

**MINUTES
JOINT SAND CITY COUNCIL AND SUCCESSOR AGENCY
OF THE REDEVELOPMENT AGENCY**

SPECIAL Meeting – Monday, January 4, 2016
5:30 P.M.
CITY COUNCIL CHAMBERS

Mayor Pendergrass opened the meeting at 5:30 p.m.

The invocation was led by Reverend Carl Kelleher.

The Pledge of Allegiance was led by Police Chief Brian Ferrante.

Present: Council Member Blackwelder
Council Member Carbone
Council Member Hubler
Council Member Kruper
Mayor Pendergrass

Staff: Todd Bodem, City Administrator
Chris Campbell, Acting City Attorney representing Jim Heisinger
Leon Gomez, City Engineer
Brian Ferrante, Police Chief
Charles Pooler, Associate Planner
Connie Horca, Deputy City Clerk

AGENDA ITEM 4, COMMUNICATIONS

A. There was no written communication distributed to the Council.

B. Oral

5:31 p.m. Floor opened for Public Comment.

No comment from the Public.

5:31 p.m. Floor closed to Public Comment.

AGENDA ITEM 5, CONSENT CALENDAR

A. There was no discussion of the December 15, 2015 Sand City Council Meeting Minutes.

B. There was no discussion of the City **Resolution** Making Re-Appointments to the Design Review Committee (Davis, Kruper, & Lindberg). *Council*

Member Kruper abstained from voting.

- C. There was no discussion of the City **Resolution** approving Time Extensions to April 30, 2016 of Multiple Conditional Use Permits (CUPs 450, 503,508,527, 532, 540, 541, 562, 576 & 578) and Coastal Development Permit 14-01 to continue as Interim Uses at their respective locations within the South of Tioga Area.
- D. There was no discussion of the Fort Ord Reuse Authority (FORA) Meeting Report, December 2015.
- E. There was no discussion of the Confirmation of Future Dates for 2016 Sand City Events.
- F. There was no discussion of the City Donation/Contribution to the Panetta Institute for Public Policy for \$500.

Motion to approve the Consent Calendar items was made by Council Member Blackwelder, seconded by Council Member Hubler. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. *Council Member Kruper abstained from item 5B.* Motion carried.

AGENDA ITEM 6, CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

There were no items pulled from the Consent Calendar.

AGENDA ITEM 7, PUBLIC HEARING

- A. **FIRST READING: Ordinance of the City Council of Sand City to Amend Chapter 18.69 of Title 18 (Zoning Ordinance) of the Sand City Municipal Code Prohibiting Medical Marijuana Dispensaries, Cultivation of Marijuana, Commercial Marijuana Deliveries, and all Commercial Medical Marijuana Activities in Sand City**

Associate Planner Charles Pooler reported that on October 9, 2015, Governor Brown signed three bills into law (AB 266, AB 243, and SB 643), establishing a State licensing scheme for commercial medical marijuana uses while protecting local control and allows local jurisdictions to completely prohibit commercial marijuana activities, including sales, cultivation, production, and distribution. The ordinance being presented expands the prohibited activities to include cultivation and all commercial marijuana activities, including commercial deliveries, processing and distribution in addition to the establishment of fixed or mobile dispensaries.

Staff recommends the City Council approve the draft ordinance as presented.

5:35 P.M. Floor opened for Public Comment.

Sand City resident Dierdre Bascou commented that a close friend was diagnosed with colon cancer, who also lost her home on Christmas Eve while undergoing treatment. As with most cancer patients, Stacey used doctor prescribed medical marijuana in an oil form and as a dietary supplement to help with the pain and nausea associated with chemotherapy treatments. Unfortunately, when Stacey chose a different path of treatment and the protocol for her care changed, she lost her battle with cancer on September 14, 2015. Ms. Bascou asked the Council if they would prevent someone like Stacey from receiving the medication she needed and how this type of use would negatively affect the City. She expressed that the decision made tonight is to meet the State deadline for retaining jurisdiction over the future of the cannabis industry in Sand City, and is under the impression that there could be changes and amendments made in the future. In closing, Ms. Bascou commented that she is hopeful that the council member whose job is to serve the constituents that voted them in, will be mindful, open, and aware that the majority of the community is in favor of both medicinal, compassionate, and recreational use.

Carl Kelleher, Reverend of Monterey Bay Christian Church commented that as a 10 year old child, his mother was run over by a car. The driver was a young boy who was under the influence of drugs. Several years later, another individual ran a red light and caused a serious accident involving his wife who almost lost her life due to the influence of drugs as well. He expressed his opposition to the issue. If marijuana were used by only those individuals who truly needed it for medicinal purposes that would be great, but a little leaven, leavens the whole lump.

Ron Mason, Sand City resident commented that in successive years he had to bury a brother and brother-in-law who started recreational use of marijuana and other drugs. Their use was minimal until their practice had escalated into an addiction. Due to drug use, both individuals lost their lives, and he expressed his opposition to any kind of drugs within Sand City.

