

MINUTES

JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY

Regular Meeting – April 19, 2011
7:00 P.M.
CITY COUNCIL CHAMBERS

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

The invocation was led by Reverend Robert Hellam.

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
Richard Simonitch, City Engineer
Michael Klein, Chief of Police
Connie Horca, Deputy City Clerk/Administrative Assistant
Charles Pooler, Associate Planner

AGENDA ITEM 4, COMMUNICATIONS

- A. There was no written communication distributed. The City Administrator announced three conflicts regarding items 7B-7D with Council Members Blackwelder and Hubler residing within the 500 foot rule.
 - B. Oral
- 7:03 p.m. Floor Opened for Public Comment.
There were no comments from the Public.
- 7:03 p.m. Floor Closed to Public Comment.

AGENDA ITEM 5, CONSENT CALENDAR

- 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 #216, Integrity Automotive (machine shop), 371 Orange Avenue
 - (2) CUP #246, Inter-city Manufacturing (manufacturing), 501 Redwood Avenue
 - (3) CUP #253, Barry Hartzell Auto (automotive), 510 & 520 California Avenue
 - (4) CUP #390, The Gardner's Friend (office storage), 605 Redwood Avenue
 - (5) CUP #451, P.G. Millworks (woodshop), 637 Ortiz Avenue
 - (6) CUP #504, Detail Associates (wholesale), 679-B Redwood Avenue
 - (7) CDP #07-02/ CUP #484, Ultimate Auto Connection (office), 1815-E Contra Costa Street
- B. There was no discussion of the Sand City Council Meeting Minutes, April 5, 2011.
- C. There was no discussion of the Public Works Monthly Report, March 2011.
- D. There was no discussion of the Police Department Monthly Report, March 2011.
- E. There was no discussion of the City/Redevelopment Agency Financial Report, March, 2011.
- F. There was no discussion of the City **Resolution** recognizing Reserve Officer Jeffrey M. Parker as the American Red Cross, Monterey Bay Chapter's 2011 Law Enforcement Hero.
- G. There was no discussion of the City **Resolution** approving time extensions to July 31, 2011 of Multiple Conditional Use Permits (CUP's 450, 455, 473, 503, & 505) and Coastal Development Permit 08-03 to continue as interim uses at their respective locations within the South of Tioga Redevelopment Project Area.
- H. There was no discussion of the City **Resolution** authorizing renewal of Agreement for Services with TPO Human Resources Management.
- I. There was no discussion of the Fort Ord Reuse Authority (FORA) Report, April, 2011.

Motion to approve the Consent Calendar 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.

AGENDA ITEM 7, PUBLIC HEARING

- A. Associate Planner Charles Pooler presented a coastal development permit application, submitted by Tyson Bode, for the relocation of this tattoo studio from 490-Orange Avenue to 1830 California Avenue. The proposed tattoo studio is for displaying self-created designs and performing tattoo applications. The items for use include tattoo machines, razors, ink, power supplies, needles, cleaning supplies and a computer. Bio-contaminated waste generated at the site will be disposed of separately in bio-waste collection bins that the applicant has contracted out to a waste hauler. The site provides four parking spaces and is adequate. Staff recommends that the property owner stencil paint onto the pavement and directional arrows displaying "Enter Only" and Exit Only" at the driveways since the driveway widths can only accommodate one-way traffic. Staff also recommends that the entrance into the site begin at California Avenue with the exit at Fir Avenue. Because the business is located within the South of Tioga Redevelopment Area, it is recommended that this permit have the same time limits as other use permits issued in this project area. Staff recommends approval of the coastal development permit subject to the suggested conditions/restrictions.

7:07 p.m. Floor Opened for Public Comment

The applicant, Tyson Bode, commented that he would really like to continue to do business within Sand City. The City is an ideal location, and has provided him a lot of work. Mr. Bode confirmed his agreement with the conditions of the permit.

7:08 p.m. Floor Closed to Public Comment.

Motion to approve the City **Resolution** approving Coastal Development Permit 11-03 allowing a Tattoo Studio at 1830 California Avenue was made by Council Member Carbone, seconded by Council Member Hubler. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

{Council Members Blackwelder and Hubler stepped down from the dais due to a possible conflict of interest by residing/working within 500' of the subject property}

- B. Associate Planner Charles Pooler presented applications submitted by Mark Moses to establish and operate a beer and wine store for on-site and off-site consumption within a 1,300 square foot unit on the first floor of the Design Center building. The establishment will offer the purchase and consumption of over 250 hard-to-find draft beers from around the world, and taste samples to customers. These beverages will be available to consume on site for a fee. The owners will also offer a limited supply of local wines and craft sodas in addition to cured meats, dried fruit, and gourmet cheeses. The proposed use is a "Type 42 operation" that authorizes the sale of beer and wine for consumption on or off the premises as defined by the California

