

**MINUTES**  
**JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY**  
**City Council Chambers**  
**Regular Meeting - January 18, 2005**  
**7:00 PM**

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Mayor Pendergrass opened the meeting at 7:00 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 summarized the two handouts distributed. The first handout is a letter dated Jan 17<sup>th</sup> from King Ventures, which will be discussed under the progress reports. The second handout is a revised Exhibit B for the public hearing item.
- B. The floor was opened at 7:03 p.m., but there were no oral communications from the public. The floor was closed at 7:04 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. There was no discussion of the December 7, 2004 Minutes.

- B. There was no discussion of the Monthly Police Department Activity Reports, December 2004; 2004 Annual Overview; PD Distribution of Personnel; and 5-Year Report.
- C. There was no discussion of City **RESOLUTION Granting a 90-Day Time Extension of Conditional Use Permit #426 for Brad Harbor of Harbor Concrete regarding his concrete business within an existing fenced yard at the end of Fir Avenue.**
- D. There was no discussion of City **RESOLUTION Granting a 90-Day Time Extension of Conditional Use Permit #432 for Andrew Perez dba Advanced Towing Regarding Storage Use at 841 Fir Avenue.**
- E. There was no discussion of City **RESOLUTION Granting a 90-Day Time Extension of Conditional Use Permit #434 for Gordon Rudy, dba Budget Truck Rental, Regarding Storage Use at 840 Tioga Avenue.**
- F. There was no discussion of **City RESOLUTION Authorizing Health Benefit Changes for the 2005 Contract Year.**
- G. There was no discussion of the City / Redevelopment Agency Financial Reports, November 2004.
- H. There was no discussion of the City **RESOLUTION authorizing Engagement of the Law Offices of Thomas D. Roth as Special Council.**
- I. There was no discussion of the Draft Section 4(b)(2) Petition of Sand City (Critical Habitat Exclusion) prepared by Thomas D. Roth.

Motion to approve Consent Calendar was made by Council Member Hubler, seconded by Council Member Carbone. 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. Community Development Director Steve Matarazzo made a presentation, providing a brief history of the Peninsula's water situation, the City's water supply/desalination project efforts, and summary of the Environmental Impact Report preparation, distribution, and commentary efforts. He

commented on the importance of pursuing a water source now, in order to proceed with redevelopment plans of Sand City within the life of the Redevelopment Plan, which expires in 2027. Purpose of tonight's meeting is to discuss and certify the Final EIR/Response to Comments as being adequate under the guidelines of CEQA. In addition, the meeting is to discuss the desalination project and consider approval of a coastal development permit for the project to keep the project moving forward. He commented that Sand City's project is relatively the same scale as the Marina desalination plant that was approved in 1995, and is in operation today. Technology has advanced since then, providing greater efficiency with less cost. The City's project is estimated to be between \$9 million to \$12 million; where the \$9 million amount reflects cooperation with Cal-am in sharing storage capacity. The proposed desalination facility must be owned by either the City or Redevelopment Agency, as a requirement of the Monterey County Health Department regulations. The City also needs a permit from the State Department of Health Services to operate. The City project is based on over 3-years of hydro-geologic testing, which showed that the aquifer can handle a constant 300-acre foot per year flow rate, and will not interfere with any public ground water. The project was intended to be "benign by design". Byproduct water is to have the same or less salinity content as the Monterey Bay. Mr. Matarazzo summarized potential impacts to biological resources, and how that is addressed in the EIR's mitigation measures, and that all of the impacts to those resources can be handled through construction timing. He summarized options for emergency service hookups. The EIR elaborates how our plant meets all of the Coastal Commission criteria on desalination. The proposed plant will have no significant environmental impact, and staff requests the Council certify the EIR tonight. A brief PowerPoint presentation was made. Mr. Matarazzo summarized the additional handout materials regarding the proposed resolutions.

Council Member Hubler inquired about the time line of the mitigation monitoring program. He also asked about the City's previous plans for with the Marina Coast Water District.

Mr. Matarazzo replied that the City Engineer estimates a 2-year time line, and that satisfying the requirements of the Department of Health Services will be the most time consuming. The plant will need to be 'state-of-the-art' to remove any pathogens to that Department's standards. In regard to discussions with Marina Coast Water District for potential emergency hookup, the District is amenable to providing such a hook-up. He added that one of the main environmental advantages of the City's project is that the 120 acre-foot of current water use taken from the Carmel River Basin and the Seaside Basin will no longer be needed.

Council Member Morris inquired as to the status of a previous 450 acre-foot production plant concept as an alternative. He also asked if future coastal resort projects are to be covered by existing wells on the coastal side of the City.

Steve Matarazzo replied that preliminary engineering reports stated that we could expand the plant to 450 acre-feet by adding another train, but that was not the project evaluated in the EIR. To have a larger facility, or a future expansion would require another EIR evaluation. The proposed 300 acre-feet should provide adequate water for years to come, but may not satisfy a full-build out as described in the General Plan. The Monterey Bay Shores proposed project has a private well with an assumed underlying right to use that well, which is currently being debated in litigation.

7:31 P.M. Floor Opened to Public Comment.

