

**MINUTES**  
**JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY**  
**City Council Chambers**  
**REGULAR MEETING-January 17, 2006**  
**7:00 P.M.**

---

Mayor Pendergrass opened the meeting at 7:08 p.m.

Invocation was led by Reverend Synder.

The pledge of allegiance was led by Police Chief Klein.

Present: Council Member, Jerry Blackwelder  
Vice Mayor, Mary Ann Carbone  
Council Member, Craig Hubler  
Council Member, Michael Morris  
Mayor David Pendergrass

Staff: Kelly Morgan, City Administrator  
Michael Klein, Police Chief  
Steve Matarazzo, Community Development Director  
Jim Heisinger, City Attorney  
Stan Kulakow, City Engineer  
Connie Horca, Deputy City Clerk  
Charles Pooler, Associate Planner

**AGENDA ITEM 4, COMMUNICATIONS:**

- A. Written communication distributed to Council included Item 5 M Donations List FY 05-06, Item 7 C Consideration of City RESOLUTION Approving a Time Extension of CDP 01-05 for Vito Giustiniani's Storage Yard within the Railroad R-O-W (modified 1-17-06) Item 8 B Outdoor Sculpture Competition for Design Center
- B. The floor was opened to Public comment at 7:10 p.m.

There was no comment from the Public

Floor closed to Public comment at 7:11 p.m.

The Mayor reported that the Ground Breaking Ceremony for the Design Center Project will be held on Thursday January 26 at 11:30 am at 600 Ortiz Avenue. The City has also received a commendation for the Bike Trail Lights from TAMC.

Council Member Morris asked if Agenda Item 7A, First Reading of Ordinance Adding Certain Provision to the Municipal Code Regarding Penalties for Violations of the Municipal Code, be moved and considered after Agenda Item 8D. This agenda item will be considered as Agenda Item 8E, by Council consensus.

## **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.
- (1) CUP #374, Worley Iron Works (Metal Art Fabrications), 337 Olympia Ave
  - (2) CUP #394, D'Motorsports (Auto/Machine Manufacturing), 477 Redwood Ave
  - (3) CUP #422, Richard Garza (Plumbing/Heating Contractor), 351 Orange Ave
  - (4) CUP #423, Pat Pagnella dba Universal Heated Hoses (Light Manufacturing), 353 Orange Ave
  - (5) CUP #424, Jeff Cecilio (Office/Storage), 373-A Dias Avenue
  - (6) CUP #425, Gerard Mattimoe dba Glastonbury Inc. (audio/video production equipment rental), 495-A Elder Avenue
  - (7) CUP #441, Steve Avila, (Amend permit to divide dwelling unit), 549 Elder
  - (8) CUP #110, Standard Transmission Service (Auto Body), 531 Shasta Avenue
  - (9) CUP #191, Lifeline Food Company (Food Processing), 426 Orange Avenue
  - (10) CUP #238, Just Andy Auto Repair (Auto Repair), 465-A Olympia Avenue
  - (11) CUP #344, Richard Yant (Woodwork Shop), 672-A Dias Avenue
  - (12) CUP #375, J&D Auto (Auto Repair), 1695 Contra Costa
  - (13) CUP #401, Kyle Racing Engines (Motorcycle Engine Assembly), 801-B California Avenue
  - (14) CUP #443, DGAS, (service commercial), 679-C Redwood Avenue
  - (15) CUP #445, Nadar Agha (self-storage), 679-D Redwood Avenue
  - (16) CUP #446, Thaiwainian Noodles, (food service), 679-A Redwood Avenue
  - (17) CUP #001-01, Monterey Mattress Company (Mattress Manufacture/Showroom) 1805 Contra Costa
- B. There was no discussion of December 6, 2005 Council Meeting Minutes
- C. There was no discussion of Monthly Police Department Activity Report, November 2005

**Council Meeting Minutes**  
**January 17, 2006**

- D. There was no discussion of City RESOLUTION Making Re-appointments to the Design Review Committee (Lindberg, and Davis)
- E. There was no discussion of the Monthly City/Redevelopment Agency Financial Report, November 2005
- F. There was no discussion of Monthly Fort Ord Reuse Authority (FORA) Report, December 2005
- G. There was no discussion of City RESOLUTION Approving a 90-Day Time Extension for CUP #426 for Brad Harbor Authorizing continued operation of a Concrete Business as an interim use within an existing storage yard at the end of Fir Avenue (APN 123-0035017)
- H. There was no discussion of City RESOLUTION Approving a 90-Day Time Extension for CUP #432 for Advanced Towing Authorizing continues storage of automobiles as an interim use within an existing building at 841 Fir Avenue
- I. Approval of City RESOLUTION Approving a 90-Day Time Extension for CUP #434 for Gordon Rudy Authorizing continued storage and operation of a Truck Rental Business as an interim use at the Former Waste Management Transfer Facility at 840 Tioga Avenue will be considered for separate action by council consensus
- J. There was no discussion of City RESOLUTION Approving a 90-Day Time Extension for CUP #450 for Glass Mosaic Tile and Marble as a continuing interim use within an existing building at 1855-B East Avenue
- K. There was no discussion of City RESOLUTION Approving a 90-Day Time Extension for CUP #455 for Glass Mosaic Tile and Marble as a continuing interim use within an existing building at 840 Fir Avenue
- L. There was no discussion of City RESOLUTION Approving a 90-Day Time Extension for CUP #464 allowing storage of windows, doors and lumber for J.K. Scanlon Inc. as an interim use at 842 Fir Avenue
- M. There was no discussion of City Contributions/Donations request by the Kinship Center for \$300, the Monterey County Housing Alliance for \$300, and the Monterey County Jazz Festival for \$300.

