

MINUTES
JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY

Regular Meeting –July 20, 2010
7:00 P.M.
CITY COUNCIL CHAMBERS

Mayor Pendergrass opened the meeting at 7:03 p.m.

The Pledge of Allegiance was led by Chief Michael Klein.

Present: Council Member Blackwelder
 Council Member Carbone
 Council Member Hubler
 Council Member Kruper
 Mayor Pendergrass

Staff: Steve Matarazzo, City Administrator
 Jim Heisinger, City Attorney
 Richard Simonitch, City Engineer
 Michael Klein, Chief of Police
 Charles Pooler, Associate Planner
 Connie Horca, Deputy City Clerk

AGENDA ITEM 4, COMMUNICATIONS

- A. There was no written communication distributed to the Council.
- B. Oral

7:04 p.m. Floor Opened for Public Comment.

 There was no comment 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 #223, San Juan Pools (storage yard), 756 California Avenue
- (2) CUP #321, Groves Masonry (storage yard), 872 Afton Avenue
- (3) CUP #368, Jersey's (food service), 832 Playa Avenue
- (4) CUP #463, Monterey Mattress (showroom), 1714 Contra Costa
- (5) CUP #486, Zenda Heating & Sheetmetal (contractor), 1674 Catalina Avenue
- (6) CDP #08-06, Lukasami Imagry, Adrian Daff (photo studio), 1807-B Contra Costa Street

- B. There was no discussion of the Sand City Council Meeting Minutes June 15, 2010.
- C. There was no discussion of the Public Works Monthly Report, June 2010.
- D. There was no discussion of the Police Department Monthly Report, June 2010.
- E. There was no discussion of the City/Redevelopment Agency Financial Report, May 2010.
- F. There was no discussion of the Fort Ord Reuse Authority (FORA) Monthly Report, June 2010.
- G. There was no discussion of the Fort Ord Reuse Authority (FORA) Monthly Report, July 2010.
- H. There was no discussion of the City **Resolution** authorizing renewal of the Street Sweeping Agreement with the City of Monterey.
- I. There was no discussion of the Contract Amendment #1 related to Fire Services Agreement provided by the City of Monterey.
- J. There was no discussion of the City **Resolution** approving a Contract with Pacific Municipal Consultants for Planning Review, Housing Element Update, and Grant Procurement/Administration Services for Fiscal Year 2010-2011 at a cost not to exceed \$50,000.
- K. There was no discussion of the designation of a voting delegate & alternate for 2010 League of California Cities Annual Conference, September 15-17, San Diego.
- L. There was no discussion of the City **Resolution** approving a 90-Day time extension of Conditional Use Permit 450 for Glass, Mosaic, Tile & Marble as a continuing interim use within an existing building at 1855-B East Avenue.
- M. There was no discussion of the City **Resolution** approving a 90-Day time extension of Conditional Use Permit 455 for Glass Mosaic Tile & Marble as a continuing interim use within an existing building at 840 Fir Avenue.

- N. There was no discussion of the City **Resolution** approving a 90-Day time extension of Conditional Use Permit 473 for Web Commerce LLC to continue their wholesale/retail operation as an interim use at 865 Fir Avenue.
- O. There was no discussion of the City **Resolution** approving a 90-Day time extension of Conditional Use Permit 481 allowing Monterey Bay Plumbing to continue their contractor operation as an interim use at 856 Tioga Avenue.
- P. There was no discussion of the City **Resolution** approving a 90-Day time extension of Coastal Development Permit 08-03 for Fit Athletics to continue their Fitness Center/Gym use as an interim use within an existing building at 880 Tioga Avenue.
- Q. There was no discussion of the City **Resolution** acknowledging Los Lobos for their contribution to the 2010 West End Celebration.
- R. There was no discussion of the City **Resolution** authorizing a Change Order for Maintenance including sediment removal in Interceptor Tanks 1, 2, 3, and 4.
- S. There was no discussion of the City **Resolution** approving a One (1) Year Agreement with the Monterey County Weekly for continued participation of Co-op Advertisements during the 2010/2011 Fiscal Year.
- T. There was no discussion of the City **Resolution** authorizing Salary Adjustments as recommended in the Proposed City/Redevelopment Agency Combined Budget for Fiscal Year 2010-2011 Staff Memorandum.
- U. There was no discussion of the City Donation/Contribution to Arts Habitat Studio in the Seaside's City Center for \$250.

