

MINUTES
JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY

CITY COUNCIL CHAMBERS
REGULAR MEETING MAY 16, 2006
7:00 P.M.

Mayor Pendergrass opened the meeting at 7:02 p.m.

Invocation was led by Reverend Snyder

Police Chief Klein led the Pledge of Allegiance

Present:

Council Member Blackwelder
Council Member Carbone
Council Member Hubler
Council Member Morris
Mayor Pendergrass

Staff:

Kelly Morgan, City Administrator
Steve Matarazzo, Community Development Director
J. Michael Klein, Police Chief
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 the Council included 1) a Farewell Luncheon notice to honor Bill Reichmuth, TAMC Executive Director, 2) a Memo with attachments for modifying the Proposed Amendment #1 Expenses for FY 05-06 (additional info for Item #5I), and E-mail with report on Marine Debris

Mayor Pendergrass made mention to the article which appeared in the Monterey County Herald on Sand City.

7:05 p.m. Floor Opened for Public Comment

Michele House, from Monterey Tobacco Control presented the cigarette butts

from Sand City's beaches and requested a policy to prohibit smoking on our beaches.

7:08 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.
- (2) CUP #364, Neff Mill & Cabinet (Woodshop), 527 Redwood Avenue
 - (3) CUP #418, Jaroslov Stepanek (Cabinet Shop), 341-A Orange Avenue
 - (4) CUP #430, Susan Collins (Live/Work), 751 Dias Avenue
 - (5) CDP #93-05, Monterey Cabinet & Woodworking (Carpenter Shop), 409 Ortiz Avenue
 - (6) CDP #96-02, Roy Meadows (Mobile Home), 658 Ortiz Avenue
 - (7) CDP #96-03, Mark's Barn (Auto Repair), 654 Ortiz Avenue
 - (8) CDP #00-03, Jack Lee (Metal Workshop), 531-B Orange Avenue
- (1) CUP #72, Sealife Supply (Raising Marine Fish), 740 Tioga Avenue
This item was pulled from Consent Calendar and considered under Agenda Item #6
- B. There was no discussion of the May 2, 2006 Council Meeting Minutes.
- C. There was no discussion of the Monthly Police Department Report, April 2006.
- D. There was no discussion Declaring May 2006 as Veterans Appreciation Month.
- E. There was no discussion of City **RESOLUTION** Authorizing Service Agreement for Auditor Services by Hayashi & Wayland for Fiscal Year 2005-2006.
- F. There was no discussion of the City/Redevelopment Agency Treasury Report, March 2006.

- G. There was no discussion of the Monthly Public Works Activity Report, April 2006.
- H. There was no discussion of City **RESOLUTION** Authorizing the Monterey County Health Department to apply for State Block Grant Funding on behalf of Sand City towards the Countywide Used oil Recycling Program.
- I. There was no discussion of City **RESOLUTION** Approving a Minor Change of Amendment #1 to the Combined City and Redevelopment Agency Budget for Fiscal Year 2005-2006.
- J. There was no discussion of City Donations/Contributions
 - 1. Seaside Parade of Champions - \$500.00
 - 2. Monterey County Fair - \$500.00
 - 3. 39th Annual Monterey Scottish Games & Celtic Festival \$500.00

Motion to approve the Consent Calendar 5A – 2 thru 8, B, C, D, E, F, G, H, I, J, was made by Council Member Blackwelder, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler, Morris, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

AGENDA ITEM 6, CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

7:09 p.m. *{Due to a possible conflict of interest by residing within 500' of the CUP subject area, Council Member Morris abstained and left the dais}*

- 5A (1) There was no discussion of **CUP #72, Sealife Supply (Raising Marine Fish), 740 Tioga Avenue**

Motion to approve Consent Calendar Item 5A (1) was made by Council Member Carbone, seconded by Council Member Hubler. AYES: Council Members Blackwelder, Carbone, Hubler, and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Council Member Morris. Motion Carried.

