the Planning Commission concerns including a lower tower. They detailed the alternative site analysis but none were found to be a preferred option. Paul Albrition, Legal Counsel and Verizon engineer were present to answer questions. Mr. Albriton, further explained the sight was inconsistent with the general plan, scale, height and noise and all factors which have been addressed and there are no longer substantial evidence to deny the site at this time. Verizon Wireless is trying to keep up with the doubling use of equipment every year and that we do that by installing new facilities and tried to make it invisible. It will provide services to the community.

Mayor Rubio invited comments from the public.

1. Analee Green, it's not the point of height disagreed with the location in a residential neighborhood and thinks that alternatives outside of a residential area can be found.
2. Anthony Lucido expressed frustration that other property owners do not take care of their properties the way he's taken care of his properties.
3. Nina Beaty does not believe there is a gap in coverage, for capability, but that this is in anticipation for future capability. He questioned if the flashing light is still required with the lowering of the height and expressed concern that this approval will open the door for other towers as she thinks it is a commercial use in a residential area which will lead to increased noise and property devaluation.
4. Linda Cases, informed that she has Parkinson's disease and the implant to treat it may not be allowed because of the location of her home to the tower.
5. Francois Avery- Duprez requested that the gaps in the city code be reviewed and fixed and

disagreed allowing this in residential areas.

6. A resident questioned how the noise factor was addressed, which was a concern of the Planning Commission.
7. Brian Like spoke to his kids that live 5 block away from the church and was disappointed that health concerns could not be discussed as part of this and disagreed with the placement in a residential area.
8. Viltron Duprez suggested that they support the findings of the Planning Commission and their constituents. Many are concerned about this issue and thinks the coverage is already acceptable
9. Maris Sidenstecker requested supporting the Planning Commission's decision and expressed concern that the applicant postponed the item and now the City has no additional time to review therefore denying the public involvement in the process. She spoke to the misleading public outreach that was conducted and reported in the findings. She questioned If the church, as non profit, will be giving up their non profit status to be compensated every month by this action.
10. Sue Hawthorne questioned why does this is before the Council before strategically too late to do anything but approve it?
11. Salaf Warfat, homeowner explained one of the factors for his house purchase was not to be next to radio wave towers for a health perspective and expressed concern it will devalue the properties in the neighborhood, will lower the property taxes and the City will suffer.
12. Kay Cline, Verizon customer, she is asking that they be able to extend this and have more time, she asked to be informed of where the cell towers are in residential areas on the Monterey Peninsula.
13. Rico Cruz, resident across from the project site, he spoke to being an electrical engineer and the results are out or RF waves. He recognizes that the Council's hands are tied, but at minimum, he suggested amending the code and incorporating monitoring and reporting requirements, similar to noise requirements. He also questioned the coverage plots, if additional modeling was done on an equal basis on each site, and was it also done at a 40ft level, though initially done at a 50ft level.
14. Kenneth Murray finds it odd that a church would find itself in this situation and that the Council should consider the concern of the people.
15. Justin Clawson, IT telecommunications instructor at CSUMB and Elder and Chairman at the First Baptist Church spoke to his positive position, understanding the technology and why it is needed. He believes there likely are many cell towers on the peninsula that people do not realize. Wanted to help put a face to the project.
16. Gertrude Smith requested to please stop making your cell towers pretty.
17. A resident spoke to her love of the neighborhood, was happy that it will look like attractive but expressed concern about the location and the noise.
18. Zachary Grover, resident with aspiration to purchase the house, indicated he will consider purchasing in another area if this is approved in this neighborhood.
19. Dianne Nielson spoke against the proposal and was disappointed that staff was not trying to see what we can do to prevent this from happening. It will impact the quality of life and is disappointed that the church members that will benefit are not here, on a community level.

The Legal Counsel from Version presented a rebuttal argument and spoke to the data that is listed in the document included in the packet and the statistics. All of which was reviewed by the expert and there was modifications to make the least intrusive means of doing this. The public infrastructure is difficult to install and believes there is post installation testing.

The Council deliberated on this issue. Council Member Alexander questioned the noise issue and acknowledged it would run 15 minutes every other week, programmed to run during the day, mid day, and will be below the noise ordinance. Noise baffling will also be installed to further reduce the noise. He spoke to the different demands for data and that technology is improving the quality of life. Council Member Campbell requested clarification regarding the lowering of the tower and were the calculations redone to account for that. To which the RF Engineer spoke to height and location and the capacity that will be offloaded at this location. The alternative locations would not be helping with the capacity. They are trying to get the users in the areas that they are being serviced.

The Council questioned our legal counsel regarding what findings of substantial evidence which they would be allowed to base a denial from to which he could cite none.

Mayor Rubio recapped that any findings that the Council will find are not allowed and the only alternative is to approve the appeal and direct staff to tighten up the City Code to regulate in the future. He did question the ability for periodic testing to which Legal Counsel agreed the testing can be done when modifications are done to the facility which can be added as a condition of approval and would have to be included in the proposal. Additionally they could incorporate the requirement for an as built report that would be made a public record.

Council Member Campbell made a motion to send the item back to the Planning commission as it is not the same project they originally reviewed. The tower was lowered, the baffles were installed, timing of generator running has changed. The applicant changed the project so the deadline should not be applicable.

Legal Counsel Freeman clarified that this is a novo hearing, and the Council can take in any information they want, and yes, there is a timeline, and if Verizon does not accept the delay in time then the City is liable. Motion dies for lack of a second.

The Council also asked that staff revisit the ordinance and identify any areas that we can modify for future applications.

