

MINUTES

JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY

Regular Meeting – September 21, 2010
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

AGENDA ITEM 4, COMMUNICATIONS

A. Written communication distributed to the Council was a report presented to the California Chiefs of Police Association regarding Medical Marijuana Dispensaries and Associated Issues (Agenda item 7A & 7B).

B. Oral

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

Property Owner Allen Abbott commented that he would like to see some kind of permit parking within Sand City. He has property located at 742 Dias Street, and would like the City to have “residential permit parking” so that residents can come in and out of their homes without having to park two to three blocks away. It makes it difficult for residents, especially those with children who have to bring in groceries, and cannot find parking in front of their homes. In conclusion, Mr. Abbott mentioned that Charles Pooler from Sand City’s Planning Department has been very accommodating in meeting with his son to explain the City’s vision, parking issues, and the maintenance of property.

Mayor Pendergrass directed Mr. Abbott to bring to the City’s attention anyone who may be parked at his property that should not be there. The Council is aware of what

is happening in the area, and the City is working on citywide parking issues.

Business owner Bobby Wrighton informed the Council that he is the new owner of the Fit Athletics gym located at 880 Tioga Avenue, behind Costco. He has been cleaning up the property, and has taken six truck loads of refuse to the dump. He is waiting for Mr. Orosco to return so he can obtain his signature on the use permit transfer.

The City Council welcomed Mr. Wrighton to Sand City. Mayor Pendergrass advised Mr. Wrighton to review the existing use permit and its restrictions carefully.

7:13 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 #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 17, 2010.

C. There was no discussion of the Public Works Monthly Report, August 2010.

D. There was no discussion of the Police Department Monthly Report, August 2010.

E. There was no discussion of the HDL Companies Quarterly Report.

F. There was no discussion of the City/Redevelopment Agency Treasury Report, June 30, 2010.

G. There was no discussion of the Fort Ord Reuse Authority (FORA) Monthly Report, August 2010.

- H. There was no discussion of the Fort Ord Reuse Authority (FORA) Monthly Report, September 2010.
- I. There was no discussion of the City **Resolution** authorizing an agreement between the Sand City Police Department and the Monterey County Health Department for Sexual Assault Response Team Services.
- J. There was no discussion of the City **Resolution** approving the Revised Terms of Reference for the Monterey County Integrated Waste Management Task Force.
- K. There was no discussion of the City **Resolution** congratulating the Marina Coast Water District on its 50th Anniversary and their accomplishments in meeting the water needs of the Marina Community.
- L. There was no discussion of the City **Resolution** authorizing renewal of the Agreement for Vehicle Maintenance and Fuel Services with the City of Monterey.
- M. There was no discussion 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 2010-2011.

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 from the Consent Calendar.

AGENDA ITEM 7, PUBLIC HEARINGS

Mayor Pendergrass commented that both public hearing items may be addressed as one issue, and the floor will be opened for comment regarding both items.

- A. City Administrator Steve Matarazzo commented on the extension of City Ordinance 09-03 for an additional one (1) year to continue the temporary moratorium on the establishment and operation of Medical Marijuana Dispensaries. This Ordinance requires a 4/5ths vote by the Council for passage. The handout distributed earlier goes into detail about crime and illegal activity associated with medical marijuana facilities, requiring additional security surrounding this type of establishment. Sand City's landuse plan fosters redevelopment, and this type of use would have adverse impacts on redevelopment and reinvestment within the City. Staff recommends that the attached ordinance be extended for an additional year.

City Attorney Jim Heisinger reported that the attached public hearing items would address the extension of the interim ordinance adopted by the City Council on October 2009, and the amendment of Title 18 to Sand City's Municipal Code and the Local Coastal Implementation Plan to prohibit

medical marijuana dispensaries and the general sale of marijuana in all zoning districts. Item 7B would be a permanent ban on medical marijuana facilities within the City. Mr. Heisinger added that the case in the City of Anaheim was argued before the Court of Appeals on September 23, 2009. The appellants sought to overturn the trial court's decision upholding Anaheim's ordinance which permanently bans the operation and establishment of medical marijuana dispensaries in the City. A decision is still pending. There is also an existing conflict between State and Federal law, as federal law prohibits the use of marijuana for medicinal purposes, whereas State law allows its use. If the Council should decide to adopt the extension of the moratorium, and should a decision be made to adopt the first reading amending Title 18 of the Municipal Code, this would give sufficient time to prohibit medical marijuana dispensaries until a permanent ban goes into effect.