7:10 p.m. *{Council Member Morris returned to the dais}*

AGENDA ITEM 7, PUBLIC HEARINGS

- A. Associate Planner Pooler presented City RESOLUTION Approving an Amendment of Conditional Use Permit 458 and Coastal Development Permit 05-05 for John Avery to allow Continued Temporary Use of property at 490 Orange Avenue for a period of 90-Days (continued from May 2, 2006 Council

Meeting). Permits were approved for Mr. John Avery in April 2005 authorizing the development of a commercial facility at 490 Orange Ave. Use of this site was not to commence until the development project was completed. Contrary to this restriction, the applicant began to use the site. In July of 2005 council gave permission for the temporary use of this site while Mr. Avery's construction drawings were being prepared. The temporary use terminated on January 31, 2006 but this permit was granted a time extension to April 30, 2006 based on Mr. Avery's commitment to submit drawings for building review. No building applications or complete construction plans have been submitted to the City. A public hearing was held on May 2, 2006, which was moved to the May 16, 2000 council meeting due to Mr. Avery's failure in providing documentation of the development project. Staff is concerned about the stone cutting on the property, which is now being cut without the use of containment equipment required in the conditions of the development permit. There have been complaints regarding barking dogs on the property and late night and early morning traffic in the area. If Council does not wish to grant a time extension, then no action is necessary; requiring Mr. Avery to relocate his business.

Mayor Pendergrass asked if there have been any complaints regarding barking dogs and noise from the location.

Chief Klein reported that as of the last council meeting he has not received any complaints.

7:17 p.m. Floor Opened for Public Comment

Mayor Pendergrass commented that council and staff would like to know where Mr. Avery is with his project, and is he planning to proceed forward. According to the architect letter which was considered back on January 2006, it mentioned the how, when and what the project will consist of.

Mr. Avery reported that he has signed a contract and submitted a 20% deposit to Salinas Valley Steel Builders. He claims to have tried numerous times to contact the City on these issues. Mr. Avery submitted a signed contract to City Council with Monterey Bay Engineers for the water reclamation and the foundation, a contract with Silicon Valley Glass for the glass work, stating that the project would ready to go in 120 days. Mr. Avery remarked that he is trying to keep the prices reasonable with reputable contractors at a fraction of the estimated original cost. Monterey Bay Engineers should have already submitted to Mr. Avery a set of plans, he has been in contact with them every day. It is his desire to push forward with the construction of this building.

Mayor Pendergrass asked Mr. Avery if he has a new schedule from the architect to update what was submitted back in January.

Mr. Avery replied that Monterey Bay Engineers is behind in submitting a set of plans to him. He has been in contact with them every other day regarding his project.

Council Member Blackwelder stated that projects do take time to develop, but he was not suppose to work on this site until construction was complete. The Council gave him a concession to extend the permit to April 30.

Mr. Avery replied that he does not know who has been complaining about the dust, but he has been in touch with the neighbors and the automotive owner across the street.

Council member Hubler stated that the Council is looking for some solid time line from Mr. Avery, when his proposed project plans would be done.

Mr. Avery replied that Salinas Valley Steel Builders (the primary structural contractors) has proposed a time when they are going to do their part of the project. He is waiting for the construction documents, which would enable him to push forward with the project.

Mayor Pendergrass commented that the architects estimated project schedule should contain four things. The construction documents which should have been completed in April, construction was to commence in May/June, construction completed August/September, and occupancy should begin in September.

Mr. Avery replied that he should be close to that project schedule once he has the construction documents, which he is waiting for from the engineers. He further commented that the building itself, should go up relatively quick.

It was requested by Council member Morris that the City Attorney review the documents provided by Mr. Avery at the meeting, since a question was raised on the validity of the document actually being a contract. After a few minutes of reviewing the documents, the City Attorney, Jim Heisinger, commented that he did not think it is a contract, because the documents do not contain a description of the work.

Mr. Avery pointed out the page containing the description of the work.

City Attorney, Jim Heisinger, read the following paragraph which stated, "DESCRIPTION OF WORK: Sub-contractor will furnish all labor and materials to construct, and complete the project described above." Mr. Avery stated that the plans submitted to the City is the project described.

Based on the documents, the City Attorney stated that there is no contract; since there were no plans submitted with the contract.

