

MINUTES
JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY

Regular Meeting – February 5, 2013
7:00 P.M.
CITY COUNCIL CHAMBERS

Mayor Pendergrass opened the meeting at 7:00 p.m.

The invocation was led by Reverend Carl Kelleher.

The Pledge of Allegiance was led by Police Chief Michael Klein

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

Staff: Steve Matarazzo, City Administrator/Community Development Director
Jim Heisinger, City Attorney
Leon Gomez, Interim City Engineer
Michael Klein, Police Chief
Linda Scholink, Director of Administrative Services/City Clerk
Charles Pooler, Associate Planner

AGENDA ITEM 4, COMMUNICATIONS

A. Written communication distributed this evening included a list of possible council member conflicts and a summary of tonight's presentation for the United Way 211 Program.

B. Oral

7:01 p.m. Floor Opened for Public Comment

FORA Director Michael Houlemard commented that Monterey Peninsula Chamber of Commerce representative Jody Hansen is here tonight, as well as the former Mayor of the City of Carmel, Sue McCloud. The City of Sand City is a longtime supporter of the Monterey Peninsula Chamber. He announced that Mayor Pendergrass is this year's winner of the Ruth Vreeland Public Official of the Year Award. Jody Hansen, Executive Director of the Monterey Peninsula Chamber of Commerce, expressed her congratulations and hopes to see the Mayor at the Annual Awards Dinner on March 9, 2013 at the Hyatt Regency. Sue McCloud added that it is rare to see Mayor Pendergrass speechless, and it is a well-deserved award for his involvement within the community, and business community. Mayor thanked the Chamber and remained relatively speechless.

Mayor Pendergrass expressed his thanks to the Arts Committee, and recognized the hand crafted horse sculpture created by Larry Fisher at the Sculpture Center entrance. He also announced the passing of Richard Ross, owner of Ross Roofing who unexpectedly passed away. He suggested that the adjournment of tonight's meeting be dedicated to Mr. Ross.

7:05 p.m. Floor Closed to Public Comment

AGENDA ITEM 5, CONSENT CALENDAR

The Consent Agenda consists of routine items for which City Council approval can be taken with a single motion and vote. A Council member may request that any item be placed on the Regular Agenda for separate consideration.

- A. There was no discussion of the December 18, 2012 Council Meeting Minutes.
- B. There was no discussion of the January 15, 2013 Council Meeting Minutes.
- C. There was no discussion of the Police Department Annual Report 2012.
- D. There was no discussion of the City **RESOLUTION** Approving a Contract with Monterey Peninsula Engineering at a cost not to exceed \$11,750 for Paving the Parking Area across from City Hall on Sylvan Park Avenue (this item continued from the January 15, 2013 Council meeting) (This item was pulled from the consent calendar and considered under Agenda Item 6A, due to a possible conflict for Council Members Carbone and Hubler).
- E. There was no discussion of the Fort Ord Reuse Authority (FORA) Monthly Report, January 2013
- F. There was no discussion of the Sand City Sales Tax Update, Quarterly Report, September 2012.
- G. There was no discussion of the City Donation/Contribution to:
 - 1) 46th Annual Monterey Scottish Games & Celtic Festival - \$500
 - 2) Seaside High School PTSA, 2013 "Sober Grad Night" - \$200
- H. There was no discussion of the City/Successor Agency Treasury Report, December 2012.
- I. There was no discussion of the City/Successor Agency Monthly Financial Report, December 2012.

Motion to approve the Consent Calendar 5A-C, and E-I was made by Council Member Blackwelder, seconded by Council Member Kruper. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

AGENDA ITEM 6, CONSIDERATION OF ITEMS PULLED FROM CONSENT

CALENDAR

{Council Members Carbone and Hubler stepped down from the dais due to a possible conflict of interest}

Item 5D- There was no discussion of the City **RESOLUTION** Approving a Contract with Monterey Peninsula Engineering at a cost not to exceed \$11,750 for paving the parking area across from City Hall on Sylvan Park Avenue.

