



**MONTE SERENO CITY COUNCIL
MINUTES**

July 20, 2010

REGULAR MEETING CALLED TO ORDER

At 7:32 p.m., Mayor Perry called the meeting to order.

PLEDGE OF ALLIEGIENCE

ROLL CALL

Present: Council Members Anstandig, Garner, Malloy, Wright and Mayor Perry
Absent: None
Staff Present: City Manager Loventhal, City Attorney Powell, Associate Planner McGranahan and City Clerk Chelemengos

ORDERS OF THE DAY

No changes were made.

ORAL COMMUNICATIONS

None

WRITTEN COMMUNICATIONS

1. Report from Santa Clara County Civil Grand Jury Regarding Municipal Disaster Preparedness

City Manager Loventhal introduced the matter and answered questions from the Council.

CONSENT CALENDAR

City Attorney Powell suggested the Council remove Item #4, Approve Warrant List Dated July 20, 2010, from the Consent Calendar because it contained a reimbursement request from Council Member Garner that might warrant discussion. There was consensus to remove Item #4, Approve Warrant List Dated July 20, 2010, from the Consent Calendar.

2. Approve Minutes of the June 15, 2010 City Council Meeting
3. Approve Warrant List Dated July 6, 2010 in the amount of \$162,825.06
 5. Approve Treasurer's Report for the Month of June, 2010
 6. Approve Monthly Financial Report for the Month of June, 2010
 7. Adopt Resolution Of The City Council Of The City Of Monte Sereno Acting As The Code Reviewing Body For The Conflict Of Interest Code And Approving The Conflict Of Interest Code Of The City Staff For The City Of Monte Sereno
 8. Authorize Safe Routes To School Grant Application for Bicycle/Pedestrian Improvements On Daves Avenue
 9. Approve And Authorize City Manager To Execute And Agreement Between The City Of Monte Sereno And The County Of Santa Clara Granting Program Funds For The Distribution Of 2009 Homeland Security Grant Funds

Council Member Wright moved to approve the Consent Calendar, Items 1-3 and 5-9. The motion was seconded by Council Member Garner and the motion passed with a 5-0 vote.

4. Approve Warrant List Dated July 20, 2010

City Attorney Powell suggested that the Council consider all the warrants listed on the July 20, 2010 Warrant List with the exception of the last entry, a reimbursement request from Council Member Garner. She suggested that this entry be removed to allow the Council to hold discussion.

There was Council consensus to follow the Attorney's suggestion.

Council Member Garner moved to approve the July 20, 2010 Warrant List, with the exception of her reimbursement request, in the amount of \$92,223.11. The motion was seconded by Council Member Malloy and the motion passed with a 5-0 vote.

Council Member Garner stated that under AB 1234 she was required to report out on her reimbursement request. Council Member Garner explained that she had left a family vacation to attend a City Council meeting knowing that one City Council Member was unavailable so she wanted to ensure that there would be a quorum for the meeting for the benefit of the public. She further explained that upon her arrival at the San Jose Airport she learned that that the meeting had been cancelled.

Council Member Malloy inquired if Council Member Garner had left her vacation for the sole purpose of the Council Meeting.

Council Member Garner stated that she had left her vacation for the sole purpose of attending the Council meeting and in enough time to allow her to prepare for the meeting by visiting the sites listed on the agenda.

At this point Council Member Garner left the Council Chambers to allow the Council to discuss the matter.

Council Member Malloy inquired if the decision might be precedent setting and expressed concern for setting such a precedent.

City Attorney Powell stated that to her knowledge the City had never received a request such as the one before the Council and she stated that should the request be granted the Council might see other similar requests in the future.

Council Member Perry stated that his concern is that this is a precedent setting request and that the City had never paid for a Council Member to return early from or leave late for a vacation to attend a scheduled Council Meeting.

Council Member Anstandig stated that he would vote in favor of granting the request. He stated that had a Council Member returned from a vacation to attend a Council meeting that was held, such a request would be inappropriate. But, he explained, under the circumstances where the meeting was cancelled the day of the meeting and the Council Member leaving at the last possible moment to attend the meeting to perform the function, and then, receiving late notice that the meeting had been cancelled, places the matter in a very different circumstance. He stated that he is not worried about the decision setting a precedent because, like many other matters the Council deals with, each case, and its facts, are considered on a case by case basis. He stated that he could support reimbursing the cost.

Council Member Wright stated that the crux of the matter is that the meeting was cancelled at the last minute because the Mayor decided to attend a play. Council Member Wright stated that he felt that action was irresponsible of the Mayor. He pointed out that Council Member Anstandig had provided notification of his absence in advance of the meeting; Council Member Garner knew she was coming back for the meeting and Council Member Malloy was sick. He stated that Council Member Garner did everything that she was supposed to do, planned in advance, paid in advance and the meeting was cancelled at the last minute. He stated that he did not see where this decision, under the circumstances, with two Council Members cancelling at the last minute would be precedent setting. He stated that he felt it was the responsibility of the Mayor to be present for the meeting instead of attending the play. He also pointed out that as a result of the meeting being cancelled, the projects scheduled for the meeting were postponed.

