

MINUTES

JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY

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

Mayor Pendergrass opened the meeting at 7:02 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
Vice Mayor 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
Charles Pooler, Associate Planner
Connie Horca, Deputy City Clerk/Administrative Assistant

AGENDA ITEM 4, COMMUNICATIONS

- A. Written communication distributed to the City Council was a list of possible conflicts of interest for tonight's meeting, a Parcel map (Agenda item 5I), and information regarding the closure of Bookseller Borders Group (BGP).
 - B. Oral
- 7:07 P.M. Floor opened for Public Comment.
There was no comment from the Public.
- 7:07 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 coastal development and conditional use permits.

- (1) CUP #321, Groves Masonry (storage yard), 872 Afton Avenue
- (2) CUP #368, Jersey's (food service), 832 Playa Avenue
- (3) CUP #463, Monterey Mattress (showroom), 1714 Contra Costa
- (4) CDP #08-06, Lukasami Imagery, Adrian Daff (photo studio), 1815-E Contra Costa Street

- B. There was no discussion of the Sand City Council Meeting Minutes, June 21, 2011.
- C. There was no discussion of the Police Department Monthly Report, June, 2011.
- D. There was no discussion of the Public Works Monthly Report, June, 2011.
- E. There was no discussion of the City/Redevelopment Agency Financial Report, April 2011.
- F. There was no discussion of the City **Resolution** recognizing Community Human Services on their 42nd Anniversary.
- G. There was no discussion of the City **Resolution** recognizing the Monterey County Fair on their 75th Anniversary.
- H. There was no discussion of the City **Resolution** approving time extensions to October 31, 2011 of multiple Conditional Use Permits (CUPs 450, 455, 473, 503, 505 & 506) and Coastal Development Permit 08-03 to continue as interim uses at their respective locations within the South of Tioga Redevelopment Project Area.
- I. Consideration and Acceptance of City **Resolution** approving the Bella Mare Investments, LLC Parcel Map comprising six lots, being in substantial conformance with the Tentative Map TM-11-01 was pulled from the consent calendar for further consideration by the Council.

Motion to approve Agenda items 5A through 5H 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

Agenda Item 5I was pulled from the Consent Calendar for Council consideration.

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

City Administrator Steve Matarazzo reported that as part of the condition of a previous resolution approving the tentative map, the attached resolution approving the Parcel Map is required for the final sale of the city's John Street lots. For future consideration of additional parking, staff noted condition 5 of the parcel map that states "A mutual access and parking easement for the benefit of parcels A&B as well as D&F shall be required if and when said lots are sold individually". Staff recommends approval of the resolution.

Mr. Davi of Bella Mare Investments commented that he is in favor of the Parcel Map thus far.

Motion to approve the City **Resolution** approving the Bella Investments, LLC Parcel Map comprising six lots, being in substantial conformance with the Tentative Map TM-11-01, 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.

AGENDA ITEM 7, PUBLIC HEARING

- A. Associate Planner Charles Pooler presented an application for a coastal development permit submitted by Rebecca Bernstein to establish a holistic health hydrotherapy service at 1807-B Contra Costa Street. The applicant offers removal of toxins from clients body by using several methods such as hydrotherapy, iconic detoxification foot baths, infrared saunas, essential oils, rain therapy and lymph drainage. The operation is by appointment only. The equipment being used is FDA approved. The unit is 250 square feet with another 100 square feet for the use of restroom facilities. The zoning code does not specify parking requirements for a "spa" type use. Considering that the business is one-on-one and by appointment only, the need for at least two parking spaces seems adequate. Appointments are scheduled between the hours of 8:00 a.m. and 5:00 p.m., Monday, Wednesday and Fridays; 12:00 noon to 8:00 p.m. on Tuesdays and Thursdays, and 9:00 a.m. to 5:00 p.m. on weekends. The proposed use is not anticipated to generate negative impacts. Staff recommends approval of the attached resolution with the recommended permit conditions.

7:15 P.M. Floor opened for Public Comment.

Mayor Pendergrass asked the applicant, Rebecca Bernstein, if she was in agreement with the conditions of the permit. The applicant stated that she

was in agreement.

Council Member Kruper asked the applicant that once the waste is collected, how will it be disposed of.

Ms. Bernstein replied that the unit has a waste line which directly connects to the sewer. A plumber will construct a custom disposal line within the unit. Ms. Bernstein added that she holds certification and meets the national requirement standards.

7:17 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** approving Coastal Development Permit 11-09 authorizing establishment of a Hydrotherapy Service Business at 1807-B Contra Costa Street 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.