Motion to approve Consent Calendar was made by Council member Blackwelder, seconded by Council member Carbone. AYES: Council members Blackwelder, Carbone, Pendergrass, Hubler and Morris. NOES: None. ABSENT: None. ABSTAINED: None. Motion Carried.

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

7:13 P.M. Agenda Item 5 I

***{Council member Morris stepped down from dias} 500' foot rule***

There was no discussion of City RESOLUTION Approving a 90-Day Time Extension for CUP #434 for Gordon Rudy Authorizing continued storage and operation of a Truck Rental Business as an interim use at the former Waste Management Transfer Facility at 840 Tioga Avenue

Motion to approve Consent Calendar Item 5I was made by Council member Hubler, seconded by Council member Carbone. AYES: Council Members Blackwelder, Carbone, Pendergrass, and Hubler. NOES: None ABSENT: None. ABSTAINED: Council Member Morris. Motion Carried.

7:14 P.M.

***{Council member Morris returned to the dias}***

**AGENDA ITEM 7, PRESENTATIONS**

- A. Agenda Item moved to Old Business and considered as Agenda Item 8E by Council consensus.
- B. Charles Pooler presented City RESOLUTION Approving an Amendment of Conditional Use Permit 458 and Coastal Development Permit 05-02 for John Avery to allow continued temporary use of property at 490 Orange Avenue for a period of 90 days. The property is currently utilized for his tile operation which allows the temporary use of said property for a six month time period allowing him adequate time to submit his plans for the development of his project. The proposed project is a commercial building with parking area at Orange and Contra Costa Streets.

Council Member Hubler questioned if ninety days was sufficient time to start construction of the building?

Associate Planner Pooler replied that construction of the building would not be started in ninety days, although ninety days should be sufficient time to apply for a building permit for the property.

7:18 p.m. Floor opened to Public Comment.

John Avery the applicant commented that the project has started out to be quite costly and the amount has been reduced to approximately 55-65 percent of the initial cost. Much of the materials have been selected and extensive research has

**Council Meeting Minutes**  
**January 17, 2006**

been conducted for contractors who will be available to work on the project and keep within the design cost estimates of the building. The application is to allow additional time to secure contractors who will work at the reduced cost than originally planned and to apply for necessary permits to begin construction of the project.

Council Member Hubler replied that he was impressed with the landscaping that has been done to the property.

Mayor Pendergrass asked Mr. Avery if he was satisfied with the total architectural design for the property.

Mr. Avery replied that he is quite satisfied with the plans for the project and has agreed to the conditions of the amended resolution.

7:25 p.m. Floor closed to Public Comment.

Mayor Pendergrass further commented that the staff report has shown no complaints, and that per the letter, Mr. Avery has made a substantial effort in keeping with the proposed construction of the project and would recommend council approval of the time extension.

Motion to approve **City RESOLUTION approving an amendment of Conditional Use Permit 458 and Coastal Development Permit 05-02 for John Avery to allow continued temporary use of property at 490 Orange Avenue for a period of 90 Days** with changes was made by Council Member Hubler, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler, Morris and Pendergrass. NOES: None. ABSENT: None ABSTAINED: None. Motion Carried.

- C. Associate Planner Pooler presented City RESOLUTION Approving a Time Extension and Amendment of Coastal Development Permit 01-05 for Vito Giustiniani to allow the continued storage yard within a 50-foot encroachment of the railroad right-of-way. This storage yard is used to store masonry and stone materials. The permit has been modified with new text to include the coastal development permit shall expire within one-month (30-days) notice from the City of Sand City that the storage yard must be eliminated and vacated from the rail right of way.

Michael Morris asked that since we have a thirty-day termination clause, are we covered in case we want to utilize the space for parking?

Community Development Director Steve Matarrazzo, that all upcoming storage yard use permits adjacent to the railroad right of way will contain that clause and TAMC should not charge any lease after a certain time period.

7:30 p.m. Floor opened to Public Comment.

Mayor Pendergrass asked Mr. Giustiniani if he was in agreement with the amended conditions of the Permit. Mr. Giustiniani replied that he was in agreement with the amended resolution.

7:31 p.m. Floor closed to Public Comment.

Motion to approve City **RESOLUTION Approving a Time Extension and Amendment of Coastal Development Permit 01-05 for Vito Giustiniani to allow the continued storage yard within a 50-foot encroachment of the railroad right of way** by title was made by Council Member Blackwelder, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler, Morris, Pendergrass. NOES: None. ABSTAIN: None. Motion Carried.