Motion to approve Agenda Item 5D was made by Council Member Blackwelder, seconded by Council Member Kruper. AYES: Council Members Blackwelder, Kruper and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Council Members Carbone and Hubler. Motion Carried.

{Council Members Carbone and Hubler returned to the dais}

AGENDA ITEM 7, PRESENTATION

- A. Katie Costanya, Chief Operating Officer of United Way Monterey County presented the 211 Program and its impacts to Sand City. She thanked the Council for their past support of the 211 Program, in which Sand City was one of three cities that provided funding. The 211 program is a free, centralized clearinghouse of information and referral on community services, available 24 hours a day, seven days a week in 170 languages. 211 responded to 14,512 calls, resulting in 20,161 referrals for services. She summarized the categories of need, such as legal services, income support, health care, education, mental health and community services. Sand City's major category needs were housing/shelter, substance abuse and counseling, food, and domestic violence assistance. The program's on-going initiatives include free income tax preparation, disaster preparedness and response, and veterans' initiatives. The 211 Program is free, confidential and available 24/7 to residents of Monterey County. Ms. Costanya distributed the annual report to the City Council.

Mayor Pendergrass commented that the 211 Program is quite comprehensive, and thanked her for the information and update on the program.

The Mayor requested that Agenda Item 8B be considered before Agenda Item 8A. There was no objection from the Council to move the agenda item.

AGENDA ITEM 8, PUBLIC HEARING

{Council Members Hubler and Kruper stepped down from the dais due to a possible conflict of interest}

- B. Associate Planner Charles Pooler presented an application for a conditional use permit submitted by Ignacio Flores Martinez, representing

“Veggies Produce”. The applicant proposes to relocate his produce storage and distribution operation to 591 Redwood Avenue. Veggies Produce has been operating at 571 Redwood Avenue and relocation to the adjacent two-story building requires a new conditional use permit. The scale of operation will remain unchanged. Shipments of produce will occur between 9:00 a.m. and 11:00 a.m., Monday through Friday. There will be one office employee and two delivery drivers using the applicant’s two vans. The site is approximately 3,500 square feet, requiring four on-site parking spaces. The unit’s width meets adequate parking requirements. This use is not anticipated to pose a nuisance, provided that loading/unloading activity occurs on the property, and not within the public right-of-way. Staff recommends approval of the attached conditional use permit.

7:23 p.m. The floor was opened for Public Comment.

The applicant, Mr. Martinez was in agreement with the conditions of the permit. There was no further comment from the floor.

7:23 p.m. The floor was closed to Public Comment.

Motion to approve the City **Resolution** by title, approving Conditional Use Permit 558 for Veggies Produce to use a commercial building for produce storage and distribution at 591 Redwood Avenue was made by Council Member Blackwelder, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Council Members Kruper and Hubler. Motion Carried.

- A. The City Administrator stated that on January 17, 2012 the City Council approved amendments to the subject permits that allowed architectural enhancements to the existing building at 600 Ortiz Avenue, a 4 story mixed use development known as “The Independent”.

This new application contains 4 “new” requests that will be addressed separately: (1) reconsideration of the roof sign which would require an amendment of the sign program and the adoption of new sign regulations allowing roof top signs, (2) relocation and modification of the type of affordable housing allowed in the project; and (3) elimination of the public plaza in favor of a landscaped area and separate seating area for a potential new restaurant, and (4) flexibility in the type of land use allowed on the first floor of the building. Staff’s concern regarding the public plaza is that the redevelopment easement would require Oversight Board approval. The area is large and open, and the sculpture presently there would need to be relocated. As previously mentioned, some substitution of the plaza could occur at the Ream Property, but the applicant does not own that property. This arrangement would limit the usability of the plaza area. Regarding the roof top sign proposal, should the Council deem a revision to the sign requirements is warranted, an environmental impact report may have to be conducted. This is not a destination location that would justify a roof top sign.