Michele Adams, Sand City resident expressed her opposition regarding allowing marijuana into Sand City for reasons that would include bringing additional crime to the area, traffic, and the kind of people that it would attract. She would like to see Sand City grow towards a different direction, and expressed her strict opposition to marijuana use. It is a large booming business and has been used for profit, but there is not one good reason why it should be in Sand City.

David Perry, Sand City resident commented that for compassionate use, the City Council and the City should keep an open mind in regards to the

future of this industry. He is a former veteran who has witnessed several homeless men and women having trouble obtaining medical marijuana. In closing, he reiterated his hope that the City is not blinded to that and consider its compassionate use.

5:49 P.M. Floor closed to Public Comment.

Mayor Pendergrass commented that the public represented here today have spoken from personal experience. Medical marijuana can be obtained half a mile away. The Chief of Police had spoken to the many issues regarding the delivery, sale, and cultivation of medical marijuana at a past Council meeting. Individuals can be very supportive of those suffering from illness and diseases, and there are other drugs that can help to ease the pain. The ordinance presented for first reading would prohibit the delivery, sale, and cultivation of marijuana in Sand City.

Council Member Kruper commented that after serving in the medical field for 18 years, it would be difficult denying the medication that people need for their compassionate pain relief. Mr. Kruper expressed his opinion on the issue with legislation coming from Sacramento regarding cannabis use. Should the Council pass the ordinance tonight, both the State and Cities would need to issue a license to cultivate marijuana. It is his belief that once the State begins to clean up legislation, then several questions would be rectified. The other issue would be that the ordinance come through committee allowing for questions to be answered. He expressed his discomfort in passing this ordinance since there have not been more views from residents of the community.

Council Member Hubler expressed that he is against a dispensary, cultivation, and someone who may start a delivery business within Sand City; however, for someone who sincerely needs this, is unable to get out of their home to obtain it, and is having it delivered from outside the City; how would the City enforce that? Although not an avid proponent of marijuana and the way that the ordinance is written, he cannot justify the part in the ordinance regarding an individual's legal right to obtain medical marijuana. The issue is how would enforcement of delivery from an outside source to someone who legally needs it be conducted?

Vice Mayor Carbone concurs with Council Member Hubler and does not desire to see the cultivation and or sale of marijuana within the City. She asked legal counsel if an individual would need to have a license for cultivation. In response, legal counsel commented that under this ordinance, the City has the right to trump the State law. This ordinance is drafted to prohibit personal cultivation.

There was Council discussion regarding the delivery of medical marijuana, its enforcement, and how it can be monitored.

Council Member Blackwelder commented that Sand City is too small of a City to be able to deal with the intricacies forced upon us, and its need to be resolved at the State level. The medical field needs to be involved to analyze the legalization of cannabis.

In response to Council Member Blackwelder's question regarding whether the City would establish roadblocks at every major intersection of the City, Chief Ferrante commented on his agreement with the public comments presented. From a law enforcement perspective, the sale, cultivation, and delivery of medical marijuana should be prohibited in Sand City. From a practical standpoint delivering to the one person in Sand City who is homebound is not the primary concern, as there are more pressing issues. The ordinance is presented due to time constraints and to have it passed by March 1st. Should the Council decide to approve it, the ordinance may be amended in the future, and it would serve to prevent the marijuana industry in obtaining a foothold within the City.

Associate Planner Pooler commented that his interpretation of the bills is a control issue between the State and Cities. In looking at the draft ordinance presented, Mr. Pooler suggested adding language under the section medical marijuana prohibited, to delete *qualified patients*, to appease some of the concerns expressed, and to add *item F. Individuals who qualify as a patient under the compassionate use act and medical marijuana program act may cultivate and possess marijuana for medical use only.*

The Mayor suggested that any changes should not be made haphazardly and commented that the Council approve the ordinance as written and look at amending it in the future. Council Member Hubler expressed that the Council agreed on most of the ordinance, however the way the ordinance is specifically written is something he cannot support, and would hope that it can be amended in the future.

Motion to approve by title, the First Reading of the **Ordinance** of the City Council of Sand City to Amend Chapter 18.69 of Title 18 (Zoning Ordinance) of the Sand City Municipal Code Prohibiting Medical Marijuana Dispensaries, Cultivation of Marijuana, Commercial Marijuana Deliveries, and all Commercial Medical Marijuana Activities in Sand City was made by Council Member Pendergrass, seconded by Council Member Blackwelder. Roll Call Vote AYES: Council Member Blackwelder, Carbone, Pendergrass. NOES: Council Member Hubler. ABSENT: None. ABSTAIN: Council Member Kruper. Motion carried.

AGENDA ITEM 8, OLD BUSINESS

- A. Progress report on Public Works projects, South of Tioga Redevelopment project, Coastal projects, and other Sand City community programs by City Engineer/Community Development**

Director/City Administrator

City Engineer Leon Gomez reported that the desalination plant production continues to be on hold due to high salinity at the feed water wells. Both the City Administrator and City Engineer have been in constant contact with plant operators to receive updates on the plants status. The City Administrator was successful in coordinating a future meeting to discuss and find a solution with the desalination plant's inability to produce.

City Administrator Todd Bodem commented that several individuals from Cal-Am and City Staff will meet to discuss the plant, along with Derrick Williams who was involved with the new modeling report.