Police Chief Klein commented that given the demographics and small area of Sand City, and the findings of the attached report from other jurisdictions, he strongly recommends the adoption of the attached ordinance.

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 **Ordinance** extending Ordinance 09-03 for an additional one (1) year and to continue for this period the temporary moratorium on the establishment and operation of Medical Marijuana Dispensaries was made by Council Member Kruper, seconded by Council Member Blackwelder. Roll Call Vote, AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- B. City Attorney Jim Heisinger introduced for first reading the City **Ordinance** amending Title 18 of the Municipal Code (Zoning) and the Local Coastal Implementation Plan to prohibit medical marijuana dispensaries and the general sale of marijuana in all zoning districts. As reported under item 7A, this ordinance would amend Title 18 to Sand City's Municipal Code to specify uses prohibited in all zoning districts.

City Administrator Steve Matarazzo reported that this ordinance is in anticipation of Proposition 19, *California's Regulate, Control and Tax Cannabis Act of 2010*. This proposition would make it legal for persons 21 years and older to possess, process, share and transport up to one ounce of marijuana, and its cultivation for personal use. The attached ordinance affects Chapter 18 of the zoning code as outlined in Exhibit A, page 86 that defines prohibited uses.

Vice Mayor Carbone commented that the City survey expressed the opinions of both the residents, business owners and property owners within Sand City; showing a vote of 72 against and a vote of 32 for a medical marijuana dispensary. Also, the West End District and the East Dunes area of the City have children who live there. The 2 regional shopping centers already have pharmacies, and should remain as a family shopping experience. Keeping

with the City's goals and vision of future development, the establishment of a medical marijuana dispensary would not be appropriate. This type of establishment would be more appropriate at a location such as the Ryan Ranch Business Park. As a public official and representative of Sand City, Vice mayor Carbone expressed that she is not in favor of allowing a medical marijuana dispensary in Sand City.

Mayor Pendergrass added that the cities of Seaside, Marina, and Salinas have passed a similar ordinance prohibiting medical marijuana dispensaries within their cities. As a public official, it is always imperative to look to the well being of residents and businesses.

Motion to approve the First Reading of the City **Ordinance** amending Title 18 of the Municipal Code (Zoning) and the Local Coastal Implementation Plan to prohibit Medical Marijuana Dispensaries and the general sale of marijuana in all Zoning Districts 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.

AGENDA ITEM 8, OLD BUSINESS

- A. City Engineer Richard Simonitch reported that approximately 3 weeks ago, a water leak was reported to the police department due to a pipe burst when the desalination plant was not running. The leak was caused by too much pressure on the pipes. It has been repaired by a local contractor. The good news is that DPH has issued a permit for well #5 giving Cal-Am and Sand City permission to go ahead with the project. The plant is at 1/3 capacity, and with the construction of this additional well, it would allow the plant to run at capacity. Presently only 3 out of 4 pumps are running due to a motor failure of one of the pumps. Staff is looking at installing a temporary pump with available parts on hand so the plant can operate at optimum capacity. Approval for the use of the temporary pump is pending upon Cal-Am's representative who is presently on vacation.

There was discussion on the cost of the pumps currently in the desalination plant, their life expectancy, and future replacement costs.

Mayor Pendergrass commented that staff should work on getting the temporary pump installed so that water can be available in the near future. Several property owners would like to develop their properties, and they will need water to do so.

Mr. Simonitch reported that he did contact P.G. & E. for the poles to be moved. P.G. & E. has not sent a crew out to the location regarding this issue, and he will try contacting P.G. & E again this week.

City Administrator Steve Matarazzo reported that about three months ago, the City hired Steve Samuelian of California Consulting to seek grants for the City. The four grants that he is presently looking at are for new police vehicles, construction of restrooms at West Bay Street (this would require desalination plant water), a mixed use plan for the Carroll property with excess parking, and funding for the remodel of City Hall. According to the consultant, the Police Department remodel may have grant funding available,

with the rest of City Hall to be financed at a low rate interest.

Mayor Pendergrass added that a majority of the past City Hall remodel was financed by grant funding. It would be nice to have a formal foyer especially during inclement weather.

