

MINUTES
JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY
City Council Chambers
Regular Meeting - January 4, 2005
7:00 PM

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

Reverend Schneider led the invocation.

Police Chief Klein led the Pledge of Allegiance.

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
Steve Matarazzo, Community Development Director
J. Michael Klein, Police Chief
Jim Heisinger, City Attorney
Stan Kulakow, City Engineer
Charles Pooler, Associate Planner/Asst. Interim City Clerk

AGENDA ITEM 4, COMMUNICATIONS:

- A. City Administrator Kelly Morgan noted the handout for an upcoming Monterey Bay Division of the League of California Cities dinner in Scotts Valley.
- B. The floor was opened at 7:05 p.m., but there were no oral communications from the public. The floor was closed at 7:06 p.m.

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 permit conditions.

- (1) CUP #110, Standard Transmission Service (Auto Body), 531 Shasta Avenue
 - (2) CUP #179, Roy & Jeanne Hubbard (2nd Floor Residential), 542 Ortiz Avenue
 - (3) CUP #191, Lifeline Food Company (Food Processing), 426 Orange Avenue
 - (4) CUP #238, Just Andy Auto Repair (Auto Repair), 465-A Olympia Avenue
 - (5) CUP #344, Richard Yant (Woodwork Shop), 672-A Dias Avenue
 - (6) CUP #375, J&D Auto (Auto Repair), 1695 Contra Costa
 - (7) CUP #401, Kyle Racing Engines (Motorcycle Engine Assembly), 801-B California Avenue
 - (8) CUP #443, DGAS (service commercial), 679-C Redwood Avenue
 - (9) CUP #444, Martorella & Serrano (service commercial), 431 Ortiz Avenue
 - (10) CUP #445, Nadar Agha (self-storage), 679-D Redwood Avenue
 - (11) CUP #446, Thaiwaiian Noodles, (food service), 679-A Redwood Avenue
 - (12) CDP#001-01, Monterey Mattress Company (Mattress Manufacture/Showroom), 1805 Contra Costa
- B. There was no discussion of the Monthly Police Department Activity Report, November 2004.
- C. There was no discussion of City **RESOLUTION Making Re-appointments to the Design Review Committee (Briant, Saroyan).**
- D. There was no discussion of Redevelopment Agency **RESOLUTION Authorizing a Time Extension of a 0.117 Acre-Foot Water Credit Allocation Reservation for Michael and Dierdre Bascou for their mixed-use project at 433 Orange Avenue.**

- E. There was no discussion of City **RESOLUTION Honoring Edith Johnsen on her Retirement from the Monterey County Board of Supervisors.**
- F. There was no discussion of the re-appointment of Mayor David K. Pendergrass as the official representative for the City of Sand City to the Monterey Regional Waste Management District/ Authority Board of Directors.

Motion to approve Consent Calendar was made by Council Member Carbone, seconded by Council Member Morris. AYES: All Members. NOES: None. ABSENT: None. ABSTAINED: None. Motion Carried.

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

There were no items pulled from the consent calendar.

AGENDA ITEM 7, PUBLIC HEARING(S):

- A. Associate Planner Charles Pooler made a brief presentation regarding a **City RESOLUTION** to approve Conditional Use Permit #455 to allow the storage of stone material and tile by Glass Mosaic and Marble Inc. as a temporary use within a portion of an existing building at 840 Fir Avenue in Sand City. The applicant is aware that the subject property is within the South of Tioga Redevelopment project area. Staff recommends a time limit on the permit with possibility of 90-day extensions to coincide with the expiration date of the applicant's other conditional use permit (CUP #450) for the applicant's operation at 1855 East Avenue. In response to an inquiry by Council Member Hubler, Mr. Pooler responded that there was a roll-up door at the rear of the building facing Orland Avenue.