City Attorney Jim Heisinger commented that the Independent was a redevelopment project under a disposition and development agreement (DDA) that required affordable housing. He summarized the background and history of the construction of the Independent, formerly the Design Center. He referred to page 74 of the packet that depicts the present location of the units, and the income levels that deem them as affordable housing. Under State law, affordable rental units that were assisted with redevelopment funds must be held affordable for 55 years. The Agency may replace the units with equally affordable and comparable units proposed in another location must fall within these income levels. The Council must decide whether the units being offered in another location are considered comparable to the existing units that are to be replaced. The studio units are 303A, 303B, 307A, 307B, 308A & 308B. The one-bedroom units are 305 and 310, and the two-bedroom units are 304 and 306.

The City Administrator added that The Independent is cited as an example of what the City accomplished during a low period of housing production as part of the Housing Element.

1) On behalf of the Orosco Group, Geary Coats of Coats Consulting expressed that he would like to address each request separately. He explained that the Independent is hidden from the public and needs to be an identifiable area, so that surrounding businesses can benefit from this landmark. The applicant is requesting a variance to the sign program, not an amendment to the code; with the purpose of creating a sign that serves as a landmark image. In the case of the Independent, the sign would advertise the area and the community as a whole. Mr. Coats explained the height variance, where the sign would be placed above the building, and presented visual images to the Council as part of a Powerpoint presentation.

There was Council discussion regarding the wind factor and possible issues with the sign during high winds. Patrick Orosco of the Orosco Group addressed the question of sign lighting and that the sign will be lit during special events.

2) Geary Coats continued on request 2 with the proposed reconstruction of the Public Plaza area. The intent would be to create a user friendly environment. He demonstrated where the public easement is located, the parking lot, and the plaza slope along the building. The project would improve the design to accommodate more use of the plaza, such as a public seating area. Reconstruction would involve a reduction in the amount of hardscape in the plaza softening the visual effect from the street and providing more useable space. The project design would also mitigate wind that occurs often at the location. Mr. Coats also mentioned the possibility of future acquisition of the Ream Property for parking, and special events such as the West End Celebration.

There was Council discussion regarding the use of the parking lot, and a portion of the existing easement for special events such as the West End

Celebration.

3) In regard to request 3, affordable housing relocation, Mr. Coats reported that the property was originally designed to provide units 'for sale'. The sale prices were extremely high prior to the downturn of the housing market. The project would create an economically viable plan. The project would improve the current number of required units by providing a level of housing that seems to meet market demand.

Patrick Orosoco of the Orosco Group explained the design and project plans for the units on the second floor in relation to the affordable housing requirements. The units required on a 50% ratio for Phase I and the units on a 15% ratio for Phase II are being permitted on this floor, and would be constructed to a higher standard compared to other affordable housing developments. He asked that if the developer complies with housing law, does the City, representing the former Agency that entered into that agreement, have the discretion to amend the affordable housing agreement?

City Attorney Jim Heisinger commented that based on State law; the City does not have this discretion. The statutes are fairly clear and it does not state that should property go into foreclosure that amendments may be made. It states that affordable housing may be moved/relocated if they are replaced by like kind and number.

Mayor Pendergrass suggested delaying any decision regarding this part of the project until further research is conducted in relation to deed restrictions, and State law requirements. Mr. Orosoco and Mr. Coats were in agreement to the Mayor's suggestion.

City Administrator Steve Matarazzo commented that Staff will bring back for approval the plaza redesign should the Council find those changes acceptable. There was further Council discussion regarding the easement area, relocation of the sculpture, and any decision the Oversight Board may have in relation to the property's future redesign.

There was Council consensus to deny the proposed sign, to continue the public hearing regarding reconstruction of the plaza area for approval at the next meeting, and to delay action concerning the affordable housing units. There was also consensus to allow the first floor flexibility as recommended by Staff.