Council Member Hubler mentioned that the Arts Reception for Photographer Fred Arellano may be moved to October 15, 2010, pending the availability of the other Art Committee members.

Mayor Pendergrass reported that he attended two classes on sustainability at the League of California Cities Conference. These classes discussed how cities are going green, and reducing their expenditures by combining staff positions. There were also sessions on how to draw people to your City (make your City famous) which Sand City is doing by holding the Annual West End Celebration. The Mayor also served as the voting delegate at the Leagues annual meeting with over 440 other cities being represented.

Council Member Carbone reported that she attended a seminar on women in politics, and shared her twenty years of experience as a public official and community volunteer. She also reminded the Council of Sand City's Annual Beach Clean Up event on Saturday, September 25, 2010 at 9:00 am.

Council Member Blackwelder reported that he attended a session about the Public Employees Retirement System (PERS), how they may be in financial trouble, and how PERS needs to have a 7.6% return in order for it to be solvent, and not the 2% they are reporting. He left the session somewhat confused, although it was very interesting. His only regret was that there were no informational handouts.

Council Member Hubler attended a session regarding Prop 23 and the State's raiding of local government coffers, and how to bring your City into the 21st Century.

The highlight of the Annual League Conference for Council Member Kruper was talking to other public officials from various cities on how they have addressed the medical marijuana issue and what actions they have taken regarding the establishment of this type of facility.

AGENDA ITEM 9, NEW BUSINESS

- A. City Administrator Steve Matarazzo presented to the Council the Redevelopment Agency **Resolution** authorizing a Thirteenth (13th) Amendment to the Exclusive Negotiation Agreement (ENA) with DBO Development for Redevelopment of the area known as "South of Tioga". This extension would be for another year. DBO has assembled approximately eleven acres of property across from Costco. Even though the market has been hit with the worst real estate recession the past two years, DBO has made significant progress. Staff would like to see conceptual plans by March of 2011, and submittal of a development application no later than September 2011. Staff recommends the extension of the attached resolution.

Chris Orosco of DBO Development reported that there has been progress on the land use plan, and may have project plans for City staff review by November this year. DBO is still in negotiations with five of the property owners within the South of Tioga Redevelopment area. This has been a time consuming endeavor since DBO has met with the property owners on a one-on-one basis taking a lot of planning and forethought. The company's investors and partners have given a go ahead to pursue land acquisition, and DBO is hopeful that they can conclude complete land assemblage without the City having to use eminent domain. Presently, DBO is focusing on the former Design Center Building, and the company has assembled a team of architects who have walked through the first and second floors for future improvement and remodel. DBO would like to remain consistent with the City's goals for redevelopment and hopes that the renovation of the building will show just that. DBO has allocated millions of dollars to renovate the building and is looking forward to working with Sand City.

Mayor Pendergrass commented that the Council looks forward to seeing the proposed renovation of the building.

Council Member Kruper thanked Mr. Orosco on behalf of the Council, and respects the careful, one-on-one approach DBO is taking in working with the land owners to acquire the properties.

Motion to approve the Redevelopment Agency **Resolution** authorizing a Thirteenth (13th) Amendment to the Exclusive Negotiation Agreement (ENA) with DBO Development for Redevelopment of the area known as "South of Tioga" was made by Agency Member Blackwelder, seconded by Agency Member Hubler. AYES: Agency Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- B. Mayor Pendergrass commented that he will serve as a panelist at the Monterey Peninsula Chamber of Commerce Leadership Luncheon on Wednesday, September 22, 2010, and encouraged the Council to attend. There were no additional RSVP's.

AGENDA ITEM 10, CLOSED SESSION

8:25 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*

2) Regarding Public Employee Contract Extension, pursuant to §54957 of the Ralph M. Brown Act, position: City Administrator

8:46 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.


There was no report on items 10A (1) a-e.

The City attorney reported on item 10A (1) f. There was no action taken.

There was no action on item 10A (2). This item will be continued to the October 5, 2010 City Council meeting.

AGENDA ITEM 11, ADJOURNMENT

The Council was in consensus to adjourn the meeting to the next regularly scheduled Council meeting on October 5, 2010 at 7:00 p.m. There was unanimous consensus of the Council to adjourn the meeting at 8:47 p.m.



Connie Horca, Deputy City Clerk