7:10 P.M. Floor Open for Public Comment

Emil Cimoli (applicant) introduced himself and his proposal. He responded to the Mayor that he was in agreement with the permit conditions. He elaborated that the intended forklift will be a 8,000 lbs. capacity Toyota forklift. He explained that the proposed partitions walls will only be 8-feet high and not all the way up to the ceiling.

7:12 P.M. Floor Closed to Public Comment

Motion to approve Resolution by title only was made by Council Member Blackwelder, seconded by Council Member Hubler. AYES: All Members. NOES: None. ABSENT: None. ABSTAINED: None. Motion Carried.

AGENDA ITEM 8, OLD BUSINESS

- A. City Engineer Stan Kulakow summarized the recommendation of the staff report to approve a resolution to authorize the bike trail lighting contract to Superior Electric, but revised that recommendation due to a competing bidder's protest. Staff is now recommending the Council reject all of the bid submittals, and re-advertise to accept new bids on January 27th. Proposition 209 eliminated the requirement for MBE and WBE bidding on State funded projects, and the language of Section 13 of the project documents must be corrected to reflect this.

Mayor Pendergrass elaborated that bid rejections are common with the MRWPCA for various reasons, including challenges.

The City Attorney re-affirmed Mr. Kulakow's recommendation to reject the bid and to re-advertise.

Motion to reject the submitted bids and re-advertise for new bid submittals was made by Council Member Carbone, seconded by Council Member Blackwelder. AYES: All Members. NOES: None. ABSENT: None. ABSTAINED: None.

- B. City Attorney Jim Heisinger summarized the City's involvement regarding Habitat Conservation on Sand City's coastline for the past 10 years. He introduced Mr. Tom Roth, who had a report to present to the Council.

Mr. Tom Roth addressed the Council, to elaborate on three habitat issues; the City's habitat conservation plan, the critical habitat designation for the snowy plover, and the de-listing petition for the snowy plover. He summarized the history of his efforts on behalf of Sand City. A petition was filed by a private group 2-years ago with US Fish & Wildlife to delist the snowy plover from the endangered list. That petition was joined by the City of Morro Bay in 2003. The petition has been winding itself through the administrative process of the Federal Agency, is now in the regional office, and is to be forwarded to the headquarters in Washington DC in a few months. If the petition is granted, the plover would be de-listed, reducing plover issues for Sand City. In addition, Mr. Roth explained how the City also intervened in litigation regarding the plover designation of critical habitat; where a judge agreed with the lawsuit, determining that the habitat was not properly designated; thereby, directing US Fish & Wildlife to re-do the habitat designation. Part of Mr. Roth's efforts is to get US Fish & Wildlife to recognize the 1996 Memorandum of Understanding between Sand City, State Parks, and the Regional Park District that preserved 2 areas for development and up to 80 percent of the City's coast for habitat. Tom Roth is preparing

a Section 4b2 economic exclusion document on behalf of Sand City to request US Fish & Wildlife to exclude the 2 development nodes from the revised critical habitat designation. The HCP, now being developed, would rely upon revenue sources of new development to fund the mitigation, and relieve State Parks of that obligation. This process is moving forward.

Mayor Pendergrass elaborated on the window of opportunity to pursue this matter now, referencing the current political conditions in Washington DC and the progress made to date. He suggested the formation of an HCP Coastal sub-committee, consisting of himself and Council Member Morris, to specifically work on HCP and other matters related to his endeavors. A budget would require Council approval. This sub-committee would report to the City Council.

City Administrator Kelly Morgan emphasized that previous City contracts with Tom Roth have expired. He recommended the Council authorize staff to continue working with Mr. Roth due to critical impending deadlines. A budget would be brought to the Council at a future date.

Mr. Roth explained that he should have the economic exclusion petition finished within the next week, and have it to US Fish & Wildlife a week after. Any review by a committee should be done within that time, prior to submission to US Fish & Wildlife. He added that the work being done by Mike Zander will have more time for review by any sub-committee.