- D. Community Development Director, Steve Matarazzo presented a City Resolution Approving a Coastal Development Permit to the California Integrated Waste Management Board (CIWMB) to reconfigure a portion of a former land-fill site at a one-acre parcel known as the Calabrese Property, west of Highway one, Assessor's Parcel No. 011-501-010, the original site was formerly a municipal dump that ceased operation in the 1950s. CIWMB applied for this permit to remediate the soil condition for public safety and to insure that hazardous materials and residual matter from the former dump do not surface. Monterey Regional Park District intends to purchase this property for open space uses. A portion of the Bike Trail will have a partial detour that was included in the plans, and is acceptable to staff.

Council Member Morris asked if the Bike Trail will be detoured.

7:38 p.m. Floor opened to Public Comment.

Jeff Cornet, a staff member for the California Integrated Waste Management Board, commented that the detour planned will shorten the radius leading into the existing "No Parking" area ramp and the connection to the turn will be put in first. After that is completed, the fence and signs will be placed for the public to keep away and redirect the traffic. There are no plans to remove the existing pavement upon completion of the project, and any damage done during construction will be repaired. There is an existing gravel area within the fenced line, which the Park District would like to clean up and re-vegetate. The fence will not be placed until all the existing detours are established as to not interfere with the bike trail.

**Council Meeting Minutes**  
**January 17, 2006**

City Administrator, Kelly Morgan pointed out that Mr. Morris' concern is valid and that temporary barricades should be placed on the off-ramp along the south bound freeway.

Jeff Cornett explained that there is no problem installing the temporary barricades.

Council Member Morris asked if there are any plans to install walkways or boardwalks so that the public can use this area in the future.

Tim Jensen from the Regional Parks District responded that there are no plans at this time to develop this area as a public park.

Jeff Cornett thanked City Staff who helped him with this permit since it was a last minute request from the California Integrated Waste Management Board.

Mayor Pendergrass, expressed his concern over the liability, in the event that something would happen, who would be at fault and who would carry the responsibility?

Mr. Cornett replied that their contractor carries a million dollar policy in case of an accident and the City would be named as a co-insured. The liability agreement is outlined on page 102 of the agenda, number 19.

Council Member Morris commented that he would really like to see something done on the remediated site so that people can use it since it is such a beautiful part of the west side of Sand City. The reserve is great, and we have a lot of reserve in Sand City. It would be of value to the region if there were a park that everyone can use. Would the parks district be open to consider the idea of a public use park in the project area and what can be done to accomplish it?

Community Development Director, Steve Matarazzo replied that back in October, he addressed Mr. Jensen with the same issue and Mr. Jensen said he would discuss it with his board.

Mr. Jensen responded that he would bring this request to the board, whose meeting will be held on Monday February 6<sup>th</sup>. He further explained that the property does not really belong to the Park District and that it is still private property. The California Integrated Waste Management Board is conducting this work on private property with the express understanding that it will be public property and if it doesn't become public property, the private landowner will be paying the bill. There can be no decisions made to this property at this time, although it will be something that can be considered for the future.

Council Meeting Minutes  
January 17, 2006

Mayor Pendergrass suggested a letter to the Park District be drafted for as a formal request for the public use for the property. Mr. Jensen concurred that this would be a good idea. He thanked staff for the extra effort in bringing this item to the agenda within such a short time frame. A letter to the Parks District would be very well received.

Mr. Jensen responded that money is the primary factor in getting projects approved and constructed. Projects seem to be done more quickly when there is collaboration between the developer and the City.

7:59 p.m. Floor closed to Public Comment

Mayor Pendergrass added that the City's participation in the 1996 MOU, validating the use of the project area between the State of California State Parks and Regional Parks. We hope that the Park District honors the MOU so that when the City enters into the EIR stage for development projects the park district will support us.

Council Member Morris further commented that in constructing a public parks area in which people can be in, we are at the mercy of the Park District and the State to develop something that everyone can use. What we are doing tonight is an extension of that, and it is strongly recommended that we should have recreation opportunities for the citizens of Sand City and the Monterey Peninsula on our part of the coast that we have agreed to dedicate to open space.

Motion to approve City **RESOLUTION Approving a Coastal Development Permit to the California Integrated Waste Management Board to reconfigure a portion of a former land fill site at a one-acre parcel know as the Calabrese Property, west of Highway One, Assessor's Parcel No. 011-501-010** by title was made by Council Member Carbine, seconded by Council Member Humbler. AYES: Council Members Black welder, Carbine, Humbler, Morris, Pendergrass. NOES: None. ABSTAIN: None. Motion Carried.

***7:38 p.m. {Due to a possible conflict of interest Council Member Morris stepped down from the dais}***

- E. Community Development Director, Steve Matarazzo presented City RESOLUTION Approving a Combined Development Permit and Environmental Negative Declaration allowing a 16,975 square foot expansion to the existing Costco Store within the Sand Dollar Shopping Center. The proposal will cause a modification to the existing parking lot area, which will be reconfigured to accommodate the new addition. Costco is in general agreement that the California Avenue extension through the railroad is acceptable with the re-design of their Tioga



Avenue entrance to accommodate that extension. Costco plays an important role as a major retailer in Sand City, and their recommended improvements, as conditioned, will continue to be a primary revenue-generating source for the City.

