



**MONTE SERENO CITY COUNCIL
MINUTES**

August 18, 2009

REGULAR MEETING CALLED TO ORDER

At 7:34 p.m., Mayor Wright called the meeting to order.

PLEDGE OF ALLIEGIENCE

ROLL CALL

Present: Council Members Anstandig, Malloy, Perry, and Mayor Wright

Absent: Council Member Garner

Staff Present: City Manager Loventhal, City Attorney Powell, and City Clerk Chelemengos

ORDERS OF THE DAY

No changes were made.

ORAL COMMUNICATIONS

WRITTEN COMMUNICATIONS

None

CONSENT CALENDAR

1. Approve Minutes of August 4, 2009 City Council Meeting
2. Approve Warrant List in the amount of \$45,351.00
3. Approve Monthly Treasurer's Report of Month of July, 2009
4. Approve Monthly Financial Report for Month of July, 2009

Council Member Anstandig moved to approve the minutes. The motion was seconded by Council Member Malloy and the motion passed with a 4-0 vote.

PUBLIC HEARINGS - None

UNFINISHED BUSINESS - None

NEW BUSINESS

5. Consider Youth Commission Appointments for 2009/2010

City Manager Loventhal provided information on the Youth Commission.

City Attorney Powell spoke with regard to the Youth Commission regulations and meeting times.

Council Member Perry suggested that the Youth Commissioners be required or expected to volunteer some time assisting with certain City events.

Council Member Malloy spoke with regard to the past year's low attendance and stated that this year during the training the importance of participation should be stressed. She noted in the ordinance the regulation with regard to missing Commission meetings and suggested that the Commissioners be made aware of the regulation.

Mayor Wright stated that he is of the position that the Youth Commission membership of up to twelve Youth Commissioners may be too large and that the Council may want to monitor the participation this year and possibly consider scaling back the number of Youth Commissioners. He also spoke with regard to the meeting time and wondered if the meeting time might be a part of the participation problem. He suggested that the meeting time be considered by the new Commissioners to determine a meeting time that would allow for as much participation as possible.

Mayor Wright then invited the applicants present to introduce themselves.

Ali Shenasa, applicant, provided information on himself and spoke with regard to his interest in serving on the Youth Commission

Karthik Dhore, applicant, provided information on himself and spoke with regard to his past service on the Youth Commission and his intention to try to assist with participation and more events for the youth.

Will Hess, applicant, introduced himself and also spoke about his past service on the Youth Commission. He stated that he hopes that this year the Youth Commission is able to plan more youth oriented events.

Following brief discussion, the following appointments were made.

Council Member Malloy appointed Karthik Dhore.

Council Member Anstandig appointed Catherine Mosher.

Mayor Wright appointed Ali Shenasa.

Council Member Perry appointed Jonathon Stutchman.

Mayor Wright moved that the Council appoint Will Hess as an at large Youth Commissioner. The motion was seconded by Council Member Perry and the motion passed with a 4-0 vote.

Council Member Perry moved that the Council appoint Emily Chen, Nikunj Donde, Erika Driscoll, Thomas O'Brien, and Samantha Tsang, at large, to the Youth Commission. The motion was seconded by Council Member Malloy and the motion passed with a 4-0 vote.

6. Discuss Monte Sereno Municipal Code Section 10.07.080 - Termination of Non-Conforming Structures

City Manager Loventhal provided information on the code section and discussion situation in which the code would apply.

City Attorney Powell spoke with regard to maintenance of nonconforming structures and answered questions from the Council.

Council Member Anstandig suggest a mechanism that would allow homeowners to rebuild non-conforming structures based on the existing square footage of the nonconformity.

Council Member Perry expressed concerned with the loss of historically significant structures due to their non-conforming status. He stated that he would like to see the code allow non-conforming structures to be reconstructed as they existed as long as there is no expansion of square footage or height.

Mayor Wright stated that he thought in the case of the destruction of a historically significant structure, the structure could be rebuilt based on historical nature and through the Variance procedure.

Council Member Perry stated that he would like modifications to the code that would allow for all, not just historically significant, existing non-conforming structures to be able to be rebuilt as they exist.

Council Member Anstandig brought up the issue of existing non-conforming structures that contain portions that are now safety hazards and are not up to code based on safety.

City Manager Loventhal explained that there are two different codes that govern construction, planning/zoning and building codes. He further explained that the planning/zoning codes dictate setbacks, square footage, and height while the building code addresses matters of safety and structural integrity. He clarified that the matter before the Council is relative to the planning/zoning codes and any changes that would allow for rebuilding of non-conforming structures would still have to comply with the building code when matters of safety are involved.

Council Member Wright stated that he could not support an ordinance that would guarantee all existing non-conforming structures the right to be rebuilt in the case of destruction.

Discussion commenced.

Council Member Malloy stated that she could support modifications to the code that would allow for rebuilding of non conforming structures in the same footprint and size, with safety issues in conformance with the building codes.

City Manager Loventhal suggested that the Council consider eliminating paragraph two of section 10.07.080. He pointed out that it is this section that limits the ability of reconstruction of non-conforming structures.

Following discussion, there was Council consensus to direct staff to research allowing structures to be rebuilt if destroyed by natural disasters and to bring the matter back to the City Council for consideration.

COMMITTEE/COMMISSION REPORTS

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

CITY MANAGER'S REPORT

City Manager Loventhal reported on implications of the State budget and stated that there will need to be Council consideration at a future meeting of the available repayment options.

At 8:50 p.m., Mayor Wright announced the subject of the Closed Session and adjourned the open session to closed session.

CITY MANAGER'S REPORT

CLOSED SESSION

Pursuant to Government Code Section 54956.9 (a) the Council will meet in Closed Session to Discuss Existing Litigation –

- Padgett et.al. vs. Loventhal et.al. (C04-03946JW) United States District Court for Northern District of California, San Jose Division
- Dao v. City of Monte Sereno and Does 1 through 10 (Case No. 108CV112851) Santa Clara County Superior Court

RECONVENE TO OPEN SESSION

At 9:12 p.m. the meeting was reconvened into open session.

REPORT ON ACTION TAKEN DURING CLOSED SESSION

Mayor Wright announced that with regard to Padgett et.al. vs. Loventhal et.al. (C04-03946JW) United States District Court for Northern District of California, San Jose Division there was nothing to report.

With regard to Dao v. City of Monte Sereno and Does 1 through 10 (Case No. 108CV112851) Santa Clara County Superior Court, Mayor Wright reported that the City's insurance company had settled the case in the amount of \$15,000. to be paid by the City's insurance company.

ADJOURNMENT

At 9:15 p.m., Mayor Wright adjourned the meeting to 7:30 p.m., Tuesday, September 1, 2009 to be held in the City Council Chambers located at 18041 Saratoga-Los Gatos Road, Monte Sereno, and California.

A. Curtis Wright, Mayor

ATTEST:

Andrea M. Chelemengos, City Clerk