It was further discussed that the city has architectural drawings for the site, but no construction plans. The schedule of the project plan is not the construction drawings. At present, Mr. Avery is waiting on the engineer for the construction drawings.

Council Member Morris asked if Mr. Avery had any record of a check for construction drawings. Mr. Avery pointed out the check on the documents council reviewed.

It was requested some time back that Mr. Avery provide invoices to the city that he was in the process of acquiring the necessary permits to begin the construction process on this site. Mr. Avery stated that he was not able to contact Mr. Pooler.

Council member Hubler commented that he would still like to see this building completed, but is skeptical that the construction of this building will fully materialize since it has taken a considerable amount of time for permits and plans to be submitted.

7:40 p.m. Floor Closed to Public Comment

Council member Morris, asked Mr. Avery if he can continue his business once construction begins on the project site?

Mr. Avery replied that once construction starts, he would move his operation to a facility located on Blanco Road in Salinas. He anticipated that he would need the existing site no more than 120 days.

Mayor Pendergrass commented that if the council were to consider the continued operation, there is a 90-day maximum extension. Staff has sent several registered letters which has come back to the City unsigned. The major concern is the schedule that was submitted on the progress of the construction. He would like to see a new project schedule if the council should move ahead in granting Mr. Avery a 90-day time extension and that he would like a construction schedule submitted to staff within 30 days. If no plans are received within the 30 days then it should be considered to revoke the 60 days.

City Attorney, Jim Heisinger suggested that the extension be approved for 30 days, and reconsidered at the Council meeting of June 20; at which time Mr. Avery can give a detailed update on the progress of his construction plans. At that point, the council may decide whether to extend Mr. Avery's Use Permit.

Motion to approve **City RESOLUTION Approving Amendment of Conditional Use Permit 458 and Coastal Development Permit 05-05 for John Avery to**

allow Continued Temporary Use of property at 490 Orange Avenue for a period of 30-Days as amended, by title was made by Council Member Hubler, seconded by Council Member Morris. AYES: Council Members Blackwelder, Carbone, Hubler, Morris, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- B.** Associate Planner Pooler presented City RESOLUTION Considering Conditional Use Permit 476 Allowing a Cabinet Manufacturing Contractor Workshop at 414 Orange Avenue. The applicant, Mr. Stepanek, is in the process of purchasing the property, pending the outcome of his application. This site is currently occupied by Knox Roofing for storage, office and showroom use. The applicant intends to use this site for woodworking, metal fabrication, and stone cutting for the assembly of cabinetry. There will be material and equipment storage on site and one accessory office. This site has adequate area to facilitate small truck loading and unloading, however, staff recommends the permit contain language-prohibiting loading/unloading from within Catalina Street. There is currently no enclosure for a dumpster or other trash receptacles on the property. It is recommended that the applicant maintain trash receptacles within the building unless a City approved trash enclosure is established on the property. An acoustical report should be submitted to the Planning Department specifying whether installation of a special sound control room is necessary. It is further recommended that the permit require the applicant to install a non-site containment system. There is adequate water credit to facilitate the proposed use. Staff recommends approval of a Conditional Use Permit allowing the cabinetry shop at the subject property per the conditions of the permit.

Council member Morris asked if a dust collection system would be necessary for the property and if the noise can be contained in the building.

Mr. Pooler replied, that it is standard practice that cabinet shops have dust collectors. An acoustical report will identify what kind of noise will be generated by this type of use in a scientific manner.

8:05 P.M. Floor Opened for Public Comment

Mr. Stepanek commented that his present building located along Orange Avenue is too small, and would he like to move his operation to 414 Orange Avenue. The shop, which he plans to purchase, is currently located beneath a residential dwelling. He does not expect noise generated by his cabinet manufacturing can be heard by the residents above his shop. Mr. Stepanek is in agreement with the conditions of the permit, and will take necessary action to be in compliance to keep the noise level at a minimum.