8:01 p.m. Floor opened to Public Comment.

David Babcock, the architect working with Costco summarized that the expansion to the front would allow adequate space for improvement of services and product inventory. The process would include taking the existing architecture and reinventing it to meet a look that would be more contemporary. The following conditions under discussion included the lighting which gives the City approval to change the lighting if it does not meet City requirements. The last sentence in reference to the lighting page 110 will be eliminated. Section D, Item 1 Loading zone area will remain in existence for the public to load/unload large items. Section D, Item 3 & 4, involved the reconfiguration of the parking lot and the extension of California Avenue. Costco would like to be involved in the planning for the overall flow of traffic within the area. Further discussion involved the portion of the property which occurs within the TAMC right-of-way. City Attorney, Jim Heisinger added a clause to Item 4, which reads, Subject to Costco's approval of access points along the reconfigured California Avenue. All parties were in agreement to the addition of the clause.

Joseph Welch, architect, commented that the parking area in the back was originally intended for employee parking. With the re-configuration of the new receiving area, the employee access to the store during non-business hours is now located off of Tioga, when before it was in the dock well at the receiving ramp. Employees will be encouraged to park in the rear, so front parking can be used by the customers.

Council Member Jerry Blackwelder asked if there is a plan for circulation during the time of construction so that accessibility to the store will not be greatly impacted.

Mr. Babcock replied that this warehouse would remain open during construction, which is fairly typical. He suggested that a sign be placed along the Tioga Avenue access, although it is not a preferred location, so the store can be visible from that area.

Community Development Director, Steve Matarazzo read the modified clause to Section F, Item 2, Signs, to read: Costco shall agree to pay a pro-rata share of the cost for providing seasonal banners for the Sand Dollar Shopping Center, should all property owners within the Center agree to their design and placement.

8:42 p.m. Floor closed to Public Comment

Motion to approve **City RESOLUTION Approving a Combined Development Permit and Environmental Negative Declaration allowing a 16,975 square foot expansion to the existing Costco Store within the Sand Dollar Shopping Center** as amended, by title was made by Council Member Pendergrass, seconded by Council Member Blackwelder. AYES: Council Members Blackwelder, Carbone, Hubler, Pendergrass. NOES: None. ABSTAIN: Council Member Morris. Motion Carried.

**8:43 p.m. (Council Member Morris returned to the dais}**

**AGENDA ITEM 8, OLD BUSINESS:**

A. Monthly Status Report on Granite Rock Remodeling Project

Mike Chernetsky, Branch Administrator, reported on the Graniterock remodeling project; stating that the old plant has been removed. Bids are out in regard to the landscaping per the City's specifications. The contract will be finalized this week. There is an on-going conversation with the City Administrator over the art wall. The California street gates have been installed. Parking lot striping has been completed. The trash enclosure has been installed and completed, the flagpole design is scheduled to be completed by month's end.

B. Consideration of Sand City's Public Art Policy, Contributions and Opportunities

City Administrator, Kelly Morgan reported that the Budget Committee decided to make the following recommendations; that a total budget of \$75,000 be established for this public artwork, located in the Design Center Plaza. Mr. Saroyan, of the Design Center indicated that they would be willing to pay half of the costs if the City Redevelopment Agency would pay the other half up to a total of \$75,000. A design competition will be held and the Redevelopment Agency would pay the \$3000 award costs for 2 of the finalists, and the Design Center would pay incidental costs (up to \$3000) of preparing the Plaza Area for the large sculpture.

8:52 p.m. Floor open to Public Comment

Greg Hawthorne, Arts Committee Chair, addressed the Council and thanked Mr. Saroyan and the City for making this great sculpture a possibility, stating that the \$75,000 would be a great incentive for artist to come in and create a wonderful piece.

**Council Meeting Minutes**  
**January 17, 2006**

Mr. Morgan recommended setting up a committee of 5 to select the artwork. This committee would consist of 1-Design Review Committee Member, 1-Arts Committee Member, 1-City Council Member, 2- from the Public Business Community.

Council Member Hubler commented that this would be a large sculpture, adding to the City's overall aesthetic value.

Al Saroyan, Developer, is delighted to be involved in a partnership with the City, to set the stage for the arts concepts in the community. With the offer of this competition, we will receive some fabulous submissions. It will not only be something the City will be proud of, but the developer and artist will be proud of also. This should be something that sets the stage for future development in the City.

Todd Kruper, a member of the public, thanked the Redevelopment Agency and the City Staff, City Arts Committee, and Saroyan Construction for this commitment in bringing public art to the community. He also warned, "this can be a very subjective activity. Please be mindful of our history lessons, building something big and painting it orange doesn't make it art. Let alone public art. Within the arts community, there are many opinions of what constitutes public art. I do not come here to say what is good or bad, what is right or wrong, but to leave you information for appreciating all points of view. I thank you and good luck"

Mr. Kruper passed out written information offering various opinions on the subject of public art.

8:56 p.m. Floor closed to public comment

There was Council consensus to approve the Budget Committee recommendations to establish funding for the Public Art Work.

