

**MINUTES
SPECIAL MEETING**

City Council of the Town of Colma
Town Hall, 1198 El Camino Real
Colma, CA 94014

**Wednesday, April 16, 2008
6:00 p.m.**

CALL TO ORDER

Mayor Helen Fiscaro called the Special Meeting of the City Council for the Town of Colma to order at 6:06 p.m.

Council Present – Mayor Helen Fiscaro, Vice Mayor Joanne F. del Rosario, and Council Members Frossanna Vallergera, Joseph Silva and Diana Colvin were present.

Staff Present – City Manager Diane McGrath, Assistant City Manager Laura Allen, City Attorney Roger Peters, Police Chief Bob Lotti, City Planner Andrea Ouse, City Engineer Rick Mao, and Administrative Technicians Kris Krow and Christina Acosta.

CONSENT CALENDAR

Mayor Fiscaro asked if there were any changes to the agenda, there were none.

1. Motion to Adopt a Resolution Authorizing the City Manager to Execute a Contract for Actuarial Services with Nicolay Consulting Group.

Action: Council Member Silva moved to approve Item # 1, seconded by Vice Mayor del Rosario and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Mayor Helen Fiscaro	✓				
Joanne F. del Rosario	✓				
Frossanna "Fro" Vallergera	✓				
Joseph Silva	✓				
Diana Colvin	✓				
Voting Tally	5	0			

PUBLIC HEARING

2. **HILLSIDE DISPOSAL SITE FINAL GRADING PLAN AND CLOSURE**

Andrea Ouse, City Planner noted that there is an Errata sheet that should accompany the staff report and attachments for this item, and confirmed that all parties were in possession of the Errata document.

Ms. Ouse stated that San Bruno Mountain Watch had submitted a letter requesting that their comments be withdrawn. Outstanding issues between San Bruno Mountain Watch and the applicant appear to have been worked out prior to this hearing.

Ms. Ouse proceeded to present the staff report.

Mayor Fiscaro opened the Public Hearing at 6:27 p.m.

Jim Wise, Project Engineer was present to answer questions.

Mr. David Hatfield stated that he is supportive of the closure.

Mayor Fiscaro opened the Public Hearing at 6:28 p.m.

Action: Vice Mayor del Rosario moved to Approve a Resolution Adopting a Mitigated Negative Declaration and *De Minimis* Findings for Amendments to the 1994 Disposal Site Operations Agreement, the Disposal Site Closure Plan and the Disposal Site Post-Closure Maintenance Plan at One Sand Hill Road, with the changes noted on the Errata sheet, seconded by Council Member Silva and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Mayor Helen Fiscaro	✓				
Joanne F. del Rosario	✓				
Frossanna "Fro" Vallerga	✓				
Joseph Silva	✓				
Diana Colvin	✓				
Voting Tally	5	0			

Action: Vice Mayor del Rosario moved to Adopt a Resolution Approving and Authorizing Fourth Amended Agreement Regarding Operation of a Disposal Site in the Town of Colma, with the changes noted on the Errata sheet, seconded by Council Member Colvin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Mayor Helen Fiscaro	✓				
Joanne F. del Rosario	✓				
Frossanna "Fro" Vallerga	✓				
Joseph Silva	✓				
Diana Colvin	✓				
Voting Tally	5	0			

Mayor Fiscaro adjourned the meeting for a brief recess at 6:31 p.m. and reconvened the meeting at 6:44 p.m.

3. **DETERMINATION OF NON-CONFORMING USE FOR PROPERTY AT 1850 EL CAMINO REAL, COLMA, PREVIOUSLY CITY ROOFING COMPANY.**

Mayor Fisicaro went over some logistical instructions as follows: this hearing is being recorded, everyone needs to make sure their microphones are turned on, there will be a short pause after the microphone is turned on before it will begin to amplify voices, everyone needs to speak into the microphones so we can have a complete record, the system is very sensitive and picks up side conversations and comments really easily, we are also video taping the meeting to augment the audio recording, only one person may speak at a time, please introduce yourself each time you start a new conversation into the microphone.

