

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

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

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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  
                  Connie Horca, Deputy City Clerk  
                  Charles Pooler, Associate Planner

**AGENDA ITEM 4, COMMUNICATIONS**

A.        Written communication's distributed were a list of possible conflicts, information on the Potential Expansion of the Seaside County Sanitation District within the former Fort Ord Lands (Agenda item 7A), a letter from the California Environmental Law Project (Agenda item 8A), and materials for Closed Session (Agenda item 11A(2)).

B.        Oral

7:02 P.M.      Floor opened for Public Comment.

There were no comments from the Public.

7:02 P.M.      Floor closed to Public Comment.

**AGENDA ITEM 5, CONSENT CALENDAR**

- A. There was no discussion of the February 19, 2013 Council Meeting Minutes.
- B. There was no discussion of the City **Resolutions** honoring the Monterey Peninsula Chamber of Commerce's 2012 Awards Recipients
  - 1) Citizen of the Year - Julie Packard
  - 2) Ruth Vreeland Memorial Public Official of the Year - David K. Pendergrass
  - 3) Robert C. Littlefield Award for Lifetime Achievement - Dan Limesand
  - 4) Business of the Year - Confidential
  - 5) Volunteer of the Year - Confidential
- C. There was no discussion of the Lessons Learned from the Sand City Desalination Plant {information only}.

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

#### **AGENDA ITEM 6, CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR**

There were no items pulled from the Consent Calendar.

#### **AGENDA ITEM 7, PRESENTATION**

- A. Diana Ingersoll, District Engineer of the Seaside County Sanitation District (SCSD), presented the potential expansion of sewer collection services for the former Fort Ord lands within the Cities of Del Rey Oaks and Seaside. The SCSD Board directed Staff to present to the cities that have representation on the SCSD Board, providing information on the annexation of the former Fort Ord land's sewer service. Ms. Ingersoll reviewed the history of the Seaside Sanitation District. Formed in March 1950, it comprises of 3 Cities (Del Rey Oaks, Seaside and Sand City), and currently provides sewer services via a contract with the City of Seaside. In 1989, Marina Coast Water District (MCWD) received their annexation with MRWPCA, and the City of Del Rey Oaks annexed their portion of the former Fort Ord lands in 1997. That same year the Fort Ord Reuse Authority (FORA) went through a process to find a water purveyor, and had chosen MCWD to provide a contract, in which MCWD would provide sewer and water services to the former Fort Ord. The SCSD Board directed Staff to work with MCWD in regard to the undeveloped lands. The Board was advised that the best way to service this land was through gravity flow via the SCSD main line. Lands that require sewer service would need to be annexed. Ms. Ingersoll explained the details of this process and the requirements for sewer service annexation. The Local Agency Formation Commission of Monterey County (LAFCO) would be the approving Agency. In 2011, SCSD mailed a letter to LAFCO expressing interest in serving the undeveloped lands. Ms. Ingersoll demonstrated where the city limit lines were located, and the sewer service areas within those limits. SCSD is in the

process of a Municipal Service Review as mandated by LAFCO, and a prerequisite prior to applying for a Sphere of Influence application. This review is coordinated with FORA, MCWD and all the effected cities. Once the Sphere of Influence application is approved, then the Board may apply for annexation. Ms. Ingersoll concluded that ongoing discussions with the MCWD continue to negotiate who would service the undeveloped lands.

In response to Council Member Kruper's inquiry whether the pipes lead into Sand City, Ms. Ingersoll confirmed that they do, and that the upper part of Seaside is currently serviced by MCWD through a contract with FORA. The District Board may direct Staff to enter into a contract, to service the area or it may be split into two areas serviced by both MCWD and SCSD.

Mayor Pendergrass added that he is in favor of the annexation to SCSD and would like to move forward in support of the Seaside County Sanitation District.

## **AGENDA ITEM 8, PUBLIC HEARING**

- A. Consideration of City Resolution approving Coastal Development Permit 13-01 for Security National Guaranty (SNG) to Post "No Trespassing" Signs on its Coastal Property {**this item continued from the February 19, 2013 Council meeting**}.

Associate Planner Charles Pooler presented an application submitted by Security National Guaranty (SNG) to establish 'no trespassing' signs on their undeveloped coastal property. This is the site of the proposed Monterey Bay Shores Eco Resort. The Coastal Commission staff submitted recommendations that the signs not be higher than 48 inches, consist of earth tone colors, and that the number of signs be limited to 3 at the top of the crest of the dunes. Signs reading 'no trespassing' / 'private property' are acceptable along the eastern and inland area. Staff agrees with the Coastal Commission's recommendations with the sign's height. Staff has reviewed the Local Coastal Plan (LCP) to find that the proposed signs are consistent with LCP policies. The applicant does have responsibility to post signs on his property if he does not want trespassing to occur. Due to potential hazards on site, it is the property owner's responsibility to ensure that he is protected. Staff recommends approval of the coastal development permit, subject to conditions.