Department of Alcoholic Beverage Control. Since the City's Municipal Code restricts consuming alcoholic beverages in public places, the applicant should be required to post a sign at the exit stating "*no consumption of alcoholic beverages beyond this point*". The intended hours of operation are Monday-Thursday 12:00 Noon -12:00 Midnight; Friday-Saturday, 12:00 Noon – 1:00 A.M.; and Sundays, 12:00 Noon – 10:00 P.M. Noise may be a primary concern due to the extended hours of operation. The applicant should be required to discourage patrons from congregating outside the unit beyond 9:00 p.m., and limiting on-site live music to be non-amplified (acoustic) music only within the unit. The proposed use will provide 25 seats resulting in a requirement of ten (10) on-site parking spaces. Ninety six (96) parking spaces are available for commercial use. The remaining 86 parking spaces are insufficient to accommodate retail and office throughout the remainder of the commercial floor area. The property owner intends to change the planned use of the second level from office/retail to residential, which should alleviate the parking deficiency. In 2006, the water permit issued for the commercial floor area of the Design Center allocated 0.3254 acre-feet for the originally intended deli. The proposed use will require 0.500 acre feet, based on an estimated 25 seats, which the City's desalination plant can adequately provide. Staff recommends approval of the permits for Mark Moses and the proposed beer and wine store at the subject property.

7:17 p.m. Floor opened for Public Comment.

The applicant, Mark Moses, commented that he is looking forward to being part of the Sand City business community; and his establishment would provide a social spot left open by the former Ol' Factory Café. The retail aspect of his business would provide hard-to-find beers that will also be packaged, and ready for patrons to take home as well. Mr. Moses confirmed that he is in agreement with the conditions of the permit.

Chris Callum, Design Center resident, commented that he would like to have this type of use downstairs. It would make the community livelier, and he likes the idea of having a nice place to socialize.

Andy Banton, owner of Gils' Gourmet, added that this proposed use is a great concept; lending an appeal to the community. He is very much in favor of seeing this type of establishment in the area.

Patrick Orosco, property owner, added that the applicant is a highly respected business man and the distinctly upscale establishment would be a perfect fit for Sand City. He thanked the City Staff for their efforts and timely response in bringing the use permits before the City Council. The applicant has already submitted his plans to the Building Department. Mr. Orosco continued to point out a few minor changes requested of the use permit. The square footage would be increased from 1,300 to 1,400 square feet. He also requested that the intended hours of operation be until 2:00 a.m. to accommodate social events in and around the community. Mr. Orosco concluded by introducing Cindy Hartman, the building's property manager, who would keep him apprised of any issues or concerns within the building.

Mayor Pendergrass commented that the Moses Brothers have a very impressive resume, and he looks forward to having their business as part of this community. As a matter of formality, any requests for changes to the permit should have been made by the applicant prior to agreeing with the conditions. Mr. Moses confirmed that he is in concurrence with the requested changes recommended by Mr. Orosco. Mayor Pendergrass directed Mr. Orosco's requests to the Associate Planner.

Mr. Pooler reported that there is no impact to increase the square footage as indicated. The parking requirements would need to be revised dependent on the additional square footage and number of additional seats. Water allocation would also need to be adjusted per the Water Districts requirements. Extending the hours during normal work days may interfere with working residents. However, the hours can be extended an additional hour on Friday and Saturday evenings to 2:00 A.M. The proposed fenced area for outdoor activities is in essence part of an enclosed use requiring site plan review and approval that would be evaluated at a future time.

City Administrator Steve Matarazzo recommended the following changes be included in the use permit that the hours of operation be extended to 2:00 A.M on Friday-Saturday, and a sentence to condition #9 be added to read: *Additional parking space shall be required for the use based on the 2.5 seats/parking space ratio if seating expands over time.*

Mr. Moses was in agreement with the changes/additions to the permit.

7:41 p.m. Floor Closed to Public Comment.

Motion to approve the City **Resolution** as amended approving a Conditional Use Permit and Coastal Development Permit for Mark Moses to establish a Retail Beer and Wine Store with on and off-site consumption within a commercial unit at 600 Ortiz Avenue, Suite 101 was made by Mayor Pendergrass, seconded by Council Member Kruper. AYES: Council Members Carbone, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Council Members Blackwelder and Hubler. Motion Carried.

C. City Attorney Jim Heisinger presented the City resolution vacating a portion of the John Street right-of-way, and reserving utility easements therein. As part of the property sale agreement with Bella Mare Investments, LLC, this portion of John Street is to be vacated by the City, while reserving the utility rights. The street vacation will become effective upon the recording of all documents with the Monterey County Recorder's office.

7:45 p.m. Floor opened for Public Comment.

The applicant Mr. James Davi commented that the application looks fine. He is waiting for the sign-off from Wells Fargo Bank and approval of all necessary documents.

7:47 p.m. Floor closed to Public Comment.