8:09 P.M. Floor Closed to Public Comment

Community Development Director, Steve Matarazzo, commented that condition #9 NOISE CONTROL: can be revised should the Council agree, to delete the following sentence: *An interior enclosed room shall not be required if a State certified acoustical engineer verifies with a report, to the Director of Community Development, that noise generated by manufacturing activity can be adequately contained within the building itself, and that a special sound room is unnecessary.*

Motion to approve **City RESOLUTION Approving Conditional Use Permit 476 Allowing a Cabinet Manufacturing Contractor Workshop at 414 Orange Avenue, as amended, by title** was made by Council Member Blackwelder, seconded by Council Member Hubler. AYES: Council Members Blackwelder, Carbone, Hubler, Morris, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- C. Community Development Director, Steve Matarazzo presented City ORDINANCE Amending Title 13, Section 13.04.070 and Title 18 Section 18.64.020 of the Municipal Code to Require Visual-Screening of all Trash/Recyclable Receptacles and Allowing a Minor Parking Reduction for Same, Respectively. This was a work item approved in January for the clean-up and parking program that the City adopted. Title 13 would be amended to require all trash and recyclables to be placed within enclosures to otherwise be visibly screened from public streets within 24 hours following normal pick-up times. Title 18 would amend the parking standards to allow a one parking space reduction in required parking if that space was used for a trash enclosure. It is recommended that the Council approve the amended ordinance for first reading.

Mayor Pendergrass recommended that when the ordinance is introduced extra time should be allowed to review it, and receive comments before the next meeting.

Council Member Hubler asked if the burden of this ordinance would fall on the property owner or the business owner?

Mr. Matarazzo replied that it would be the property owner's responsibility.

8:21 P.M. Floor Opened for Public Comment

There was no comment from the public.

8:22 P.M. Floor Closed to Public Comment

The First Reading for the Ordinance will be moved to the July 18, 2006 Council Meeting. It was further suggested by Council Member Morris that staff send a letter out to all the businesses/property owners to notify them of

the potential changes to Title 13 and Title 18 of the Municipal Code. It would also be feasible to include the date the first reading of the Ordinance will take place.

Motion to continue **ORDINANCE Amending Title 13, Section 13.04.070 and Title 18 Section 18.64.020 of the Municipal Code to Require Visual-Screening of all Trash/Recyclable Receptacles and Allowing a Minor Parking Reduction for Same, Respectively to July 18, 2006 was made council consensus.**

AGENDA ITEM 8, OLD BUSINESS

A. Discussion of Parking Committee Issues Membership and Appointments

City Attorney, Jim Heisinger reported that earlier this year, the Council wanted to form a standing committee in regard to parking issues. Several issues, including the acquisition of property, may cause conflict of interest issues with Council members who reside within 500 feet of certain properties. At the last Council Meeting, Council Member Morris raised an issue regarding Council quorums. A simple solution would be to have only one Council member sit on the committee.

Mayor Pendergrass suggested that only Council Member Morris sit on the committee. Council Members approved this appointment revision by consensus.

Council Member Morris accepted this nomination.

B. Consideration of previous approval of "PERS 3% at age 60" Retirement Plan for Miscellaneous Employees was presented by City Administrator, Kelly Morgan. The memo includes an outline for the necessary steps and process for obtaining an amendment to the PERS contract. The first step would have the Council authorize City Staff to submit "a contract amendment request" form, and then schedule a "Resolution of Intention" adoption by the City Council as a second step. Mr. Morgan, reported that Council had indicated its approval of the "3% at age 60" retirement benefit for Miscellaneous employees on several occasions, since 2004, but due to the declining economic conditions in California, the implementation of this retirement plan was delayed. Additional information regarding the implementation of the PERS "3% at age 60" is included in the memo. Mr. Morgan reiterated that in Resolution SC 05-49, it was understood that the City would continue with the process of implementing the "3% at 60" PERS Retirement program for miscellaneous employees, and this stipulation was included in the signed salary agreement with the employees. He explained that Sand City has been paying for an increased benefit for the police officers (3% at 55) since March

2003, which has not caused any financial problems for the Sand City Budget. Should the Council approve implementation of 3% at 60 for miscellaneous employees program implementation it will not become effective until October 1st of this year, requiring another cost analysis rates. A majority vote of the Council would begin the process of implementing this program.