{Council Member Blackwelder returned to the dais}

{Council Member Kruper stepped down from the dais due to a possible conflict of interest by residing with 500' of the subject property}

- B. Associate Planner Charles Pooler presented coastal development permits for various businesses located within sections of the railroad right-of-way within the West End District whose time extensions are due for renewal. These permits were originally given 2-year time extensions, and are being brought to the Council for time extensions necessary for these uses to continue. Staff recommends approval of the resolution granting these businesses a 2-year time extension to the end of July 2013, with the same conditions, restrictions and terms currently in effect.

Vice Mayor Carbone asked if the businesses located on the City of Seaside's portion have current up to date business licenses.

Mr. Pooler commented that business license renewal notices have gone out, and consistently being received.

7:21 P.M. Floor opened for Public Comment.
There was no comment from the Public.

7:21 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** approving 2-Year time extensions to Coastal Development Permits (CDP 02-04, CDP 03-03, CDP 04-01, CDP 04-03, CDP 04-04, and CDP 05-03), allowing continuation of those storage yards within the Railroad Right-of-Way for Businesses in the City of Seaside

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 8, OLD BUSINESS

- A. City Engineer Richard Simonitch reported that the contractors have started excavating sand to widen the new public works corporation yard for construction of the wall. Retaining wall construction should begin on Thursday. The contractors would like to work on Saturday. Once approved, and with Council's permission, the contractor can be notified to proceed. There should be no added cost to the City for the Saturday hours. Staff has also contracted with P.G. & E. for installation of the new street lights. Documents should arrive within the next few days. Staff is ready to proceed with advertisement for the Bike Trail Interconnect Project, and should be available some time near the end of July. The Council was in consensus to allow the contractor to work on Saturday.

Mayor Pendergrass commented that the Public Works Department will begin work on painting City Hall and the outdoor public restroom.

Police Chief Michael Klein added that this project was discussed several months ago, and considered as part of building maintenance. The City Hall building, out building, and railings will be power washed, and then painted with an expected completion date some time prior to the West End Celebration.

City Administrator Steve Matarazzo reported that he and the City Attorney have discussed, with an economic analysis firm, the snowy plover economic exclusion the City applied for with the U.S. Fish and Wildlife Service. The City gave strong indications of why we should be, once again, exempted as we were back in 2005. The economic analysts requested more information that will be sent later this week. It will include sales tax revenue coming from the two resorts, as well as anticipated property tax increment, and transient occupancy tax revenues. It was also mentioned that the City did not want to have any critical habitat interference with the operation of the desalination plant, as the City will need to maintain the wells.

Mr. Matarazzo added that he received a call from a major retail broker from the Bay Area who expressed an interest of the Border's building site. Staff explained that the City is not interested in any Dollar Tree type of use. Should this retailer decide to locate at the shopping center, they should generate more revenue than Borders Books.

AGENDA ITEM 9, NEW BUSINESS

- A. Arts Committee Board Chair, Council Member Hubler distributed the design drafted by Susan Collins on the mural project. This particular design fits well with the green "theme", and looks similar to a forest garden. Small portions of the leaves will go up the wall, onto the fence. A sign would be located on the center of the mural displaying "Welcome to the West End". The sign can be something removed or placed there permanently. A Press Party will be held on Sunday July 31, 2011. The mural painting will commence on Sunday at noon, and Babaloo's catering truck will be available to feed the volunteers. An Art Committee meeting will be held this Friday to discuss the logistics for the mural project, and to discuss a new exhibit for the Council Chambers of the Industrial Sand City of the past.

The Council discussed various paint colors, how many volunteers would be needed for the mural project, approximate cost for the paint, and that any modifications to the design can be added a future date. The City Administrator added that anyone working on the project should sign a liability waiver.

There was Council consensus to move forward with this project.

- B. City Administrator Steve Matarazzo presented an urgency ordinance and similar resolutions requiring four actions. The first action is an urgency ordinance permitting the Redevelopment Agency to continue existence, and authorizing the City to enter into, and make the remittance payments required under Cal. Health and Safety code section 3419 *et. seq.*, under protest. The ordinance further provides that in the event a court approves a stay of AB 1X 26 and AB 1X 27, or determines that those laws are invalid, the City will cease making the remittance payments required, and seek to recover any remittance payments prior to the stay. The second and third action are City and Agency resolutions authorizing and directing entry into a remittance agreement, whereby the Redevelopment Agency would transfer to the City, on an annual basis, an amount sufficient to cover the City's annual remittance payment to the County Auditor-Controller. The fourth action provides that on making certain findings, the Redevelopment Agency may use the amount of property tax increment, which would otherwise be allocated to the Agency's 2011-2012 Low and Moderate Income Housing Fund, to fund the 2011-2012 remittance payment. The City seeks to hire the property tax consultant HDL to research the consequences to the City if the Redevelopment Agency is eliminated. The Agency's obligations to Seaside will probably not go away based on the two bills that have passed. The League of California Cities and the California Redevelopment Association plan to file suit challenging AB 1X 26 and 1X 27; that this is an illegal act and would fail in court. Both bills remain in full force and effect until a stay is granted by a court of competent jurisdiction. In a recent webinar, Mr. Hawkins, CRA Legal Counsel, commented that the