Motion to approve the City **Resolution** vacating a portion of the John Street right-of-way and reserving utility easements therein was made by Council Member Carbone, seconded by Council Member Kruper. AYES: Council Members Carbone, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Council Members Blackwelder and Hubler. Motion Carried.

- D. City Administrator Steve Matarazzo presented the City Resolution approving a Tentative Map No: TM-11-01, to resubdivide properties located on John Street and Contra Costa Street into 6 lots, and incorporating vacated portion of John Street into reconfigured lots. It is anticipated that in the near future, the existing property can be consolidated to become a more marketable development site. The adjacent larger parcel, formerly known as the "Dr. Kay" property, provides sufficient parking for future redevelopment of the area. This action would satisfy the public's general welfare and those concerns of the property owner.

7:49 p.m. Floor Opened for Public Comment.

Property owner, Mr. James Davi confirmed his agreement with the terms and conditions of the attached resolution.

7:49 p.m. Floor Closed to Public Comment.

City Administrator Steve Matarazzo added that the final map will come from the City Engineer, and brought before the Council for approval at a future meeting under consent. The street vacation will not become effective until the recording, which will need a final map.

Motion to approve the City **Resolution** approving Tentative Map No: TM-11-01, a resubdivision of Properties located on John Street and Contra Costa Street into 6 Lots and Incorporating Vacated Portion of John Street into Reconfigured Lot, Bella Mare Investments, LLC (APN 011-177-002, 007, 009, 010, 012, 025, 026 & 028) was made by Council Member Kruper, seconded by Council Member Carbone. AYES: Council Members Carbone, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Council Members Blackwelder and Hubler. Motion Carried.

{Council Members Blackwelder and Hubler returned to the dais}

AGENDA ITEM 8, OLD BUSINESS

- A. City Engineer Richard Simonitch reported that the plans for the Public Works Corporation yard have gone out to bid and been advertised. Most of the calls received through the Builders exchange are from interested contractors. A pre-bid conference meeting is scheduled for Tuesday, April 26, 2011 at the site location. Final bids and proposals will be received on Friday, May 12 at 12:00 noon. at City Hall. A production report on the desalination plant was received on April 13 from CalAm. The Tioga Avenue pedestrian interconnect project has been re-submitted to CalTrans for review and approval. Staff is

waiting for approval of the encroachment permit before work can commence. CalTrans was also contacted regarding the guard rail on Highway One. They informed staff that it is located within Sand City's right of way, and that the City is responsible for its repair. The poles on Elder have been re-located, and per AT & T, it will be the City's responsibility to fill in the holes.

City Attorney Jim Heisinger reported that the City should be receiving the permit from Monterey Peninsula Water Management District.

Police Chief Michael Klein presented two (2) sizes of the proposed "No Parking" signs to be placed at various locations throughout the City. There was Council consensus to approve the larger sign.

AGENDA ITEM 9, NEW BUSINESS

- A. City Administrator Steve Matarazzo reported that the Council was informed of the "New Rule" regarding the designation of Sand City beach areas as critical habitat for the Western Snowy Plover. The City will have to reapply for an economic exclusion. Zander Associates and Monterey Bay Shore's legal counsel, Tom Roth, have declined assisting the City in responding to the proposed designation due to legal and client issues. Pacific Municipal Consultants may be of support under their current retainer to assist the City in putting comments together to meet the May 23rd deadline and to repackage the City's economic exclusion application to the Fish and Wildlife Service.

City Attorney Jim Heisinger added that it would be beneficial for the City to join forces with SNG's effort. Hopefully, Tom Roth is willing to share some of his work garnered from SNG. If the City were to seek outside legal counsel, the cost would be extremely high. City Staff would be doing evidentiary work for the exclusion to keep it moving forward.

The Council was in consensus to have Staff proceed with the response.

- B. The Deputy City Clerk received RSVP's for the League's Monterey Bay Division Meeting to be held on Monday, May 9th at the Growers Pub in Salinas.

AGENDA ITEM 10, 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

Section 54956.9(c) of the Ralph M. Brown Act,

a) *CalAm v. Seaside*

- b) *State Water Resources Control Board Order WR 2009-0060*
- c) *Monterey Peninsula Water Management v. State Water Resources Control Board (No. M102101)*
- d) *CalAm v. State Water Resources Control Board*
- e) *Security National Guaranty, Inc. v. California Coastal Commission*
- f) *Sierra Club v. MPWMD*

8:35 p.m.

- B. Readjourn 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 the City Attorney on items b and d.

AGENDA ITEM 11, ADJOURNMENT

Motion to adjourn the meeting was made by Council Member Carbone, seconded by Council Member Kruper, to the next regularly scheduled City Council meeting on May 3, 2011 at 7:00 p.m. There was unanimous consensus of the Council to adjourn the meeting at 8:36 p.m.



Connie Horca, Deputy City Clerk