On motion by Council Member Alexander and seconded by Mayor Pro Tem Oglesby and passed by the following vote, the City Council overturned the Planning Commission decision and upheld the appeal of the Planning Commission Denial with the addition of two conditions, the requirements for RF readings "as built" and going forward a new RF reading must be conducted and provided to the City upon any modification to the equipment.

RESULT:	**Approved**
MOVER:	Council Member Dennis Alexander
SECONDER:	Mayor Pro Tem Ian Oglesby
AYES:	Ralph Rubio, Ian Oglesby, Dennis Alexander, Dave Pacheco
NOES:	Campbell

B. PUBLIC HEARING TO CONSIDER PROPOSED TEXT AMENDMENTS TO CHAPTER 10.04 AND CHAPTER 10.32 OF THE SEASIDE MUNICIPAL CODE TO PROHIBIT THE PARKING OF RECREATIONAL VEHICLES, TRAILERS, AND PROHIBITED VEHICLES ON CITY STREETS, ALLEYS, PUBLIC RIGHT-OF-WAYS, AND PUBLICLY OWNED PARKING LOTS. (*FIRST READING – ROLL CALL VOTE*).

Action: Item was continued to the April 21, 2016 Meeting.

10. BUSINESS ITEMS

A. RESOLUTION ADOPTING THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY'S TRANSPORTATION SAFETY & INVESTMENT PLAN TO BE PLACED BEFORE THE VOTERS ON A FUTURE BALLOT

Action: Approved Resolution 16-32

Todd Muck from The Transportation Agency of Monterey county presented the safety and investment plan. He explained it is a 3.8 cent sales tax that would generate over $600 million over a 20 year period, 60% of which would go back to road repairs and safety in local communities and 40% toward regional projects. He spoke to the impacts of the investment plan to have local control about how to spend the money generated from the proposed ballot measure. Mr. Muck outlined all of the regional mobility projects and the Seaside local road and safety projects list. He assured the Council that there will be no fund shifting and explained the resolution that adopts the plan, and that the majority of the cities in the County of Monterey must adopt to be able to be placed on the November election ballot where the voters get to decide if they want to proceed with this tax. Mr. Muck answered questions from the Council.

On question, Mr. Muck clarified that the City retains the discretion to identify priorities over a 30 year period to how they will use the money. He also responded that it is up to the community to fund the campaign but local funds cannot be used for it. After the ballot is done, education will continue to explain what is in the investment plan and how that will affect the community.

Mayor Rubio invited comments from the public.

- Sue Hawthorne spoke in support of the program. She spoke in support of the Fort Ord Recreation Trail and Greenway project and this project can connect and make it happen.
- Kay Cline thought this was an opportunity with the WBUV and to be able to tie into this area. It is comprehensive and gives a lot to the community.

Campbell to approve the resolution /Pacheco and prove list of examples. Approved unanimously

On motion by Council Member Campbell and seconded by Council Member Pacheco and passed by the following vote the City Council passed Resolution 16-32 approving the placement of the TAMC Transportation Safety and Investment Plan before the voters on a future ballot.

RESULT:	**Approved**
MOVER:	Council Member Jason Campbell
SECONDER:	Council Member Dave Pacheco
AYES:	Ralph Rubio, Ian Oglesby, Dennis Alexander, Jason Campbell, Dave Pacheco
NOES:	None

B. CONSIDER ADOPTION OF A RESOLUTION APPROVING A CITY SOCIAL MEDIA POLICY AND SOCIAL MEDIA USE STANDARDS AND PROCEDURES

Action: Approved Resolution 16-33

City Clerk Milton-Rerig provided details of the proposed social media program and detailed the policy and use standards and procedures. Ms. Milton-Reirg answered questions from the Council.

Mayor Rubio invited comments from the public and had no requests to speak.

On motion by Council Member Pacheco and seconded by Council Member Dennis Alexander and passed by the following vote the City Council approved Resolution 16-33 approving a City Social Media Policy and Social Media Use Standards and Procedures manual.

RESULT:	**Approved**
MOVER:	Council Member Dave Pacheco

SECONDER:	Council Member Dennis Alexander
AYES:	Ralph Rubio, Ian Oglesby, Dennis Alexander, Jason Campbell, Dave Pacheco
NOES:	None

C. RECEIVE REPORT AND PROVIDE DIRECTION REGARDING THE FUTURE LOCATION OF THE CITY OF SEASIDE'S YOUTH VIOLENCE PREVENTION PROGRAM

City Clerk/Interim Youth Violence Prevention Manager Milton-Rerig provided the presentation outlining the history and current operations of the Seaside Youth Resource Center and detailed the need for identification of a permanent location for the program. Through analysis, it has been identified that the best location for the program would be located at the Former Redevelopment Agency property located on Broadway Avenue. Being a property listed in the Long Range Property Management Plan, identified for disposal, City Clerk Milton-Rerig outlined the process that staff could go through to attempt to determine the cost to obtain the building for future use. Ms. Milton - Rerig clarified that the requested action is to be directed to gather information and bring back to the Council for decision at a later date. She then answered questions from the Council. Council Member Pacheco expressed support to gain information, but wanted to clarify that he does think reducing youth violence is priority, but he also has other priorities and hope we can prioritize with the funds we have effectively.

The Council directed staff to proceed with data gathering and moving forward to determine the cost to purchase the building located at 1268 Broadway Avenue.

11. MAYOR, CITY COUNCIL, CITY MANAGER AND CITY ATTORNEY COMMENTS AND REPORTS ON COMMITTEE ASSIGNMENTS

Due to the late hour, reports were postponed until the next meeting.

12. ADJOURNMENT

On motion, the meeting was adjourned at 11:19 PM.

Respectfully submitted,

Lesley Milton-Rerig, City Clerk

Ralph Rubio, Mayor

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