City attorney Jim Heisinger stated that staff supports the formation of the recommended sub-committee, since the City is already proceeding on Snowy Plover issues on several fronts, which are all coming together. Decisions will need to be made on these efforts on a more readily available schedule than the standard Council meeting dates.

Council Member Hubler stated that he would like to see some discussion in the future on recouping City expenses from developers and how that can be accomplished.

Motion to 1) authorize the City to continue working with Tom Roth regarding snowy plover and HCP issues, and to 2) form a habitat conservation plan coastal sub-committee with Michael Morris and Dave Pendergrass as members was made by Council Member Pendergrass, seconded by Council Member Blackwelder. AYES: All Members. NOES: None. ABSENT: None. ABSTAINED: None.

- C. Community Development Director Steve Matarazzo stated that the January 18th Council meeting will be a busy agenda with the coastal development permit and Environmental Impact Report certification for the Sand City desalination project. Staff is also working on the Proposition 50 Grant application submittal for the desalination project.

In response to a question, City Attorney Jim Heisinger explained the EIR certification process, and that certification of the EIR means that the Council finds the document to be legally adequate under California Environmental Quality Act (CEQA) and is adequate for the project. Council certification is typically based upon staff's recommendation. The challenge to the Council will be to read the Draft EIR, review the submitted comment letters, and read the Final EIR response to comments in order to decide if the document adequately responds to the issues and stated concerns. Mr. Heisinger added that the scope of the project analyzed by the EIR has a very broad description of the project, and that a coastal development permit must remain within the scope of the EIR's project description.

City Administrator Kelly Morgan added that Environmental Impact Reports do address technical issues, but the intent of this document is to provide basic information on a project and its potential environmental impact(s) in a clear concise manner, without a lot of technical jargon, so that the general public can understand the document, and that officials can make a decision.

Mr. Matarazzo explained that the City hired David Powers & Associates to prepare the EIR for the City's water project, and that this firm has not lost a court case regarding any of their EIRs prepared in the past several years.

AGENDA ITEM 9, NEW BUSINESS:

- A. Community Development Director Steve Matarazzo summarized a written request from the Monterey Peninsula Water Management District (MPWMD) manager for the City to provide a description of its long-term water needs based upon general plan build out. Staff provided a report to Council with four different development and water need scenarios. Scenario 3 represents maximum build-out that staff does not see as realistic due to constraints such as parking. Scenario 4 has a residential population build-out at slightly more than 1,000, which staff feels is more reasonable. Figures of water usage per household are based upon actual Cal-Am figures averaged over the past 3-years. Supposedly, the MPWMD wants this information from each jurisdiction to plan and design a future regional desalination plant to accommodate future Peninsula Water needs. The letter staff is proposing to submit, outlines a 312 acre-foot need with a 20% contingency.

Council Member Morris commented that the proposed 312 acre-foot scenario seemed low, and suggested it be increased and Council Member Hubler concurred.

Mayor Pendergrass agreed that staff's recommended number of 312 acre-foot seemed low, and that it should be increased.

Mr. Matarazzo stated that the letter will be revised to reflect the 450 acre-foot scenario, upon which there was Council consensus.

- B. The Council was advised of a League of California Cities dinner in Scotts Valley on January 24, 2005. RSVPs are due no later than January 17th.

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 council regarding existing litigation pursuant to §54956.9(a) of the Ralph M. Brown Act (1 case) - Cal-Am Water v. Seaside, Sand City et al.
- B. Closed Session was not held.

AGENDA ITEM 11, ADJOURNMENT:

- A. Motion to adjourn was made by Council Member Blackwelder, seconded by Council Member Carbone, to the next regularly scheduled City Council meeting on January 18, 2005, 7:00 p.m. There was unanimous consensus of the Council to adjourn at 8:12 p.m.

Linda Scholink

Linda Scholink, City Clerk