

MINUTES
JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY

Regular Meeting – December 15, 2009
7:00 P.M.
CITY COUNCIL CHAMBERS

Mayor Pendergrass opened the meeting at 7:04 p.m.

Police Chief Michael Klein led the Pledge of Allegiance.

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

Staff: Steve Matarazzo, City Administrator
Jim Heisinger, City Attorney
Leon Gomez, Assistant City Engineer
Michael Klein, Police Chief
Connie Horca, Deputy City Clerk

AGENDA ITEM 4, COMMUNICATIONS

- A. Written communications distributed to the Council included: Agenda item 7A a letter from the Office of the National Drug-Control Policy titled Marijuana Legalization; A Non-Starter, and an addendum to Agenda item 5I regarding the Coastal Access Street Improvement Project.
- B. City Administrator Steve Matarazzo requested that Agenda item 5I be pulled from the consent calendar to be discussed under Agenda item 6.

7:06 p.m. Floor opened for Public Comment.

There was no comment from the Public.

7:06 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. There was no discussion on the annual review of the Conditional Use Permits (CUP) and Coastal Development Permits (CDP) listed below.
 - (1) CUP #186,236,286, Gene's Auto Body (automotive shop), 1531-A Shasta/ 524-A Elder Avenue

- (2) CUP # 394, Frank D'Aquanno (automotive), 477 Redwood Avenue
 - (3) CUP #422, Richard Garza (contractor), 351 Orange Avenue
 - (4) CUP #425, Glastonbury, Inc. (equipment store & rent), 495-B Elder Avenue
 - (5) CUP #480, Video Ranch (office, video production), 1793 Catalina Avenue
 - (6) CDP #0707, Ga-Ga (hair salon), 490 Orange Avenue
- B. There was no discussion of the Sand City Council Meeting Minutes, December 1, 2009.
- C. There was no discussion of the City **Resolution** authorizing Health Benefit Changes for the 2010 Contract Year.
- D. There was no discussion of the Public Works Monthly Report, November 2009.
- E. There was no discussion of the acceptance of Police Department Monthly Report, November 2009.
- F. There was no discussion of the acceptance of the City/Redevelopment Agency Treasury Report, September 2009.
- G. There was no discussion of the City **Resolution** continuing the Appointments to Various Local and Regional Agencies and Boards as shown on Exhibit A and Appointing the Mayor as Representative and the City Administrator as alternate to the Monterey-Salinas Transit District effective July 1, 2010.
- H. There was no discussion of the City/Redevelopment Agency Financial Report, October 2009.
- I. Approval of the City **Resolution** authorizing award of Coastal Access Street Improvement and Landscaping Project to Garcia Engineering was pulled from the Consent Calendar for further discussion.
- J. There was no discussion of the approval of the contributions/donations to the Veterans Transition Center of Monterey County for \$100 and the Shelter Outreach Plus for \$100.

Motion to approve consent calendar items 5A-H, and 5J was made by Council Member Blackwelder, 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

City Administrator Steve Matarazzo reported that late last week, the State Parks Department requested to see a copy of the plans for the Coastal Access Beach project. At the suggestion of the State Parks Department, the project plans were designed to incorporate a parking facility. When the Coastal Commission reviewed the project, they considered the area to be an environmentally sensitive habitat area

and would require Fish and Wildlife approval. The approval process would have taken a considerable amount of time, so the parking lot was eliminated. After further review of the current coastal beach access plans, Staff recommends that the portion of where the right-of-way line meets the State Parks Department property line, about an 11' extension of the boardwalk not be constructed until approved by State Parks. It is further recommended that Staff look into relocating that small portion of the project, directing it straight out into the beach within Sand City's right-of-way. Since the permitting process may be lengthy, and considering that this project was a part of the desalination facility requirement, this project does not need to have a long process encompassed with it. The resolution of approval should include the addendum distributed to the Council earlier which listed the four recitals pertaining to the environmental documentation for this project. The addendum to the resolution merely explains why this project is exempt from any further review under the California Environmental Quality Act (CEQA).

City Attorney Jim Heisinger agreed with Mr. Matarazzo's report and recommended that the four recitals be added to the resolution and that the title be changed to read: "*Resolution of the City Council of the City of Sand City Authorizing Award of Coastal Access Street Improvements and Landscaping for the Sand City Water Supply Project.*"

Assistant City Engineer Leon Gomez commented that after reviewing the project area at Bay Avenue with Chief Klein, it was suggested to move the entire platform and both boardwalks to the southern part of Bay Avenue. This would allow the project area to remain in Sand City's right-of-way with no encroachment problems. This project is estimated to take approximately 2-3 weeks to complete.

