

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

Regular Meeting – June 19, 2012
7:00 P.M.
CITY COUNCIL CHAMBERS

Mayor Pendergrass opened the meeting at 7:01 P.M.

The invocation was led by Reverend Robert Hellam.

The Pledge of Allegiance was led by Mayor David Pendergrass.

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
Richard Simonitch, City Engineer
Linda Scholink, Director of Administrative Services/City Clerk

AGENDA ITEM 4, COMMUNICATIONS

- A. Written communication distributed to the Council included a list of possible conflicts for tonight's meeting, a notice of Monterey County Business Council's cancelled luncheon, and additional information regarding comments on the Draft Economic Analysis (Agenda item 7A).

- B. Oral

7:04 P.M. Floor opened for Public Comment.

There were no comments from the Public.

7:04 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. Conditional Use Permits (CUP) and Coastal Development Permits (CDP) are subject to annual review by the City Council and City staff. Upon review of each of the following Use Permits, staff is recommending continued operation of the Use Permits to the City Council based on the finding that these uses are in compliance with their permits. There was no discussion of the following use permits.
- (1) CUP #377, Hartzel Automotive (auto), 510-A California Avenue
 - (2) CUP #399, Edgewater Center, (retail/multiple sites), 915, 925 Playa & 2030 California
 - (3) CUP #419, Carmel Tile/Doubleday (showroom/storage), 1725 Contra Costa
 - (4) CUP #495, Alternator & Starter Exchange (assembly), 352-B Orange Avenue
 - (5) CDP 97-05, Monterey Bay Restaurant Equipment (retail/wholesale), 325 Elder Avenue
 - (6) CUP #321, Groves Masonry (storage yard), 872 Afton Avenue
 - (7) CUP #368, Jersey's (food service), 832 Playa Avenue
 - (8) CUP #463, Monterey Mattress (showroom), 1714 Contra Costa
- B. There was no discussion regarding the approval of the Sand City Council Meeting Minutes, June 5, 2012.
- C. There was no discussion regarding the acceptance of the Police Department Monthly Report, May 2012.
- D. There was no discussion regarding the acceptance of the Public Works Monthly Report, May 2012.
- E. There was no discussion regarding the acceptance of the Monthly Fort Ord Reuse Authority Report (FORA), June, 2012.
- F. The proposed City **Resolution** authorizing the City Administrator to Execute a Water Assignment Agreement and Assign Water from the Sand City Water Entitlement to property at 637-A Ortiz Avenue, was pulled from the Consent Calendar for separate consideration under Agenda Item 6.
- G. There was no discussion regarding the acceptance and approval of the City/Successor Agency to the Redevelopment Agency Monthly Financial Report, April 2012.
- H. There was no discussion regarding the approval of the City **Resolution** approving a Contract with Pacific Municipal Consultants for Planning Review, and Grant Procurement/Administration Services for Fiscal Year 2012-13 at a cost not to exceed \$50,000.
- I. There was no discussion regarding the approval of the City **Resolution** authorizing renewal of the Building Inspection and Plan Check Services Agreement with the City of Monterey.

- J. There was no discussion regarding the approval of the City **Resolution** authorizing renewal of a Maintenance Services Agreement with HOPE Rehabilitation Services.

Motion to approve Consent Calendar items A-E and G-J 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.

{Council members Hubler and Kruper stepped down from the dais due to a possible conflict of interest by residing within 500'feet of the subject property}

6. CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

City Administrator Steve Matarazzo reported that an allocation of .011 acre feet of water needs to be allotted to Mr. Kruper so he may complete his live work unit project at 637-A Ortiz Avenue. Staff recommends approval of the attached resolution.

7:05 P.M. Floor opened for Public Comment.

Sand City resident Todd Kruper thanked the Council and commented that his live-work unit project has received positive responses from clientele that frequent Post no Bills, and the Independent 'Marketplace'. Mr. Kruper confirmed that foot traffic has improved.

7:06 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** granting the City Administrator authorization to execute a Water Assignment Agreement and assign water from the Sand City Water Entitlement to property at 637-A Ortiz Avenue 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 and Kruper. Motion carried.