There was Council discussion regarding signs already located on the property, and that the new signs would not contain the word "and beach" to deter possible issues regarding public access of the beach.

7:29 P.M. Floor opened for Public Comment.

Dr. Ghandour, the applicant, states that his is one of two properties in California that have a unique Mexican Land Grant rights that entitles him ownership of the shoreline. However, he would dedicate the beach area to

the Public as part of his development approval. He submitted the application as a demonstration of cooperation for what he feels he already has a right to do. He added that the issue of public access along the shoreline is not part of this application. He commented on the issue raised in the letter received from the California Environmental Law Project regarding critical habitat, how it is defined in the LCP, and the amended EIR for his resort project. He thanked staff for compiling a well-written staff report, and is in agreement with the conditions of the permit.

7:39 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** approving Coastal Development Permit 13-01 for Security National Guaranty (SNG) to Post "No Trespassing" Signs on its Coastal Property was made by Council Member Kruper, seconded by Council Member Hubler. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

B. Consideration of Affordable Housing Program at the Independent, 600 Ortiz Avenue.

Mayor Pendergrass commented that a meeting with DBO Development and City Staff still needs to be scheduled to discuss the affordable housing program. The Council was in consensus to continue this item to the April 2, 2013 Council meeting.

## **AGENDA ITEM 9, 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.

Interim City Engineer Leon Gomez reported that Staff continues to meet with the sub-committee of the Storm Water Management Group. The group expects to begin implementing Phase II of the Storm Water Program some time in September. By the end of March, presentations to various local agencies will be conducted to report on the status and proposed changes of the Storm Water Program. Mr. Gomez has contacted Cal-Am regarding the production numbers for the desalination plant, and will forward the results to the Council once they are received by Staff.

Mayor Pendergrass reported that following the Monterey County Mayor's meeting last Friday, a tour of the desalination plant was conducted with two other Mayors. They enjoyed the tour of the plant, and were quite impressed.

City Administrator Steve Matarazzo reported that he and Associate Planner

Pooler met with the Association of Monterey Bay Area Governments (AMBAG) regarding Sand City's population estimates. Staff expects that AMBAG will correct the numbers to better reflect the City's General Plan build-out population.

Mayor Pendergrass reported that the Public Works Department has done a good job on striping the parking area across the street. They are presently re-striping the parking spaces near the park, and will be adding an additional space for handicap parking as required by State law.

- B. Consideration of Successor Agency Resolution approving the Revised Recognized Obligations Payment Schedule (ROPS 13-14A) for July 2013 through December 2013.

City Administrator Steve Matarazzo commented that the Agenda title should have stated: Review of Oversight Board Action regarding the Revised Obligations Payment Schedule (ROPS). This item does not require Council action, and is an update of the Oversight Board's action at the special meeting held on Friday, March 1, 2013. The revision to the ROPS was a result of the meeting held with the Dolinka Group representing the Monterey Peninsula Unified School District (MPUSD), Monterey Peninsula College (MPC), and the Monterey County Office of Education. Sand City's consultant Cheryl Murase from HdL, Staff, and the City Attorney were present. The Dolinka Group claims that \$1.6 million is still owed to the various taxing entities, from the beginning of Redevelopment formation even though the court ruled that once payment is requested, it is from that point forward. Ms. Murase from HdL noted that approximately \$116,000 was left unrecognized. Line 17 indicates a contingent liability of \$130,000 set aside for potential pass-through agreement back payments. The contingent liability to the City of Seaside was removed as requested by Board Member Parker, and a majority of the Oversight Board. MPUSD is requesting back payments to 1987; even though they did not make their request until August 2011.

City Attorney Jim Heisinger added that there is significant doubt whether the Dolinka Group's claim in behalf of MPUSD can go back prior to their request in 2011. The County representative to the Oversight Board has adamantly indicated that payment under the Seaside Agreement should come from something other than the Real Property Tax Fund. There is no action required tonight, as the initial resolution passed by the Successor Agency left the approval of the ROPS to the discretion of the Oversight Board.

There was Council discussion regarding the statute of limitation for requesting back payments.

City Administrator Steve Matarazzo commented that the State Controller's Office (SCO) report regarding the Asset Transfer Review was a good report overall. The SCO would like the long term liability issue to be settled between the Successor Agency, the County Auditor and the Oversight Board.

## **AGENDA ITEM 10, NEW BUSINESS**

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

## **AGENDA ITEM 11, CLOSED SESSION**

8:10 P.M.

- 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*
    - d) *SNG v. California Coastal Commission*
  - 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 Year

8:52 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

Direction was given from the City Attorney (Items 11A (1b & c)). Status report provided by City Attorney (Item 11A (2)).

## **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 March 19, 2013 at 7:00 p.m. There was consensus of the Council to adjourn the meeting at 8:53p.m.



Connie Horca, Deputy City Clerk.