8:41 p.m. Floor opened for Public Comment

There was no comment from the Public.

8:41 p.m. Floor closed to Public Comment.

City Administrator Steve Matarazzo commented that in order for the applicant to move forward with their building permit, they may want action regarding the proposed changes on the first floor. The Resolution on page

97 allows for the flexibility of either four (4) residential units or for commercial use. A portion of the permit may be approved tonight, and the remaining issues may be addressed at the next Council meeting. Associate Planner Pooler clarified that the resolution in the packet only amends the existing permit to allow flexibility on the ground floor regarding the map on page 100 of the packet. All other issues discussed tonight are not part of this resolution.

Motion to approve the City **Resolution** by title, approving the Combined Development Permit (Use Permit, Coastal Development Permit, Site Plan) for the Independent (previously named the Design Center) at 600 Ortiz Avenue: (Conditional Use Permit 456, Coastal Development Permit 05-01 and Site Plan Permit 05-01) was made by Council Member Blackwelder, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Council Members Hubler, Kruper. Motion carried.

{Council Members Hubler and Kruper returned to the dais}

AGENDA ITEM 9, OLD BUSINESS

- A. Interim City Engineer Leon Gomez reported that the desalination plant production numbers received from Cal-Am indicated 13.87 acre feet of water was produced for the month of January. There were 14 non-productive days due to air valves on Bay Avenue that were damaged by a vehicle. Those were repaired, and Staff has requested a report summary. Encroachment permits were reviewed last week, one for Cal-Am for an emergency service fix on Holly Street, and work that Comcast is requesting.

City Administrator Steve Matarazzo reported that he has been a member of the Southern Monterey Bay Erosion Board for the past several years. He sent an email to the coordinator of the group requesting they review the possible purchase of a Sand Mine in Marina to slow down beach erosion. Staff also received a letter regarding the "No Trespassing" signs on the beach where the proposed Monterey Bay Shores project will be located.

City Attorney Jim Heisinger added that Mr. Ghandour wanted evidence that the "No Trespassing" signs existed prior to the 1972 Coastal Act. It is likely that there were signs there as an act of prior sand mining operations. Long-time residents of Sand City may be the best point of historical contact.

AGENDA ITEM 10, NEW BUSINESS

- A. There were no RSVP's from the Council.

AGENDA ITEM 11, CLOSED SESSION

9:11 p.m. Adjourned to Closed Session

A. City Council /Agency Board to adjourn to Closed Session:

1) To confer with Legal Counsel regarding pending litigation in accordance with Government Code Section 54956.9(d)(1):

a) *Monterey Peninsula Water Management v. State Water Resources Control Board (No. M102101), and related cases*

b) *Cal-Am Application to CPUC No. 10-04-019 for Order Authorizing Recovery of Costs for Lease and operation of the Sand City Desalination Facility*

c) *Seaside v. Sand City (No. M120996) and related cross action*

2) Conference with Legal Counsel in accordance with Section 54956.9 of the Ralph M. Brown Act, regarding Claim against Monterey County Reimbursement of Property Tax Administration Fee.

9:40 p.m.

B. Re-adjourn to Open Session to report any action taken at the conclusion of Closed Session in accordance with 54957.1 of the Ralph M. Brown Act.

The Council received a report from Legal Counsel regarding Agenda Item A1(c) Seaside v. Sand City, and Agenda Item A2 the PTAF Claim. There was no action taken

The Mayor called for adjournment in memory of Richard Ross, owner of Ross Roofing.

AGENDA ITEM 12, ADJOURNMENT

Motion to adjourn the City Council meeting was made by Council Member Kruper, seconded by Council Member Hubler to the next regularly scheduled Council meeting on February 19th at 7:00 p.m. There was consensus of the Council to adjourn the meeting at 9:41 p.m.



Linda K. Scholink, City Clerk