{Council Members Hubler and Kruper returned to the dais}

AGENDA ITEM 7, OLD BUSINESS

City Engineer Richard Simonitch reported that there are presently no current public works projects. Progress on the street lights at 600 Ortiz is slow. Staff is waiting on the property owners, while research is being conducted on the electrical connections within the building to see if it is related to the street lights. A meeting was held with Cal-Am and the City Administrator regarding minor issues related to the desalination plant.

City Administrator Steve Matarazzo reported that a turbidity meter malfunction shut down the desalination plant. Cal-Am is changing those meters with higher

quality meters to prevent any future incidents. The US Fish and Wildlife issued a final rule on the critical habitat regarding the Western Snowy Plover. This was based on a lawsuit filed by the Center for Biological Diversity who wanted to see more plover habitat. In 2005, the City was granted an economic exclusion, and commented on the proposed rule requesting an extension due to coastal resort projects along the shoreline that were in process. The US Fish and Wildlife Services rejected the City's economic exclusion re-application.

City Attorney Jim Heisinger added that he spoke briefly with Tom Roth , attorney for Monterey Bay Shores developer Ed Ghandour, who communicated that a few of his clients are contemplating possible litigation over this issue. Apparently, it is not possible to challenge the denial of the exclusion directly. The challenge would be towards the underlying rule. It would prove quite an undertaking to prosecute that kind of litigation. Mr. Roth believes that if there was a change in administration in Washington in November, there may be more favorable treatment for the request of an economic exclusion. The statute of limitations for challenges on this is six years.

AGENDA ITEM 8, NEW BUSINESS

- A. Mayor Pendergrass reported that the City received a tax check in response to ROPS, and the Department of Finance (DOF) still has not approved repayment of the City loan from the former Redevelopment Agency. He mailed out over forty letters to Senate and Assembly members in support of the League of California Cities sponsored bills.

City Administrator Steve Matarazzo reported that three items are before the Council tonight. The Budget Committee met on June 7, 2012, and both the FY 2011-2012 Amendment #1 and Proposed Combined FY 2012-2013 budgets have been considered. Normally, an amendment to the Budget would not occur this late in the fiscal year; however, the California Supreme Court ruling that indicated the elimination of redevelopment that occurred at the beginning of this year has impacted all cities with redevelopment agencies. It was difficult to conclude the 2011-12 fiscal year budget without having at least one of the Recognized Obligation Payment Schedule's approved by the Oversight Board. The Oversight Board has approved two Recognized Obligation Payment Schedules thus far, allowing the City to forecast expected property tax revenue. The County Auditor is withholding \$175,000 due to the Department of Finance's claims that the loan agreement between the former Redevelopment Agency and the City is not a loan agreement under the terms of AB26. A trailer bill, AB 1484 changes this, which may further assist cities.

The proposed Amendment to this year's budget shows a small surplus; however, the contingency amounts would bring a budget deficit. These amounts include the former Redevelopment Agency partial loan repayment to the City, and the Seaside Payment. The positive report of this year's budget includes the sale of the John Street properties, and the elimination of the tax sharing payment to the City of Seaside. In regard to the Proposed FY 2012-13

Budget, the summary sheet depicts a deficit of \$229,000. This deficit would be larger, if not for the part-time Police Chief Contract, saving the City \$130,000.

There was Council discussion regarding the future position of the Police Chief contract, and if the position would need to be filled sometime in the future. This would depend on future legislation and the possibility of the Chief leaving retirement. Council Member Kruper proposed revisiting this issue in February next year, with the possibility of restructuring should the Budget not improve.

Mr. Matarazzo continued to report that expenditure highlights for FY 2012-13 indicate no increase in salaries. The Police Officers Association (POA) has agreed to defer the salary plan of 2007 for another year, with City Staff doing the same. The only Capital Improvement Project proposed for next fiscal year would be the parking lot across from City Hall. A Community Development Block Grant for \$118,000 was submitted for improvement of handicap access at City Hall, the Community Center, and for the parking lot. Outside Counsel and Attorney fees have increased due to pending litigation, and redevelopment dissolution. The Council should start to plan for the City's future loss of revenue when Cal-Am's lease payment will be reduced based on the desalination plant contract.