Council Member Malloy stated that it was her fault that the meeting was cancelled. She stated that she returned from her vacation a day early to attend the meeting but did not feel well the day of the meeting. She stated that Council Member Wright's accusation of the reason why the meeting was cancelled was wrong. She stated that having the citizens of Monte Sereno pay the cost of the plane ticket is wrong. She stated that any Council Member could have been sick at the last minute and, to honor the request would be precedent setting.

Mayor Perry explained, for the benefit of the public, that the Council meeting fell on his son's birthday and he knew tickets had been purchased for the play and dinner reservations made well in advance, but that he did not realize until the (holiday) weekend before that the Council meeting that the meeting fell on the same day as his child's birthday. He stated that he phoned the City Manager to inform him that he had a family commitment and could not make the meeting. Mayor Perry stated that at that point, there was still going to be a quorum to hold the City Council meeting. He stated that it was after his conversation with the City Manager that Council Member Malloy called in sick. Mayor Perry stated that he did not feel an obligation to miss his son's 12th birthday. He stated that his family comes first, his work and business second and the matters of the City of Monte Sereno third.

Mayor Perry called for a motion.

Council Member Wright made a motion that the City Council approve the warrant to reimburse Council Member Garner for the travel expense. The motion was seconded by Council Member Anstandig. The motion failed 2-2.

Council Member Garner re-entered the Council Chambers and joined the Council at the dais.

PUBLIC HEARINGS

9. Adopt Proposed Resolution Confirming A Weed Abatement Report And Assessment List Filed By The County Fire Marshal And Remanding Same To Said Fire Marshal To Be Entered On The Tax Assessment Roll

City Manager Loventhal provided a staff report on the matter and answered questions from the Council.

At 7:50 p.m., the Public Hearing was opened. Since there was no one wishing to speak, the Public Hearing was closed.

Council Member Wright moved that the City Council adopt the Resolution. The motion was seconded by Council Member Anstandig and the motion passed with a 5-0 vote.

10. TR-10-04 – Property Address: 16230 Greenwood Lane - Property Owner: Palmer Applicant Is Requesting A Tree Removal Permit To Remove Two (2) Oak Trees

Associate Planner McGranahan provided information on the application and clarified the request.

Steve Palmer, applicant, spoke in favor of the application. He explained that one of the trees grows at an angle and impedes the use of the driveway and the other tree is located in the area where he would like to construct a pool. He pointed out that the site is heavily vegetated and the

removal of the two trees would not affect the wooded nature of the property. Mr. Palmer also answered questions from the Council.

Discussion commenced with regard to relocation of the pool site.

Mr. Palmer explained that even though the pool location could be slightly adjusted, the canopy and the tree's close proximity to the pool would be a significant problem. Mr. Palmer also pointed out that other recently installed landscaping would need to be removed to accommodate the relocation of the pool site.

Associate Planner McGranahan answered questions about the Site and Architectural review of the site plan and reported that the vegetation that exists between the intended pool site and the property line was at the request of the abutting neighbor.

At 7:57 p.m., the Public Hearing was opened. Since there was no one wishing to speak, the Public Hearing was closed.

Discussion commenced.

Council Member Wright made the findings and moved that the Council approve the removal of Tree#2. The motion was seconded by Council Member Anstandig and the motion passed with a 5-0 vote.

Mayor Perry made the findings and moved that the City Council approve removal of Tree #1. The motion was seconded by Council Member Malloy and the motion passed with a 4-0-1 vote. Council Member Wright abstained citing concern with the removal of the subject tree.

11. TR-10-05 - Property Address: 17827 Vineland Avenue - Property Owner: Wright
Applicant Is Requesting A Tree Removal Permit To Remove Four (4) Trees. The Trees Requested To Be Removed Are Three (3) Redwood Trees And One (1) Birch Tree

Associate Planner McGranahan provided information on the application and answered questions of the Council.

Irving Tamura, project landscape architect and designer, explained that the Birch tree lies within the path of the proposed driveway and the three Redwood trees are causing damage to the property's drainage system and are also located over electrical lines which may be problematic in the future. Mr. Tamura also answered questions from the Council.

Council Member Wright inquired if the City had received any documentation from the utility company with regard to the location of the electrical lines under the trees.

Associate Planner McGranahan stated that no documentation had been provided.

Council Member Anstandig inquired about the relocation of the utility lines and the electrical meter in order to save the trees.

Mr. Tamura stated that relocation of the lines and the meter would not be feasible and that the drainage issue would still exist.