Motion to approve the City **Resolution** as amended with the addition of the four recitals, authorizing award of the Coastal Access Street Improvements and Landscaping for the Sand City Water Supply Project was made by Council Member Blackwelder, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

AGENDA ITEM 7, PUBLIC HEARINGS

- A. City Attorney Jim Heisinger referred to the enclosed Staff report on page 57 of the packet. At the November 17 City Council meeting, the Council adopted an interim Ordinance prohibiting the establishment and operation of medical marijuana dispensaries in the City of Sand City that lasted 45 days. The attached City Ordinance is to continue the regulation for a period of 10 months and 15 days, beginning January 1, 2010 and extending through October 16, 2010. Based on Council comments from the last meeting there were land use issues as to whether Sand City is an ideal location for this type of facility. Staff was given direction to research what other cities were doing in regard to this type of establishment. Staff recommends approval of the Ordinance extending Ordinance No. 09-03, 2009 for an additional 10 months and 15 days. This would allow the Council and Staff additional time to further study this issue.

Chief of Police Michael Klein commented that he spoke of this issue to other

jurisdictions within the Monterey Peninsula. After receiving comments, and given the demographics associated with this type of use he does not recommend Sand City as a proper location for a marijuana facility.

Mayor Pendergrass added that an unofficial ballot was mailed out to residents and property owners asking them if they were in favor of this type of facility in Sand City. The ballots received indicated that 32 were in favor and 84 were opposed. A letter issued by the Executive Office of the President speaks to this issue and is available to the public for review.

7:23 p.m. Floor Opened for Public Comment.

Monterey Peninsula resident Daniel Maniscalco commented that it seems the Council is moving in the opposite direction in which he would like to see with regard to approval of a marijuana dispensary in Sand City. He thanked the Council for considering this request. He also acknowledged and appreciated all the effort the Council and Staff took to conduct the survey, and also for considering both sides of the issue.

7:26 p.m. Floor Closed to Public Comment.

Motion to approve City **Ordinance** extending Ordinance 09-03, 2009 for an additional 10 months and 15 days and to continue for this period the temporary moratorium on the establishment and operation of medical marijuana dispensaries was made by Mayor Pendergrass, seconded by Council Member Carbone. Roll Call Vote AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- B. City Administrator Steve Matarazzo presented the Redevelopment Agency **Resolution** adopting the 5-Year Implementation Plan for its Project Area for the years 2010-2014. The attached implementation plan was compiled for the Redevelopment Agency (RDA) to forecast what projects the Redevelopment Agency may do for the next five years, and may be amended by the Redevelopment Agency at any time. The plan also talks about past accomplishments such as the construction of the Sand City Water Supply Project. Without water, redevelopment is dead. The construction of the Design Center, which is now under new ownership, also accomplished the goal of 10 affordable housing units. The goal for the next five years addresses issues regarding parking and street re-design for the West End. The East Dunes Habitat Conservation Plan and the Police Station building remodeling were also included. Scott Davidson from Pacific Municipal Consultants (PMC) projects that there will be little change in assessed property values (tax increment) due to the existing economic climate. This projection may change to benefit Sand City should the South of Tioga project move forward. This implementation plan also suggests potential assistance with the South of Tioga project.

Council Member Kruper commented that this plan seems to combine all the projects into a list of what the RDA may accomplish. He recommended that it would be beneficial to the Council to see projects prioritized by what Staff can see as actually doable, how much funds are available to accomplish these

projects, and a timeline of when they are expected to be completed. He suggested that a future publication be available to the residents that show these projects and what Sand City is looking forward to completing. He would be happy to help Staff facilitate this publication.

Mayor Pendergrass added that considering the present economic climate and the condition of the State Budget, it would be a good idea to look at what projects are actually achievable. Staff can research grant funds and stimulus monies to assist in accomplishing some of these project plans.

7:34 p.m. Floor opened for Public Comment.

There was no comment from the Public.

7:34 p.m. Floor closed to Public Comment.