**8:57 p.m. {Council Member Morris stepped down from the dias due to a possible conflict of interest}**

C. Community Development Director, Steve Matarazzo presented City RESOLUTION directing the Community Development Director to enter into an agreement with David J. Powers and Associates for EIR preparation related to "The Collections" development project. Plans for the Sterling property are conceptual at this point, but is enough to start the EIR process. His assumption is that it will contain units of the same proposed architecture as seen previously, involving the rustic style with a lot of shingle treatment on the exterior with carmel stone, similar to a Cape Cod look. Site plan modifications and architectural changes will probably result from the visual

analysis to be included in the EIR process. A few changes included in the agreement include the responsible consultant in charge who will be Judith Shandley. The existing Disposition and Development Agreement (DDA) for the McDonald Site specifies that the Redevelopment Agency will pay the first \$150,000 of soft costs associated with this project and that King Ventures will pay all other development review costs.

City Attorney, Jim Heisinger suggested a reimbursement clause might be put into the agreement. The developer would be on notice that if the City were to defend the EIR, it would be at the developers expense, which is a fairly common situation for cities and counties.

Community Development Director, Steve Matarazzo, commented that this resolution also directs the City to enter into a reimbursement agreement and with direction from the Council; the City Attorney may add the clause in reference to the reimbursement agreement. There are actually two agreements here; one is on the EIR agreement. The other is to enter into the reimbursement agreement with King Ventures to provide all excess charges exceeding \$150,000 including any court costs.

Council Member Blackwelder, replied that in our negotiations with King, the original intent was that the City would pay up to \$150,000 and anything above that amount would be paid by King. It was originally specified that the DDA said the amount is \$150,000 with no exceptions.

City Attorney Jim Heisinger pointed out that the DDA requires the City to cover the first \$150,000 of the soft costs as originally mentioned by Mr. Matarazzo. Paragraph 2 will be amended to read: Authorizes City staff to draft reimbursement agreement with King Ventures, requiring King Ventures to pay City charges consistent with the DDA, including an indemnification of the City for costs associated with any actions concerning the EIR, and to submit said agreement to the Council for approval.

City Administrator, Kelly Morgan, stated that this reimbursement agreement should come back to be reviewed by the City Council.

Council Member Blackwelder commented that in previous negotiations with King, the Redevelopment Agency originally wanted to have more involvement in the project, and in order to do that, the City would have to take on more of the financial burden. The Redevelopment Agency realized that the City could not be put into that kind of liability, and the present language was amended. Any financial liability beyond the \$150,000 would be paid by King.

City Attorney, Jim Heisinger replied that the way the DDA now reads is that any soft costs in excess of \$150,000 would be the developer's responsibility.

**Council Meeting Minutes**  
**January 17, 2006**

Those soft costs include charges by outside consultants to the City. The City's permit fees are waived, but are recoverable after the project is approved. The reimbursement agreement has to be consistent with the DDA.

City Administrator, Kelly Morgan stated that King has been willing to allot funds for some of the habitat expenses. The City has been working on habitat issues for the coast. The two major property owners participated with the City to contribute funds for the habitat expenses.

Mayor Pendergrass commented that the City has contributed \$10,000 to the project.

Further discussion involved bringing the reimbursement agreement back to Council. City Attorney, Jim Heisinger mentioned that the resolution is an agreement between the City and David Powers and Associates, and the essence of the resolution is that David Powers will prepare an environmental report for the project site. A second agreement needs to be considered by Council between the City, King Ventures, and the Redevelopment Agency whereby King Ventures agrees to reimburse the City for this costs and other City permit processing charges. The DDA is between the Redevelopment Agency and King Ventures. The City needs a written promise from the Agency and from King Ventures in the form of a formal agreement.

Community Development Director, Steve Matarazzo stated that what complicated this agreement is that it involved the McDonald-Sterling Site and not just the McDonald Site alone. Confirmation has been received that King has a water credit and does have title to the Sterling Site.

9:22 p.m. Floor Opened to Public Comment

Mark Weller, United Hotel Workers Union asked to what extent does the DDA, concerning the McDonald Site, still have force and completely modified with the addition of the Sterling Site?

Staff indicated they would need to research that point.

9:23 p.m. Floor Closed to Public Comment

Motion to approve **RESOLUTION of the Sand City Council Directing the Community Development Director to enter into an Agreement with David J. Powers and Associates for EIR Preparation related to "The Collections" Development Project** as amended, by title was made by Council Member Hubler, seconded by Council Member Blackwelder. AYES: Council Members Blackwelder, Carbone, Hubler, Pendergrass. ABSTAIN: Council Member Morris. NOES: None. Motion Carried.

**9:24 p.m. {Council Member Morris returned to the dias}**

- D. Mayor Pendergrass commented on City Resolution approving a work program to eliminate visual clutter and noise disturbance within Sand City. Overall City policy, as recommended, is that City staff be directed to try to work things out with individual businesses or at least talk about individual concerns before zoning citations are issued. It has been recommended that newsletters be mailed to all business related properties, and that the shopping center businesses be notified of the increased effort. It is not the Council's intention to make the City a "police state", to come down on everyone. City staff has been questioned as to how many complaints have been received. Staff answered that there have been several complaints. People are willing to work together and consider these recommendations. There were several businesses that have been forewarned of a violation, and relocated their businesses outside of Sand City. There is a need to respect the rights of each business owner.

