

# **MINUTES**

## **JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY**

---

Regular Meeting – September 13, 2011  
7:00 P.M.  
CITY COUNCIL CHAMBERS

---

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

The Pledge of Allegiance was led by Mayor David Pendergrass.

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 (excused absence)  
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 (agenda item 7A).
- B. Oral

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

Susan Collins, local resident and artist, expressed her appreciation and gratitude to the Council for their support of the water tank at the community garden. The volunteers would like to petition the Council for electrical hook-ups. Macaluso Electric is willing to do the installation, and the garden volunteers will dig the trench. The cost for the work and equipment is estimated to be approximately \$2,300. Ms. Collins mentioned that although she did not request it, an allowance for the community garden is before the Council.

Mayor Pendergrass commented that Pacific, Gas & Electric should be contacted regarding electrical service to the area.

Michael Morris, local resident commented that a few Sand City citizens have expressed that they are dismissed too abruptly when the Council proceeds to

closed session. He suggested that the Council take a brief recess before closed session to be more hospitable to the public.

7:05 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 #371, McDonald Refrigeration (contractor), 605 California Avenue
  - (2) CUP #385, Sally Beauty Supply (retail), 828 Playa Avenue
  - (3) CUP #397, Salvation Army (service), 801 Scott Street
  - (4) CUP #466, Ferguson (wholesale), 666 Redwood Avenue
  - (5) CUP #498, Monterey Peninsula Gymnastics (recreation), 1663 Catalina
  - (6) CUP #499, Green Gopher Garden Supply (retail), 679-C Redwood Avenue
  - (7) CUP #501, Sylvan Design (art studio), 613-A Ortiz
  - (8) CDP #95-07, Giustiniani (manufacturing), 698 Ortiz Avenue
- B. There was no discussion of the Sand City Council Meeting Minutes, August 16, 2011.
- C. There was no discussion of the Sand City Council Special Meeting Minutes, August 25, 2011.
- D. There was no discussion of the Public Works Department Monthly Report, August, 2011.
- E. There was no discussion of the acceptance of the City/Redevelopment Agency Financial Report, June 2011.
- F. There was no discussion of the acceptance of the Fort Ord Reuse Authority (FORA) Monthly Report, August, 2011.
- G. There was no discussion of the approval of the City **Resolution** authorizing acceptance of an allocation from the Supplemental Law Enforcement Services Fund (SLESF) and appropriation of those funds for Fiscal Year 2011-2012.
- H. There was no discussion of the acceptance of the staff report by Police Chief Michael Klein regarding the Status of Parking Enforcement and Compliance with New Parking Regulations in Sand City.

- I. There was no discussion of the approval of the City **Resolution** allocating up to \$13,000 to fund the Community Garden Project on Dias Avenue.
- J. There was no discussion of the approval of the City Donation/Contribution to the American Diabetes Association for \$300.

Motion to approve the Consent Calendar items 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.

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

There were no items pulled from the Consent Calendar.

## **AGENDA ITEM 7, PUBLIC HEARING**

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

- A. Associate Planner Charles Pooler presented an application, submitted by Bernie and Kirsten Ripenburg of Visions Design Center, to relocate their distribution center from 783 Redwood Avenue to 1729 Holly Street. The new Sand City location will be used for storage and shipment purposes only. The building is 2,800 square feet, and will be used as an accessory office with 1 manager and 1 to 2 employees for receiving and delivering merchandise. There will be no manufacturing and no customers. The operation has one forklift and one company truck. Seven striped parking spaces and one twenty foot wide loading area fronts Ortiz Avenue. The width can provide up to ten (10) parking spaces if the frontage were re-striped to remove the loading area. Vendors will be making deliveries to the location, and staff recommends that loading/unloading activities be allowed at the Holly Street loading zone. Redwood Avenue can also be utilized as a loading zone, but should not exceed one hour per delivery. The site contains a dumpster, but does not provide an enclosure for trash. Staff recommends the permit require the construction of a trash enclosure. Excess noise, fumes, dust and other similar impacts are not anticipated since there will be no manufacturing at the location. Staff recommends approval of the attached coastal development and conditional use permit.

7:17 P.M. Floor opened for Public Comment.

There was no comment from the Public.

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

Motion to approve the City **Resolution** approving Coastal Development Permit 11-11 and Conditional Use Permit 528 for Bernie & Kirsten Ripenburg of Visions Design Center allowing a warehouse and distribution operation at 1729 Holly

Street 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 desalination plant is currently inoperable while the RO membranes are being cleaned. The plant has been in operation for eighteen months and has reached a point of needing this service. Cal-Am hired a well specialist to review the wells while the pumps were on. The specialist observed where the bubbles originated from and will provide a report on the well's performance. The Public Works Corporation Yard project has been completed. The City's public works personnel have installed the plumbing and storage bins. They are presently working on the installation of the electrical conduit, and trench work.

Council Member Kruper asked how the site planning is proceeding.

Mr. Simonitch answered that the Chief of Police and the Public Works Crew are overseeing the site planning. He also added that the proposed electrical installation for the Community Garden is considered a City asset. This may be subject to prevailing wage, performance bonds, bid documents, etc.

Council Member Blackwelder commented that as a Charter City, Sand City should be exempt from prevailing wage and performance bonds.

City Attorney Jim Heisinger mentioned that since 2009, a case has been pending on whether a charter city is exempt from prevailing wage. The Community Garden electrical installation is beyond the scope of Sand City's public works staff and should be handled by an outside source.

Mayor Pendergrass added that this is not a public works project perse. It provides a unique situation, and Ms. Collins is encouraged to work with the Police Chief and the City Administrator so that some flexibility is provided.