Motion to approve Redevelopment Agency **Resolution** adopting the 5-Year Implementation Plan for its Project Area for the years 2010-2014 was made by Agency Member Blackwelder, seconded by Agency Member Kruper. AYES: Agency Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

AGENDA ITEM 8, OLD BUSINESS

- A. City Engineer Leon Gomez reported that Pacific Gas and Electric was out surveying the poles along Elder and Shasta Avenues, examining the poles that need to be relocated. P.G. & E. may need to tear out some of the concrete in order to relocate the poles. P.G. & E. was aware of the plans the City had prior to the street improvement project, and Staff is hopeful that they will cover the cost to replace the concrete once the poles have been moved.

California American Water Representative David Craig communicated to Staff that the Tioga well #4 was shut down, and is currently monitoring the problem. He will contact Staff on the status of the problem, and when that well will be back on line.

Mr. Matarazzo added that the replacement well #5 is the best producing well out there. He received an email from Rob MacLean of Cal-Am Water, which stated that they are presently working on an operations manual. The Department of Public Health is supposed to write a letter specifically relating to two issues that need to be addressed. One of which is the operation manual, and the minor problem with the ultra violet disinfecting unit. Staff has contacted Chad Brown from CDM Constructors to see what can be done to remedy these issues.

Mr. Gomez communicated that Monterey Peninsula Engineering was contacted to see what can be done about the portion of the pavement just laid at the end of Elder Avenue near the Design Center. There seemed to be erosion of the soil during the heavy rain fall which recently occurred. Much of the water came from the roof drain located at the automotive shop that ran onto the pavement causing the erosion.

City Administrator Steve Matarazzo reported that last Friday, Sand City representatives were present at the Coastal Commission hearing in San Francisco regarding the denial of the permit for the Monterey Bay Shores Ecoresort. The Coastal Commission denied the permit 8-0. Although the permit was denied, Sand City's team and Mr. Ghandour's team gave a great presentation. During the meeting, the Coastal Commission presented a 2 acre buildable area which neither the Sand City Staff nor Ed Ghandour's team had ever seen. With this information, the Coastal Commission seemed to have developed a new set of standards to evaluate what can be constructed on Sand City's shores; standards not currently in Sand City's LCP. This was something the court of appeals said the Commission did not have authority to do. Mr. Ghandour is presenting an inverse condemnation case which would not be of benefit to the City should Mr. Ghandour win. Staff is recommending meeting with the Coastal Commission Staff to see what size development is acceptable on this site.

City Attorney Jim Heisigner added that on the Coastal Commission website, where the agenda is available for review, there are 3 pages of colored maps that contain the land constraints for the project area. A 1-2 acre area is the only part of the project site that has no constraints. This is the first time that the Coastal Commission has ever taken their interpretation of the LCP, and instead of writing it out in textual form, has decided to make a visual presentation instead. The recommendation by the City Administrator to meet with Coastal Commission Staff would give the City a clearer guideline as to what they consider developable on this site.

Mayor Pendergrass commented that by law the Coastal Commission approved Sand City's current LCP. It was clearly obvious that they do not want development to occur on Sand City's coast. The City's LCP was changed three times by the Coastal Commission for the project area. The City must continue to remain vigilant in tackling this issue if there is to be future development on Sand City's coastal area.

AGENDA ITEM 9, NEW BUSINESS

- A. Consideration of City Council Meeting for Holiday Observances

PURPOSE: It is recommended to cancel the January 5, 2010 Council meeting due to closure of City Hall during the holiday period between Christmas and New Year's Day.

The Council was in consensus to cancel the January 5, 2010 City Council meeting.

- B. The Deputy City Clerk noted the RSVP's for the Seaside-Sand City Council Community Holiday Bash on December Friday, December 18th at the City Center in Seaside.

AGENDA ITEM 10, CLOSED SESSION

7:55 p.m.

- A. City Council /Agency Board adjourned to Closed Session to confer with Legal Counsel regarding pending litigation in accordance with Section 54956.9(c) of the Ralph M. Brown Act,

- 1) *CalAm v. Seaside*
- 2) *State Water Resources Control Board Order WR 2009-0060*
- 3) *Monterey Peninsula Water Management v. State Water Resources Control Board (No. M102101)*
- 4) *CalAm v. State Water Resources Control Board*

8:03 p.m.

- B. The City Council/Agency Board readjourned 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 (3). The Council also recommended that Staff proceed with a detailed compilation of a list of "transgressions" with respect to the LCP.

AGENDA ITEM 11, ADJOURNMENT

Motion to adjourn the City Council meeting was made by Council Member Hubler, seconded by Council Member Kruper, to the next regularly scheduled Council meeting on January 19, 2010 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