Community Development Director Steve Matarazzo referred to the staff report; reiterating that most, if not all, of the issues related to the public meetings held in November and December were in regard to visual clutter within the City, and noise disturbance. Most of the complaints have come from the West End including trash collection early in the morning. This proposal includes several ordinance revisions and increased zoning enforcement with the majority of ongoing ordinance revisions taking place between now and June, 2006. Draft regulations prohibiting long term placement of trash dumpsters, increased zoning enforcement related to outside storage with regard to some of the use permits being reviewed by planning staff (and some were not placed on the compliance list due to problems). Develop a strategy for implementing the 2004 West End Parking and Design Plan, which included suggestions from the City of Monterey. Parking violations need to be steadily enforced and made a priority, or people will just ignore them and move their cars every so often resulting in car shuffling. It is recommended that enforcement of Title 10, for vehicles parked over 72 hours be implemented. The franchise agreement with Waste Management should be reviewed to see if there is a better time to pick up refuse in order to minimize the noise that occurs during collections. The Council can consider a "wobbler ordinance" developed by the City Attorney whether relevant municipal code violations should be considered a misdemeanor or an infraction, which citations can be issued to the offending party.

Council Member Morris commented that this is a turning point for Sand City. This issue has become more relevant now that the City has more new development. The City cannot stay the way it is, and the root of most of Sand

**Council Meeting Minutes  
January 17, 2006**

City's problems is parking. In agreement with Mayor Pendergrass, this will be a long process, and will not be resolved within a short period of time. There is an immediate need to do something about the parking, and directing people to parking alternatives if they cannot park in a certain area. In regard to the dumpsters a parking space, there needs to be a place designated for the dumpster so that it can be used for it's primary purpose. This action, should bring Sand City to the same aesthetic standard as other surrounding cities.

Council Member Hubler added that businesses that move out of Sand City due to the reason that they are unable to comply should be given a reasonable amount of time. In mention of the Bakery, that has been in business several years, if they cannot move what is stored outside of their building, they may need to move out of the City. There needs to be a creative solution involving the Bakery or give them some time to move. Although we do not want to have selective enforcement, there are a few businesses that we will need to work with. Business owners who are unable to comply may need to restructure their business to meet the City standards.

Council Member Blackwelder suggested that we could approach this issue one business at a time and address their needs and concerns in regard to parking.

Mayor Pendergrass interjected that those businesses that own large trucks usually take them home and do not leave them on the premises, so the area can be utilized as parking. Although most businesses do not use their parking as employee parking. It is not the intention of the City to run people out of town, but to come to a solution with regard to the parking problem.

9:45 p.m.                      Floor opened to Public Comment

Medhi, Seaside business owner on Olympia, commented, "After attending several Council meetings, everyone is dancing around the subject and around the problems without any real effort to find a solution to the problem. The Mayor has commented that *we don't want to push people out of the City*; on the other hand the City is made into a haven for violators to come here, and just laugh at the City because nobody cares about the problems. Back in July of 2005, I complained about a person who has been there for eight years with no license who has been operating in the City. It seems that everybody closes their eyes to the problem and no one wants to tackle it, because they will be labeled as "the bad guy". You let people come in, they violate the City of Sand City's laws and regulations, they don't apply for City permits, they don't apply for business licenses and then you say, "what am I going to do with this?" The City will not push him out of town. He's a violator, if the business were legitimate, first they would come here and ask for permit, present what he wants to do, what is his goal, what is he providing for this

location, how much respect he has for his neighbors and business community. What added value will he have to the business community? Yet, everybody closes his or her eyes and the owner laughs his way to the bank every single day because he is illegal and nobody cares about it, and nobody does anything about it. Six months and nothing has been done about it. In my last conversation with Mr. Matarazzo, said that I will have the answer for all your questions by today, the 17<sup>th</sup>, but I have heard nothing. And then he says he will send the matter to the City Attorney. I don't know if the City Attorney has received it and if there has been anything done about it or not. On the other hand the staff is absolutely recommending approving CUP's like 336 Orange Avenue.

Steve Wilson, a member of the public, responded, "you probably don't like to hear some of the things that Medhi just said, but you know Mr. Mayor it's the truth. {Pointing to the staff} these men, these people here, these two men here, are trying their best to clean up the City and it almost seems like our Mayor is putting it on the back burner. It doesn't seem to matter. Some of us do look in mirrors Mayor; some of us have real nice things. Same thing we want the City to be. It's not something we want to put on the back burner, we're moving now, let's keep going. And like you said, you have this bakery down here, some businesses outgrow themselves. There's businesses' waiting in line to come to the City because they are centrally located. If they've outgrown it, they've outgrown it. We are trying to clean the City up. We don't want to say, O.K. you can leave that refrigeration system sitting there, with two or three garbage cans sitting out in the middle of your sidewalk for the handicapped people to trip over. We don't want to say that it's O.K. anymore. We would like to see the City clean, we want to see it tidied up and if they can't go along with that then maybe it's time for them to go some place else".