At 8:20 p.m., the Public Hearing was opened. Since there was no one wishing to speak, the Public Hearing was closed.

Council Member Wright stated that he would like to separate the Birch removal request from the Redwood Trees removal request. He stated that removal of the Birch Tree would allow reasonable use of the lot. With regard to the removal of the Redwood Trees he would like a report from PG&E regarding the location of the utility lines and verification of the roots' interference with those lines. He stated that with regard to the roots interfering with the drainage system he suggested the installation of a barrier in order to preserve the trees.

Council Member Garner asked for clarification with regard to the driveway configuration and stated that she would like an arborist report regarding the condition and impacts of the Redwood trees.

Council Member Malloy pointed out that the front yard is small and can not accommodate the number of Redwoods. She stated that she could support removal of all four trees.

Council Member Anstandig stated that he was hesitant about approving the removal of the Redwoods without verification that the Redwoods are problematic.

Mayor Perry reported that relocation of utility lines are costly and given that the three Redwoods are planted very close to one another and need a greater space justifies removal. He stated that given the other Council Member's concern he suggests either replacement trees or a report from an arborist.

Council Members Garner and Anstandig spoke in favor of receiving a report from an arborist.

Council Member Wright suggested a report from the utility provider with regard to the location of the lines.

Following discussion, Council Member Wright made the findings and moved that the Council grant the removal request for Tree #4 (Birch tree). The motion was seconded by Council Member Garner and the motion passed with a 5-0 vote.

Following brief discussion, Mayor Perry moved that the matter of the removal of the Redwood trees be continued to allow the applicant time to commission the City Arborist to evaluate and prepare a report on the condition and viability of the subject Redwood trees. The motion was

seconded by Council Member Garner and the motion passed with a 4-1 vote. Council Member Wright voted No.

12. GUP-10-02 and U-10-03 - 16335 Ridgecrest Avenue Property Owner: DeMattei Applicant Is Requesting A Grading Use Permit To Grade Approximately 1,890 Cu. Yd. The Applicant Also Requests A Use Permit To Allow More Than One Accessory Structure.

Associate Planner McGranahan provided staff report and answered questions from the Council.

Mark DeMattei, applicant, spoke with regard to the original design and the modifications which triggered the need for a Grading Use Permit. He stated that he intends on preserving the barn that currently exists on the property, stating that several of the neighbors had requested its preservation and because he feels it adds to the character of the neighborhood.

At 8:50 p.m., Mayor Perry opened the Public Hearing. Since there was no one wishing to speak, the Public Hearing was closed.

Council Member Malloy made the required findings and moved to approve GUP-10-02 and U-10-03. The motion was seconded by Council Member Wright and the motion passed with a 5-0 vote.

The Council Members commended Mr. DeMattei on the project and how the project had been thought out in its entirety.

UNFINISHED BUSINESS -None

NEW BUSINESS

14. Designate Voting Delegate and Alternates for LCC Annual Conference – Sept. 15-17

Council Member Garner nominated Council Member Anstandig as the Voting Delegate.

Council Member Anstandig thanked Council Member for the nomination, but declined the nomination stating that due to a conflict in his schedule he would not be able to attend the meeting.

Discussion commenced.

Council Member Garner moved that Council Member Wright be nominated as the Voting Delegate and that Mayor Perry or Council Member Malloy serve as the alternate. The motion was seconded by Council Member Malloy and the motion passed with a 5-0 vote.

15. Discuss PG&E SmartMeter Installation Program

City Attorney Powell provided a staff report on the matter and answered questions from the Council.

Discussion commenced.

Council Member Malloy reported that she had concerns regarding the SmartMeter from the beginning and supported joining the petition.

Council Member Wright concurred with Council Member Malloy's comments and also spoke in favor of joining the petition.

Council Member Anstandig moved that the City Council direct the City Attorney to complete the necessary process for Monte Sereno to join in the petition regarding SmartMeters filed by the City of San Francisco. The motion was seconded by Council Member Malloy and the motion passed with a 5-0 vote.

COMMITTEE/COMMISSION REPORTS

The Council Members reported on their various committees/commissions as assigned.

COUNCIL MEMBER COMMENTS

Council Members Anstandig and Malloy commented on the repaving of Highway 9 and reported that the bike lanes seem to be in horrendous and dangerous condition.

CITY MANAGER'S REPORT

City Manager reported on the upcoming International City Managers Association Conference and other various administrative matters.

ADJOURNMENT

At 9:20 p.m., Mayor Perry adjourned the meeting to 7:30 p.m., Tuesday, August 3, 2010, to be held in the City Council Chambers located at 18041 Saratoga-Los Gatos Road, Monte Sereno, and California.

Don Perry, Mayor

ATTEST:

Andrea M. Chelemengos, City Clerk