Motion to approve the Consent Calendar was made by Council Member Blackwelder, seconded by Council member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, and 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 HEARINGS

- A. City Attorney Jim Heisinger introduced an Ordinance adding Section 3.00.010 to Title 3 of the Sand City Municipal Code requiring persons challenging the payment of Taxes, Fees, Fines and other Payments to the City to make such payments prior to commencing any actions to recover such payments. This ordinance is consistent with California Constitution, Article XIII, §32 which is commonly referred to as the 'pay first litigate later' rule. As in the case of the City of Anaheim who attempted to collect transient occupancy tax from

Priceline, the Court of Appeals held that Article XIII, §32, did not apply to taxes imposed by local government. Since then cities have begun enacting a 'pay first, litigate later ordinance' that would cover the collection of local taxes. It is recommended that the City Council adopt the attached ordinance for First Reading, to establish a 'pay first, litigate later' rule regarding taxes and fees imposed by the City of Sand City.

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.

Motion to approve the First Reading of an **Ordinance**, adding Section 3.00.010 to Title 3 of the Sand City Municipal Code requiring persons challenging the payment of Taxes, Fees, Fines and other Payments to the City to make such payments prior to commencing any actions to recover such payments, was made by Council Member Blackwelder, seconded by Council Member Kruper. Roll Call Vote, AYES: Council Members Blackwelder, Carbone, Hubler, Kruper and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- B Associate Planner Charles Pooler communicated that due to events that happened in the last week and the desire of the applicant to use a wood chipper on the site, the City resolution approving Conditional Use Permit 507 for Tope's Tree Service for their Landscape Business at 525 Ortiz Avenue has been withdrawn at Andres Tope's request.

There was no need to open the floor to Public Comment due to the withdrawal of the conditional use permit.

There was Council consensus to proceed to Agenda Item 8, Old Business, as the applicant for agenda item 7C was not yet present.

AGENDA ITEM 8, OLD BUSINESS

- A. City Engineer Richard Simonitch reported indication of sand within two of the membranes in the desalination plant. A membrane specialist has been contacted to find out the cause of the sand in the membranes. Staff is still waiting for a full report from them. Depending on the outcome of the report, this may delay the "clean in place" process for approximately another six weeks. CDM, the design engineers, have been informed of the occurrence and Cal-Am will be notified if the materials used are adequate and appropriate for what the City has paid for. Staff will continue to monitor the progress at the desalination plant until the completion of the acceptance testing phase. Following that phase, Staff will only be at the plant per City Council or Cal-Am's request.

Garcia Engineering is still waiting for the interpretive signs before work can finalize on the beach coastal access project.

City Administrator Steve Matarazzo commented that the City has approved the services of Steve Samuelian, a grant seeking consultant who may be able to assist Staff in funding the cost of coastal bike path lights repair and other public works improvements projects such as redeveloping the former Carroll property.

Mayor Pendergrass reported on the Water District meeting regarding Mr. Ghandour's project. Contrary to recent court rulings, the District Board failed to approve the Water Distribution Permit for the coastal resort proposed by Mr. Ghandour. Mr. Ghandour expressed that he will continue to fight this in court.

The applicant regarding Carmel Stone arrived and the Council addressed Public Hearing agenda item 7C.

{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}

AGENDA ITEM 7, PUBLIC HEARINGS {continued}

- C. Associate Planner Charles Pooler presented a City Resolution amending Conditional Use Permit 419 allowing Carmel Stone Imports to expand and conduct operations throughout the entire building at 1725 Contra Costa Street. The applicant, Mr. Robbie Robinson, owner of Carmel Stone Imports was issued a conditional use permit in 2002 to establish a showroom with sales and storage of stonework flooring materials within a portion of the building. Since then, Mr. Robinson has acquired ownership of the property, and has expanded his use throughout the building. The original use permit allowed Carmel Stone the use of only a portion of the building, but the permit must now be amended to legalize the expansion of use. A few issues with this use would include the practice of loading/unloading, the storing and displaying of stone materials within parking space along Contra Costa Street, and signs around the building. In 2002, when the building was refurbished, a sign program was adopted that established specific criteria for establishing signs around the building. A number of these signs do not meet the criteria of the sign program and will need to be reviewed by the Design Review Committee. Staff recommends the permit amendment include language that prohibits product displays within the parking area. In the attached draft resolution staff is proposing the amendments of condition no.2, addressing the expansion of use, condition no.4 addressing loading/unloading, and condition no.5 addressing parking requirements and the display of materials. Staff recommends the approval of the attached resolution amending conditional use permit 419.