Council Member Morris responded to Medhi's comments about dancing around and hearing the same comment at the November 22<sup>nd</sup> meeting. "This is the first meeting held that he could ever remember that we really seriously started talking about an effort to clean up Sand City. Here we are talking about adapting ordinances that are truly going to clean up Sand City. I don't look at this as *dancing around*. A lot of effort went into this from our staff and there's got to be a starting process, and we're starting. You're right, everything is not going to be solved in two months, three months or even six months. But in a couple of years, two or three, Sand City will be a different place. I know that from your standpoint that it doesn't sound very attractive, but we're starting this process and this process is going to transform the City, and this City is going to be a place we're going to finally be proud of. In understanding your frustration, it is understandable that this is the first time this process has ever started. Here we are, starting this process and again, it



is going to be a turning point for the City making it a different place, but not tomorrow”.

Mayor Pendergrass addressed Mr. Medhi, asking him to please refrain from further comment and there will no argument in regard to the issue. In a comment addressed to Mr. Steve Wilson, Mayor Pendergrass stated, “I have never said that I have put this on the back burner. There are many things up on the hill that has been done in relation to citizens who have moved out with junk cars and garbage. The Police Department can vouch for my actions. Do not ever say that I am putting this on the back burner; that is an inappropriate remark to me. We are not doing anything here for any one family or person, we are doing it as a City and we’re not going to do it in any draconian way. That is my meaning with this resolution before us, is that we need to clean up the way we do it; so all parties come out even across the board. It is impossible to please everyone, and certainly not you; and people in this room will be affected. We need to have clarity in what we are doing. This is not the first time, Mike that we have done this”.

Mr. Morris replied that this is the first time that he can remember.

Mayor Pendergrass referred to an Auto Repair Shop, that no longer operates in Sand City, which was causing a bad problem. “In a categoric way what we are doing here is putting it into an approach in trying to find a solution. The Police Department towed away cars, green tagging those cars in the shopping center which have been there more than 72 hours, making sure they are hauled out of there, sometimes at the request of the property owners”. Mayor Pendergrass directed the following comment to a member of the audience. “I resent the statement implied that I have set it on the back burner. I have spent 28 years here, not doing nothing, I have done something, so I ask that you refrain from such comment”.

Deidre Bascou, a member of the audience addressed the council. “First of all, I am proud of Sand City the way it is. I sit here in these meetings and people are so embarrassed about Sand City. What are you embarrassed of? This is an industrial town, that is shifting and changing and that will take time, and I think we are going to see a natural voluntary compliance with the stature of businesses that we are now attracting to Sand City. If you want to get your business to comply without having to pay people to do this extra work all the time, food for thought would be incentives. Seaside has an improvement competition, (i.e. yard of the year, yard of the month) where a business would be recognized for the amount of improvement that it’s doing on its own without having to be told, *clean up your act*. I would think that if you are going to prioritize how this job gets done, that you would start with items that are detrimental to your health, that would be the first and foremost thing your would look at. Are you hurting our aquifer? Are you poisoning our

water, is our air not clean? That's where you start. If your sign is not painted, that type of thing, we make recommendations, we make suggestions, that there is an esthetic value that we're looking for and turning towards, and perhaps the making of a business association, similar to what they have in Monterey, would help people who own businesses, to come together, to guide and to police themselves, so that there does not have to be a bad guy. Just a little food for thought. Thank You".

Mayor Pendergrass replied that if you look, the City has come a long way from the garbage that use to litter the community. If you look at the shopping center, from what use to be there, it looks much nicer. The City has much better roads, don't say that we have done nothing. {Last statement directed to Mr. Wilson in the audience} "You were not clear and I was misunderstood."

Mr. Wilson commented, "Every time we talk about this, Council Member Morris gets on something and I see you sitting there shaking your head and like you don't want to hear about this situation anymore".

Mayor Pendergrass commented, " I never said that. What you think is what you should have heard. And what I said was I was in agreement. What we have before us is a resolution to move us forward".

Motion to approve **City RESOLUTION Approving a Work Program to Eliminate Visual Clutter and Noise Disturbance** within Sand City was made by Mayor David Pendergrass, seconded by Michael Morris. AYES: Council Members Blackwelder, Carbone, Hubler, Morris, Pendergrass. NOES: None ABSTAIN: None.

Council Member Hubler added, "Before we close discussion Mr. Mayor, this is something you have made a difference on because I do remember a few months ago, you had mentioned some things to us. Some of the efforts that we have made as a Council in the past may have been unsuccessful because, to enforce those things, we really did not have the teeth to do so. Some of these things that we are going to do and implement are going to give us those teeth. I do believe that maybe there are some businesses that may choose to leave Sand City or may not be able to continue on, but we are in the midst of change here in Sand City".

Diedre Bascou added that change comes slow; this is a rebirth and is based on a lot of work, labor and pain, which comes from wanting the best for the community.