legislation is poorly drafted.

City Attorney Jim Heisinger reiterated that these two bills, that have been added to State Law, essentially stopped Redevelopment Agencies, or de-authorized them effective July 1st. AB 1X 27 allows Redevelopment Agencies to continue under certain conditions. The material condition is that the City promises to make remittance payments to the State. The primary issue is whether there is any real net benefit in the continued existence of the Redevelopment Agency. The City Administrator mentioned that the City has solid assets and will continue to receive tax increments. Presently, Sand City has a few ongoing redevelopment projects. One of which is the South of Tioga Project, and may be worth keeping the Redevelopment Agency to facilitate these projects. The calculated amount payable to the State should be received some time next week, and HDL will have two weeks to determine if the amount is accurate. This number is based on the 2008-2009 report the City made to the State Controller. Sand City's share is approximately \$370,000. The amount calculated by the State Director of Finance becomes a base year amount, and the total calculated for the subsequent years is added onto the base year amount. The following year's remittance payment should be significantly less than that for this year.

The City Administrator added that the legalities of the legislation have not been acted on. The actual check does not have to be written until January. We do not know what the court will rule, and the State will have to find some way to acquire the funds.

Mayor Pendergrass commented that the Governor did not defend the people's Proposition 22 vote. The League of California Cities and the California Redevelopment Association have compiled a list of why this legislation is illegal.

City Attorney Jim Heisinger added that the attached ordinance is modeled after the City of Poway. The California Redevelopment Agency published a sample Ordinance that is blended together to form the attached ordinance. Approximately 80% of California cities will pass similar ordinances. To not act on the ordinance would place the Redevelopment Agency into receivership, and all of the City's debt will be paid by the receiver. The attached remittance agreement states that the Ordinance continues the Redevelopment Agency. The law allows the City to enter into a remittance agreement. This remittance agreement states that the Redevelopment Agency may make these payments from property tax increment that would otherwise be allocated to the low to moderate income housing fund. An express condition in the Ordinance stipulates that the City is not trapped into remitting payments without realizing what tax revenue is available to make those payments.

Mayor Pendergrass concluded that the Sand City Council is in favor of continuing the Redevelopment Agency.

Motion to approve the Urgency **Ordinance** of the City Council of the City of Sand City determining Sand City will comply with the Voluntary Alternative Redevelopment Program Pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in order to permit the continued existence and operation of the Sand City Redevelopment Agency was made by Council Member Blackwelder, seconded by Council Member Kruper. Roll Call Vote, AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- C. Motion to approve City **Resolution** authorizing the City's entry into a Remittance Agreement with the Sand City Redevelopment Agency pursuant to California Health and Safety Code section 34194.2 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.

- D. Motion to approve Redevelopment Agency **Resolution** authorizing the Agency's entry into a Remittance Agreement with the City of Sand City pursuant to California Health and Safety Code section 34194.2 was made by Agency Member Kruper, seconded by Agency Member Carbone. AYES: Agency Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- E. Motion to approve Redevelopment Agency **Resolution** reducing its allocation to the low and moderate income housing fund for the 2011-12 Fiscal Year and making certain findings and determinations related thereto was made by Agency Member Carbone, seconded by Agency Member Blackwelder. AYES: Agency Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- F. The Mayor reminded the Council of the upcoming Monterey Peninsula Chamber of Commerce Business Excellence Awards Dinner to be held on Thursday, July 28, 2011. There were no additional RSVP's.

AGENDA ITEM 10, CLOSED SESSION

The City Attorney deemed that there was no need for closed session.

AGENDA ITEM 11, ADJOURNMENT

Motion to adjourn the meeting was made by Council Member Kruper, seconded by Council Member Carbone, to the next regularly scheduled meeting on August 2, 2011 at 7:00 p.m. There was unanimous consensus of the Council to adjourn the meeting at 8:07 p.m.



Connie Horca, Deputy City Clerk