7:32 p.m. Floor opened for Public Comment

The applicant, Mr. Robbie Robinson, commented that he would be appreciative of the approval of the additional space that would include 3,000 feet of the former Ol' Factory Café. He had advertised the space for the same café use, but had little interest from the public. He was not aware of the parking issue involving the loading/unloading on Contra Costa Street. The retail portion of his business has created more activity as well as generating additional sales tax revenue. The display of these slabs are used to attract the public, which helps to increase retail sales. He would like to keep the slabs in

the parking space, and is happy to adhere to the City's loading /unloading criteria.

Mayor Pendergrass asked Mr. Robinson that in the future, would he consider as an option, using the space as a café/restaurant as the former tenants have done.

Mr. Robinson expressed that he is very open to have something similar in that space as the former tenant's use. He believes in the City's vision of mixed use, and does not see the warehouse as storage for stone forever. Mr. Robinson requested that he would like to be able to display the slabs for sale in the parking space on an occasional basis.

Mayor Pendergrass added that the forklift operators often seem inconsiderate of passing traffic, and requested that Mr. Robinson address this issue with his employees.

Sand City property owner Kelly Morgan acknowledged Mr. Robinson as a successful businessman with a successful business. The community has reservations regarding the proposed use of the entire building. The City's vision to have a mixed used development was evident with the former Ol' Factory Café, which added a certain color and life to the West End of the City. Additional pressure should be placed on the property owner to have that type of a more urban and dynamic use in the future.

DBO Developer Don Orosco commented that his firm has built 42 shopping centers over the years, and restaurants are a real challenge in this economy. It is DBO's vision to add a restaurant on the first floor of the Design Center building on Ortiz. The economic climate has not been favorable towards restaurants since they are very expensive and need to be financially subsidized.

Property Owner Jerry Lomax commented that the City has done a splendid job of creating a mixed use area in a very important intersection of Sand City. Over the last 15 years, considerable time and effort has been spent in seeing that an establishment such as the Ol' Factory Café become a reality. Mr. Lomax expressed his doubts and questions regarding the sincerity of the property owner to see that the space be used as a restaurant/café. Mr. Lomax acknowledged the City Council's effort in trying to keep the West End vibe alive.

Sand City resident Libby Sofer reiterated that this corner is a very important intersection of Sand City. Although the former use did generate a lot of noise, many of the residents tolerated it because it was good for the City. The former tenants did bring people to Sand City from different parts of California.

8:03 p.m. Floor Closed to Public Comment.

Council Member Kruper thanked Mr. Robinson for bringing in sales tax revenue and jobs to the community. There is the issue of having the slabs displayed beyond normal working hours, which seems inappropriate. Also, the

forklifts would not intrude onto the streets if the crates did not take up so many parking spaces. He believes in the sincerity of the property owner in having a restaurant at that space and the growth of the West End area.

Mayor Pendergrass commented that the economic climate may change and would like to revisit the restaurant issue in 1 year. Mr. Robinson added that he would like to see the City's vision of a mixed use come to fruition and is in agreement to revisit the use permit. He will also be at the site tomorrow to address the issues discussed at tonight meeting.

Associate Planner Pooler suggested that the best compromise regarding the display of slabs would be to change the language of the conditional use permit condition no. 5 to add: *for a period of 1 week, once every 3 months within no more than a single parking stall during those times.*

City Administrator Steve Matarazzo added that an additional condition be included in the conditional use permit to read: *"Within one year from approval of this use permit amendment, the applicant shall update the City Council on marketing efforts to provided a restaurant/café type use within the building."*

Motion to approve City **Resolution** approving an amendment of Conditional Use Permit 419 allowing Carmel Stone Imports to expand and conduct operations throughout the entire building at 1725 Contra Costa Street was made by Council Member Carbone, seconded by Council Member Kruper. AYES: Council Members Carbone, Kruper, and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Council Members Blackwelder and Hubler. Motion Carried.