**Council Meeting Minutes**  
**January 17, 2006**

Mayor Pendergrass commented, that what he said in the beginning was clarified and when these people were talking, his head was nodding in agreement with what was said.

Mr. Wilson replied to Mayor Pendergrass, "I did not mean to upset you, I'm just looking out for the best in where we live, so it looks nice, that's all. I don't want to fight with anyone."

9:23 p.m. Floor closed to Public Comment

- E. City Attorney, Jim Heisinger presented First Reading of Ordinance of City of Sand City Amending and Adding Certain Provisions to the Municipal Code Regarding Penalties for Violations of the Municipal Code, which provides that any violation of the Sand City Ordinance could be prosecuted as a criminal misdemeanor or at the discretion of the City Attorney, an infraction or violation of the city code can be deemed as a nuisance. Any nuisance can be enforced in a civil action and in a civil action, the City can recover all of it's costs and it's attorney fees.

Council Member Morris commented that it would be comforting if this was something similar to a three strikes your out law. Giving authority to the City Attorney for something that is more than just a misdemeanor is fairly traumatic, due to the booking process. When does the City Administrator and the Police Department consider an offense a misdemeanor?

Jim Heisinger, City Attorney replied that the City Attorney would be the person to ultimately make a decision whether a particular violation would have criminal intent, as opposed to an infraction. The main objective here is to put someone in authority that has the discretion and tools available to make it work. An infraction would be ticketed and can still be taken to court.

Council Member Hubler asked, "Will an infraction have to be referred by the City Planner, the City Police Chief or the City Manager?"

City Attorney, Jim Heisinger replied that no, he would have the authority to represent himself and after closed to twenty years sitting in this chair, no decision is made without first consulting the City Administrator and/or the Police Chief; but somebody has to vested with the authority to make those decisions, and it needs to ultimately be an attorney. A person who can make a decision, whether it can be prosecuted as a crime or not. The first time in violation of a code, would count as an infraction, the second time would count as a misdemeanor. Factually, the second violation needs to be proved as precisely the same as the first violation.

**Council Meeting Minutes**  
**January 17, 2006**

Council Member Blackwelder commented that the officers should be educated to the language of their citations, since it is obvious that if they are going to repeat it, it should be the same. We don't really have sufficient resources to aggressively pursue this in the first place. We are only looking at having teeth in our law so that we can enforce them.

Jim Heisigner, City Attorney explained that someone charged with a misdemeanor may want to refer the action to the City Attorney, in which case a letter will be written to the offending party, addressing the issue and recite specifically what law is in violation and here are the potential felonies. One of the potential felonies would be the suit in a civil action and when you loose you will have to pay all the city's court costs and attorney fees. Other cities within the area have found this to be a very effective threat with respect to zoning violations. All we have right now are infractions, which can be bought out at \$800 per year. It's a problem that every other city in the Peninsula has faced.

Council Member Morris asked, "Can a code enforcement officer charge someone with a misdemeanor?"

City Attorney, Jim Heisinger replied, "By Kelly's (the City Administrator) authority, yes. If you hire a code enforcement officer and the City Administrator gives him/her blanket authority, then yes they can do it."

Further discussion was addressed to Police Chief Klein, referring to the similarities between a traffic violation and a misdemeanor. The offending party would be cited and released. If the citation were a municipal code violation, then that violation would be referred to the City Attorney's office. The City Attorney in turn would then make the decision whether to prosecute as a misdemeanor or infraction. Title 10 gives the Police Department the authority to do what it is presently doing. There is no law that automatically charges the first offense as an infraction and automatically charges the second offense as a misdemeanor.

9:45 P.M. Floor Opened to Public comment

There was no comment from the public

9:48 p.m. Floor Closed to Public comment

There was no action taken and First Reading of Ordinance of the City of Sand City Amending and Adding Certain Provisions to the Municipal Code Regarding Penalties for Violations of the Municipal Code will be moved to the next council meeting.

**AGENDA ITEM 9, NEW BUSINESS:**

- A. Stan Kulakow, City Engineer reported that the City has been commended by TAMC for the Bicycle Trail Lights and will be receiving recognition for the lighting. The Monterey Regional Water Management District has been at work in putting together Phase II Storm Water Retention before the water board. A hearing is scheduled for February 9<sup>th</sup>, 2006. The only opposition we've had is from the environmental group.
- B. The Deputy City Clerk brought to the Council's attention upcoming meetings and events.

City Attorney, Jim Heisinger reported that Sand City has won in the case involving the water adjudication process.

9:58 p.m. Council to adjourn for a ten-minute recess.

**10. CLOSED SESSION**

- A. City Council to adjourn to Closed Session to confer with legal counsel regarding existing litigation pursuant to '54956.9(a) of the Ralph M. Brown Act CalAm Water v. Seaside, Sand City et al. There was no action taken.
- 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

**11. ADJOURNMENT**

Motion to adjourn was made by Council Member Blackwelder, seconded by Council Member Hubler, to the next scheduled City Council meeting on February 21, 2006, 7:00 p.m. there was unanimous consensus of the Council to adjourn at 11:00 p.m.



\_\_\_\_\_  
Connie Horca, Deputy City Clerk