City Administrator Steve Matarazzo reported that the reason Staff attended the California Public Utilities Commission (CPUC) meetings on August 23 & 24 in San Francisco was to assist Cal-Am in convincing the CPUC staff and commissioners that the recent proposed decision by the Administrative Law Judge recommending no rate recovery on the Sand City Plant was unreasonable. Staff was more comfortable that the decision would not be upheld by the full CPUC. Additional information was requested by Cal-Am on how they have progressed in obtaining an alternate decision. They responded that they have submitted their comments regarding the proposed decision, but mentioned nothing about

the alternate decision. In conversation with the Chief Administrative Aide of the head of the CPUC, Michael Peavey, the CPUC may have requested another commissioner to write an alternate decision after fully understanding that Sand City's project was good, and a reasonable rate recovery was appropriate. It was unexpected that Staff did not hear any progress toward that end.

City Attorney Jim Heisinger added that a call was made to Cal-Am's outside counsel, asking if they had any more information on the proposed alternate decision; however, a call back was not received. Staff does not know the status of the drafting of the alternate decision, and if there will be one. The matter is presently scheduled to be heard by the CPUC on September 22<sup>nd</sup>, and the proposed decision by the administrative law judge is to deny Cal-Am any rate recovery for its lease or operational costs for the Sand City desalination plant.

Mayor Pendergrass commented that if there is an alternate decision, it should happen immediately. The Monterey Regional Water Management District plans to discuss it at their Monday evening meeting.

City Administrator Steve Matarazzo added that the commission fully understands the Sand City project, that it is part of the regional water project (which was approved by the CPUC), that it was the cheapest part of the regional water project (estimating cost of between \$4,000-\$7,000 an acre foot) and that Sand City's real cost is \$2,300 per acre foot. It would be a travesty not to give Cal-Am rate recovery on this project.

## **AGENDA ITEM 9, NEW BUSINESS**

- A. City Engineer Richard Simonitch presented for Council's consideration the contract for the Coastal Bike Trail Interconnect Project. Plans and specifications were distributed to seven contractors and three builder's exchanges. Bids were received on August 16, 2011 with Environmental Assessment & Remediation (EAR) Engineering as the apparent low bidder. The day following the bid opening, EAR Engineering withdrew their bid due to a "clerical error". Based on the provisions outlined in California Public Contract Code 5103, the City Administrator and City Attorney agreed to release EAR Engineering of any contractual obligations, as indicated in the attached letter. The next "responsive" low bidder for this project was Monterey Peninsula Engineering in the amount of \$34,735. Funding for this project will come from Sand City's Regional Surface Transportation Fund fair share managed through the Transportation Agency of Monterey County (TAMC). A contingency amount of \$3,475 has been provided for construction change orders. Staff recommends that the project, including repair of the broken guard rail, be awarded to Monterey Peninsula Engineering.

There was Council discussion regarding the sidewalk and the small portion where pedestrian's can cross the bridge. The City Engineer commented that the crosswalk will have a new ADA curb continuing to the bridge. The

sidewalk will be flush with the bridge; however cyclists will have to use the street to cross the bridge.

7:39 P.M. Floor opened for Public Comment.

There was no comment from the Public.

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

Motion to approve the City **Resolution** awarding the contract for the Coastal Bike Trail Interconnect Project to Monterey Peninsula Engineers was made by Council Member Blackwelder, seconded by Council Member Hubler. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- B. Associate Planner Charles Pooler presented a resolution authorizing the establishment of a rate for compacted dumpster collection service at twice the rate for non-compacted dumpster service at the request of Waste Management. The land fill bases its tipping fees upon tonnage weight, not volume, and compacted trash imposes additional operational costs due to its weight by volume. Staff checked with the Monterey Regional Waste Management District (MRWMD) who stated that the proposed charge is reasonable due to the fact that compacted waste would approximately double the weight of non-compacted waste. Staff recommends approval of the attached resolution granting approval for Waste Management to establish a new fee for the collection of compacted waste at twice the rate of collection for non-compacted dumpster service.

There was Council discussion on the definition of compacted trash and whether this would affect the rates to major businesses within the City. The concern was that there would be no impact.

Motion to approve the City **Resolution**, by title, authorizing the establishment of a rate for compacted dumpster service at twice the rate for non-compacted dumpster service was made by Council Member Kruper, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. Motion Carried.

- C. Mayor Pendergrass reminded the Council of the upcoming Monterey Peninsula Chamber of Commerce's Annual Leadership Luncheon to be held on Thursday, September 29, 2011.

7:45 P.M. The Mayor called for a Council recess and dismissed the Public.

## **AGENDA ITEM 10, CLOSED SESSION**

7:50 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) *Monterey Peninsula Water Management v. State Water Resources Control Board (No. M102101), and related cases*
- c) *Security National Guaranty, Inc. v. California Coastal Commission*
- d) *Decker v. Schumer (King), (No. BC 432289)*
- e) *California Redevelopment Association v. Matsantos (California Supreme Court)*

2) Pursuant to Section 54956.9(b) of the Ralph M. Brown Act, conference with Legal Counsel regarding claim of Monterey Peninsula Unified School District to the Sand City Redevelopment Agency for pass-through payments.

8:09 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 item 10A (2).

#### **AGENDA ITEM 11, ADJOURNMENT**

Motion to adjourn the meeting was made by Council Member Hubler, seconded by Council Member Kruper, to the next regularly scheduled Council meeting on October 4, 2011 at 7:00 p.m. There was unanimous consensus of the Council to adjourn the meeting at 8:10 p.m.



---

Connie Horca, Deputy City Clerk