{Council Members Blackwelder and Hubler returned to the dais}

AGENDA ITEM 9, NEW BUSINESS

- A. Consideration of City **Resolution** approving a Lease Agreement between the Sand City Redevelopment Agency and Topes Tree Service on premises located at 525 Ortiz, APN: 011-196-004, 013, 019, & 020 was withdrawn per the applicant's request.
- B. Mayor Pendergrass introduced the East Dunes area planning update. The East Dunes was proposed to be a mixed-use planned development, with residential and commercial use buildings. It is also the habitat for endangered species such as the Smith's Blue Butterfly, the Legless Lizard, the Buckwheat plants, and the Mazanita brush. Four acres will need to be dedicated to the preservation of the habitat. The residents surrounding the area have expressed that they would not like to see any type of commercial development here. More details on the East Dunes area will be reported by the City Administrator.

City Administrator Steve Matarazzo reported that this is an opportune time to revisit the land use policy effecting an area of the City, the "East Dunes" district, that is likely to be developed within the next few years. The City's General Plan, adopted in 2002 contained the East Dunes district land policy. At that time, the development firm of Wellington Homes was interested in developing the area with a 'specific plan' that would include 171 dwelling units

and some commercial development along Tioga Avenue. The development firm did not move forward because the area is a habitat for rare, threatened and endangered species, which is of primary interest to the U.S. Fish and Wildlife Service. Seventy-five percent of the land is controlled by 3 major property owners as shown on attachment B. Wellington Homes came close to a development plan with these property owners, consistent with the General Plan while preserving the habitat area. The policies under the General Plan, would require the property owners to present a specific plan for development of the East Dunes under a "planned unit development". Lot mergers are encouraged under the current General Plan policy since many of these lots measure 25x75, feet making them impractical. The primary component of the project would now be housing with ocean views as an important element. Staff suggests that the best alternative would be to develop the East Dunes as a large specific plan/PUD where all utilities, habitat and roadways could be coordinated in a relatively large scale, by a major developer. The City would need to step in and start a specific plan process or solicit developer interest to start the specific plan process.

8:32 p.m. Floor Opened for Public Comment.

Real Estate Broker Pete Erickson commented that a master developer would be the best way to see development proceed. The East Dunes area has great potential with fantastic ocean views and would make a great master planned community.

DBO Development CEO Don Orosco added that he has looked at the East Dunes area for some time. The primary concern is the housing market has been greatly impacted. The fall out from the foreclosure of the market may take another 5 to 10 years to recover. Mr. Orosco has been trying to get the 3 major property owners together to ascertain a methodology of the value of these lots. Since the economy is affecting future spending habits, the question remains as to what type of development will people want in the future. The South of Tioga master plan is dependent on what will happen to the adjacent properties and the future redevelopment of the area as well as other economic factors.

Property Owner Dan Clark expressed his interest to the Council that he would like to be able to submit plans to build a beach house by the end of summer.

Sand City resident and property owner Michael Morris agreed with Mr. Orosco and mentioned that it would be premature to speculate what will happen for the planned East Dunes area, and will at a future time wait to express his comments.

8:50 p.m. Floor Closed to Public Comment.

There was Council consensus that the "East Dunes" plan is the approved general plan for that area.

City Administrator Steve Matarazzo concluded that a majority of lots are 1875 square feet; and when Ms. St. John came in for permits to develop her property, Staff and Council encouraged the combining of lots to make them

wider. As a result, her development came out very nice, showing more contemporary type houses, even though they are still on small sized lots. Mr. Clark's lot may be a good test case to see what design can be seen on those narrow lots. If the Council has concerns, and as part of a planned unit development, a lot merger ordinance can be brought before the Council that combines ownerships to the new standards of two 25 foot lots to get a more contemporary house to be constructed with 3,650 square feet.

- C. The Deputy City Clerk reminded the Council of the upcoming 24th Annual Monterey Peninsula Chamber of Commerce Awards Dinner to be held on Thursday, July 29th.

AGENDA ITEM 10, CLOSED SESSION

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

AGENDA ITEM 11, ADJOURNMENT

Motion to adjourn the City Council meeting was made by Council Member Blackwelder, seconded by Council Member Kruper to the next regularly scheduled Council meeting on August 3, 2010 at 7:00 p.m. There was unanimous consensus of the Council to adjourn the meeting at 8:55 p.m.



Connie Horca, Deputy City Clerk