Mayor Pendergrass commented that the mechanism of concern has already taken place, so that what happened in the past will not repeat itself. It is leveled over the years, similar to what occurred in 1939 when PERS hit a cap and learned to do it differently.

Council Member Morris raised the concern that there is no cap on the "3% at 60". Due to a report by the League of California Cities, the PERS fund is 50% under funded, which means that the assets are 50% of the liabilities. In some period of time, there will be a rise in costs for this program. The City needs to consider this possible increase in the future and that the rate needs to be capped. Most cities pay the employees contribution. If the rate increases above the cap, the employee needs to participate in paying that difference.

Mr. Morgan commented that if an increase in the rate should occur, that increase would be spread out over several years, and if there were to be a decrease, the member agencies rates would also decline. He also stated that he had never heard any news to the effect that CalPERS was in financial trouble

Mayor Pendergrass replied that the concern was valid, but we can begin the process, the council and City Administrator can verify it, and staff can look into additional information that would move it along.

Council member Morris responded that the contribution rate is 30.9% now, which is a great benefit, and the employees currently do not contribute into their retirement. It should be capped at 30% and anything above that the employees should contribute. This situation is not unique, it is merely requesting the employee that if the program goes over 30%, they should participate. A salary survey conducted in 2005, did not take into effect the PERS "3% at 60" benefit. It would not be asking too much if the employee contribute should the increase reach above 30.9%.

Mayor Pendergrass commented that the employees are very generous and effective in what they do, with such a small staff, the City has done wonders and acknowledged that the excellent performance of City employees shows the capability of this City to run efficiently, even though it has a limited staff. The expectation here is the matter of rewarding employee performance, and being fair to treat the miscellaneous employee in the same manner as the police.

Motion to proceed with the contract amendment request form for the "3% at 60" PERS Retirement Program and that staff would investigate concerns previously mentioned which does not include capping at 30.9% was made by Mayor David Pendergrass, seconded by Council Member Blackwelder. Roll Call Vote: AYES: Council Members Pendergrass, Blackwelder, Hubler, Carbone. NOES: Council Member Morris. Motion carried by majority vote.

As noted, Council Member Hubler commented that it was very prudent that the City waited until Council was ready to take this action; since this was decided several years ago. He added that their employees might have stayed in hopes that this program would be implemented.

Council Member Blackwelder stated, "that years have been spent deliberating on this issue. It was understood that once Measure L gave us the ability to compensate the employees that this was the mechanism for compensation, I have already approved this before and my position has not changed. That is why I seconded the vote."

AGENDA ITEM 9, NEW BUSINESS

- A. Discussion of Proposed New Fish and Wildlife Service (Service) Rules and Regulations for the Western Snowy Plover and possible Sand City follow up actions was made by Community Development Director, Steve Matarazzo. In April of 2006, the Service issued two new rules on the western snowy plover. Because the plover has been out there in the past, Sand City is still subject to the endangered species act and getting rid of the critical habitat designation does not make a significant difference. The Coastal Commission has another set of rules which says that most of the dunes are environmentally sensitive, regardless of what the Fish and Wildlife Service says. The action suggested to Council is to request a letter from the county saying that we would like exemption from the need to do a Habitat Conservation Plan (HCP) for the plover. The council concurred with this course of action.
- B. City Engineer, Stan Kulakow reported that the cape seal is scheduled to begin during the summer months. The controlling factor in getting the work done in appropriate weather conditions.

Community Development Director, Steve Matarazzo reported on the Design Center Sculpture Competition. The committee has selected three finalists whose artwork is currently on display in the council chambers. A decision has not been made due to several factors.

- C. The Deputy City Clerk brought to the Council's attention the upcoming meetings and events.

AGENDA ITEM 10, CLOSED SESSION

- A. It was determined that the City Council did not need 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
- B. Closed Session was not held

AGENDA ITEM 11, ADJOURNMENT

Motion to adjourn was made by Council Member Blackwelder, seconded by Council Member Hubler to the next regularly scheduled Council meeting on June 06, 2006. There was unanimous consensus of the City Council to adjourn at 9:08 p.m.



Connie Horca, Deputy City Clerk