Mayor Pendergrass provided a comment on the history of the plant's construction, and Cal-Am's ability to obtain an increase to the salinity discharge levels. There was Council discussion regarding the design of the desalination plant, its performance, and permitting conditions necessary to operate the plant.

City Engineer Leon Gomez continued to report on the Stormwater program regarding mapping all the post construction low impact development (LID) facilities for the Orchard Supply Hardware renovation project and the Bungalows project. An update of the Independents LID facilities will also need to occur. The City is working with AMBAG on the mapping project.

Staff has been working with the City surveyor to schedule the preliminary topographic survey work for Hickory/Dias street improvement project. The developer of the Bungalows project has requested a final sign off for certificate of occupancy on Lot 1, pending their city engineer's certification that the Stormwater improvements were built per the improved plan. Installation of permeable pavement for the street improvement project has also been discussed, and a representative can be available to make a presentation to the City Council.

Mayor Pendergrass commented that City staff had been requested to research CDBG grants for street improvement programs, and strongly suggested that Staff look into the grants program.

City Administrator Bodem added that the Long Range Property Management Plan has been approved by the Department of Finance.

AGENDA ITEM 9, NEW BUSINESS

- A. Consideration of City RESOLUTION Authorizing the City Administrator to Enter into an Agreement with California Coastal Commission regarding Acceptance, Holding, and Disbursal of In-Lieu Public Parking Funds required as a condition of Coastal**

Development Permit A-3-SNC-98-114 for the Monterey Bay Shores Project

Associate Planner Charles Pooler reported that the California Coastal Commission issued a Coastal Development Permit for the Monterey Bay Shores (MBS) project. Condition No. 5(h) of the CDP requires construction and development of free public beach parking spaces. If the project cannot provide the required number of public parking spaces, then MBS is required to make payment to the City of Sand City's in-lieu parking fee fund for the number of spaces deemed to be infeasible. Such payment shall be specifically earmarked, reserved, and only allowed to be used for parking and maintenance of public beach access parking. The MBS project will be deficient thirty-five (35) spaces. An agreement was drafted to address the payment of in-lieu fees to the City in accordance with the terms of the CDP. This agreement established the terms of how the in-lieu fees are paid by MBS, how those funds will be held separately from the overall general in-lieu parking funds, and how those funds will be eventually disbursed in accordance with the terms of the CDP condition.

The City's current in-lieu parking fee is \$500 per year for each space. For each 35 spaces, a total annual payment to the City will be \$17,500. Staff finds the terms of the draft agreement to be reasonable, and Monterey Bay Shores is willing to make the annual payments of \$17,500 to the City. Staff recommends approval of the Resolution authorizing the City Administrator to enter into an agreement regarding the acceptance, holding, and disbursement of in-lieu parking funds. The expenditures of these funds may only be used for beach access.

In response to Council member Kruper's question if the City or developer would need to solicit the Coastal Commission to access the funds, Associate Planner Pooler responded that it would be up to the Executive Director on how those funds would be expended. The funds may be dedicated only for public beach access. Either the developer or the City would approach the Executive Director for expenditure of the funds.

6:42 P.M. Floor opened for Public Comment.

Monterey Bay Shores developer Dr. Ghandour commented that Staff did a great job. The project will be providing 46 spaces, and sometime in the future the project would have the ability to find land and place 35 spaces within City limits; however, due to not having adequate land, the project fell 35 spaces short. The project provided a regional trail head and percolation pond in its original design that was denied by the Coastal Commission, so a new project design was submitted to the Coastal Commission resulting in a compromise to parking spaces.

The Mayor asked Dr. Ghandour if he was in agreement with the conditions

of the permit. Dr. Ghandour responded that he was in agreement with permit conditions.

6:48 p.m. Floor closed to Public Comment.

Associate Planner Charles Pooler requested that a correction be made to the permit's title to include *Security National Guaranty* after Coastal Commission.

Motion to approve the City **Resolution** authorizing the City Administrator to Enter into an Agreement with California Coastal Commission regarding Acceptance, Holding, and Disbursal of In-Lieu Public Parking Funds required as a condition of Coastal Development Permit A-3-SNC-98-114 for the Monterey Bay Shores Project with corrections to the title was made by Council Member Kruper, seconded by Council Member Carbone. AYES: Council members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

B. Comments by Council Members on Meetings and Items of interest to Sand City

There were no comments from the Council.

C. Upcoming Meetings/Events

The regularly scheduled Council meeting on January 5, 2016 has been cancelled due to anticipated lack of a quorum.

There were no RSVP's from the City Council. The Mayor reminded the Council of the upcoming MCBC Economic Vitality Awards Gala. Sand City was chosen as an awardee for the West End Celebration.

AGENDA ITEM 10, ADJOURNMENT

Motion to adjourn the City Council meeting was made by Council Member Blackwelder, seconded by Council Member Kruper, to the next regularly scheduled Council meeting on Tuesday, January 19, 2016 at 5:30 p.m. There was consensus of the Council to adjourn the meeting at 6:52 p.m.

Connie Horca, Deputy City Clerk