There was Council discussion involving the separation of the City's Budget and the Successor Agency's budget. It would provide for a more clarified budget with regard to the ROPS and what may be paid or not paid. The Council discussed concerns regarding future revenues, and the possibility of coastal development projects coming to fruition. Mayor Pendergrass commented that the City is working on these issues, and moving towards a positive source of additional revenue. Mr. Matarazzo mentioned that additional revenue sources may come with the remodel of the Independent, and the proposed gas station at Costco. Should Mr. Ghandour win his case, it would be another 2-3 years before this project would be considered a revenue source. Staff is hopeful that next February, sequestered funds would be released to the Successor Agency, which in the combined budget would be a positive improvement. There was also general discussion regarding increasing the transactions tax by 1/2 cent.

8:00 P.M. Floor opened to Public Comment.

There was no comment from the Public.

8:01 P.M. Floor closed to Public Comment.

- 1) Motion to approve the City/Successor Agency **Resolution** adopting Amendment #1 to the Combined City and Successor Agency Budget for Fiscal Year 2011-2012 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.

- 2) Motion to approve the City **Resolution** establishing an Appropriations Limit for Fiscal Year 2012-2013 Pursuant to Article XIII B of the California Constitution 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.
- 3) Motion to approve the City/Successor Agency **Resolution** adopting the Proposed Combined City and Successor Agency Budget for Fiscal Year 2012-2013 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.

Mayor Pendergrass thanked the Staff for their hard work regarding the former Redevelopment Agency, the Successor Agency, and in dealing with the Recognized Obligation Payment Schedule. He expressed his gratitude towards Brent Hawkins and Jim Heisinger for their time and commitment as well.

- B. There was Council consensus to cancel the City Council meeting scheduled for July 3, 2012 which proceeds the July 4th Holiday, to minimize conflicts with the holiday.
- C. The City Clerk reminded the Council of the MPCC Business Excellence Awards Dinner on July 26, 2012. Mayor Pendergrass confirmed his RSVP. There was also a reminder regarding the July 5, 2012 Arts Reunion Exhibition opening.

AGENDA ITEM 9, CLOSED SESSION

8:07 P.M.

- A. City Council /Agency Board to adjourn to Closed Session:
 - 1) To confer with Legal Counsel regarding pending litigation in accordance with Section 54956.9(c) of the Ralph M. Brown Act,
 - a) *Monterey Peninsula Water Management v. State Water Resources Control Board (No. M102101), and related cases*
 - b) *Security National Guaranty, Inc. v. California Coastal Commission*
 - c) *Sierra Club v. MPWMD (SNG as real party in interest)*
 - d) *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*

2) To confer with Legal Counsel regarding significant exposure to litigation pursuant to Section 54956.9(b) of the Ralph M. Brown Act

3) To confer with Legal Counsel regarding the initiation of litigation pursuant to Section 54956.9(c) of the Ralph M. Brown Act; 1 case.

4) Labor Negotiations: Council Direction to Labor Negotiator pursuant to Section 54957.6 of the Ralph M. Brown Act, Parties to the Negotiations: City Administrator, Management Staff, Miscellaneous Employees, and the Police Officers Association (POA)

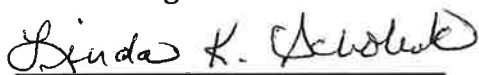
8:25 P.M.

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 City Attorney received advice and direction by the City Council.

AGENDA ITEM 10, ADJOURNMENT

Motion to adjourn the City Council meeting at 8:25 P.M. was made by Mayor Pendergrass, seconded by Council Member Kruper to the next scheduled Council meeting on July 17, 2012 at 7:00 P.M. There was Consensus of the Council to adjourn the meeting at 8:25 P.M.



Linda K. Scholink
Linda K. Scholink, City Clerk