Mayor Fisicaro asked for an introduction of all the persons participating in this determination hearing.

In addition to the City Council, City Attorney Roger Peters, and City Manager Diane McGrath, participants in this hearing were:

George Arrospide, Jr., Applicant and Property Owner

Marcella Arrospide

Karin Manwaring, Attorney, outside counsel representing the Planning Department

City Planner Andrea Ouse.

Mr. and Mrs. Arrospide, and City Planner Ouse were sworn in by City Manager Diane McGrath, who asked, "Do you swear or affirm to tell the truth in the matter of *In Re Arrospide Application for Determination of Non-Conforming Use?*" All parties answered yes.

City Attorney Roger Peters gave the following instructions to Council regarding this hearing: Council's role is to decide both the factual issues and the legal issues that are brought before them. City Council will be acting as both judge and jury in this matter. If an objection is made or a ruling of law is required, City Attorney Roger Peters can give them advice regarding the law, but Council must decide each question. The City Attorney's role is similar to that of a research attorney to a judge. The City Attorney will research the law and present Council with a legal analysis. City Council may accept or disregard the analyses.

The Town Planner is represented by outside counsel, Ms. Karin Manwaring, and Mr. Arrospide is representing himself.

Each side has submitted written arguments, declarations and other documentary evidence in support of their respective positions, which have been included in the agenda packet and staff report.

City Attorney Roger Peters asked both parties to confirm several Foundational Matters.

Both parties agreed to stipulate to the facts set forth in the *Statement of Stipulated Facts*, which has been marked as pages 5012 to 5014 of the Agenda Packet. Neither party objected to the introduction of any exhibit offered by the other party. Karin Manwaring, representing the Town Planner, had one additional piece of documentary evidence to introduce, a printout from the California State Contractors Licensing Board, which is attached to these minutes. Both parties were in possession of the Special Findings Worksheet sent by the City Attorney Roger Peters, and neither party objected to its use by the City Council in making its decision. Mr. Arrospide agreed that he was withdrawing his request to deliver a document titled "Reply Brief" to the City Council, and would instead reserve the right to argue his points orally. Both parties understood that they have the right to call witnesses on their behalf and to cross-examine the other side's witnesses.

Mr. Arrospide gave his statement first. City Council asked questions of Mr. Arrospide. Ms. Manwaring gave the statement for the Planning Department, and City Council asked questions of her and City Planner Ouse. Mr. Arrospide concluded with a final statement.

Statements for both parties were concluded and submitted at 8:13 p.m.

City Attorney Peters gave further direction to the Council and the City Council discussed the issue. The Special Findings Worksheet was used as Council deliberated, and is attached to these minutes.

Mayor Fiscaro adjourned the meeting for a short break at 8:40 p.m., and reconvened the meeting at 8:50 p.m. Council discussion continued.

It was noted for the record that all five council members agreed that the non-conforming use had been abandoned.

Mayor Fiscaro called for a roll call vote asking Council Members to grant or deny the application to recognize the non-conforming use at 1850 El Camino Real. Voting proceeded as follows:

NAME	VOTING
Mayor Helen Fiscaro	DENIED
Joanne F. del Rosario	DENIED
Frossanna "Fro" Vallerqa	DENIED
Joseph Silva	DENIED
Diana Colvin	DENIED
Voting Tally	5

Council stated they hoped that a resolution could be worked out between the Town and Applicant. Marcella Arrospide spoke to the Council and stated her desire to work cooperatively with the Town.

ADJOURNMENT

Mayor Fiscaro thanked the participants in the hearing. There being no further business Mayor Fiscaro adjourned the Special Meeting at 9:28 p.m.

Respectfully Submitted,

Kris Krow
Administrative Technician III

- Attachments:
- A. Hillside Landfill Matter – Errata Sheet
 - B. In Re: George Arrospide v. Town of Colma, Special Findings Worksheet
 - C. City Roofing Co. - License Information from Contractors State License Board