David Perry, a resident of the City, inquired as to how much money was spent on all of the project studies, surveys and permits for the planning of this project, and when the City will turn a profit on this enterprise.

Brian Clark, a resident in Sand City, commented on how he has seen viable projects in other cities get tied up over water availability. He commended the City for all of the work performed to date and wanted to see the desalination project proceed.

Pete Ericksen, a commercial real estate broker in Sand City, inquired if the City would establish a priority system regarding water from the desalination plant.

7:36 P.M. Floor Closed to Public Comment.

Mayor Pendergrass commented that the intent of the desalination project is to provide needed water to the residents and businesses within the City. The project is part of the regional solution, as the 120 acre-feet of water will be returned to the Peninsula Community. He added that the City has applied for a \$5 million grant with letters of support from Assembly Members Laird and Salinas.

Steve Matarazzo responded to public comments, starting with David Perry's comment, by stating that the City cannot make a profit, but that the water provided from the project would improve property values that would increase the tax increment for the City, and the City's ability to receive TOT from the development of a resort project. To date, approximately \$170,000 in City funds has been expended, with an additional \$70,000 in State grant funds

for the studies and documentation prepared for the project. The City's expenditures can be counted towards the City's obligated matching amount if awarded the desalination grant. In response to Pete Ericksen's comments, immediate customers will be those currently using the 120 acre-feet of Cal-Am water, and all new hookups. Staff would not recommend prioritizing this new source of water, as it needs water customers to make the project economically feasible.

City Engineer Stan Kulakow elaborated that the price of delivered water from the proposed plant is estimated to be equal to or slightly less than Cal-Am rates. This is based on all new developments paying an impact fee which has not yet been determined. Staff will be working with the council to develop the business plan to keep rates affordable. City Engineer Kulakow stated that the EIR estimates of user rates is based upon slow steady growth.

Council Member Morris expressed his concern that rates for desalination water to existing residents should be no more expensive than current Cal-Am rates. It will be hard to convince the public to support the project if the residents believe they are paying increased rates to subsidize development. He also inquired as to whether once the coastal development permit is issued, are all the decisions then taken out of the Council purview; or will there be Council review and discretionary approval before construction can commence.

City Administrator Kelly Morgan responded that there will be a number of steps between now and issuance of a building permit. The financing arrangements and economics of raising money will need to be developed, in addition to reviewing proposals from potential business partners; all of which will need to be approved by the City Council. There will be a number of significant steps that the Council will be involved with before a building permit can be issued.

City Attorney Jim Heisinger clarified that before a building permit can be issued, the Council will have to authorize funding for the project.

Council Member Hubler inquired as to other major hurdles to the project by other Agencies.

Director Matarazzo responded that the coastal development permit is appealable to the California Coastal Commission, with whom we have had extensive conversations. Department of Health Services is another big agency that we've been working with to meeting their requirements in the design of the project.

Council Member Blackwelder commended staff on a comprehensive proposal, and how all of the topics and issues were covered. Also, how this project will provide autonomy to the City from regional water problems.

Motion to approve **RESOLUTION to certify the Final Environmental Impact Report for the Sand City Water Supply Project** was made by Council Member Pendergrass, seconded by Council Member Blackwelder. AYES: All Members. NOES: None. ABSENT: None. ABSTAINED: None. Motion Carried.

Motion to approve, with corrections outlined by Community Development Director Matarazzo, of **RESOLUTION to approve the Coastal Development Permit** for was made by Council Member Kruper, seconded by Council Member Blackwelder. AYES: All Council Members. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

8:04 P.M. Recess  
8:21 P.M. Reconvene

#### **AGENDA ITEM 8, OLD BUSINESS:**

- A. City Engineer Stan Kulakow informed the Council that the bike trail lighting project was re-circulated for a second bid, due on the January 27<sup>th</sup>. He also gave an update on the emergency repair on Contra Costa Street due to abandoned storm drain pipes that deteriorated. The old pipes were filled with concrete.

City Administrator Morgan summarized a staff meeting held between Sand City staff and Seaside staff regarding various issues of interest to both Cities. Seaside staff seemed amenable to discussing the issues, including a possibility for widening of Tioga Avenue and the timing of the signals at Contra Costa Street. Administrator Morgan referenced a letter submitted by John King, where Mr. King has agreed to donate \$10,000 towards habitat litigation efforts and that King was requesting a meeting with the Coastal Commission.

Mayor Pendergrass reported on FORA consideration, scheduled for Friday, January 21st, of a planning document which avoids monument signs along the State Highway 1 freeway corridor.

#### **AGENDA ITEM 9, NEW BUSINESS:**

- A. City Administrator Kelly Morgan gave a brief presentation regarding Agenda Items 9A and 9B, in regards to the City's Transaction and Use Tax. He



reported that The first resolution is to authorize two agreements with the State Board of Equalization for implementation of the new tax, and the second resolution is to authorize examination of those new taxes by HdL, who provides in-depth reports and advice on sales and property taxes for local agencies. It is necessary to approve the two agreements, based on a State model resolution. Mr. Morgan elaborated on the differences between the standard 7.25% sales tax and the new 0.5% transaction and use tax, and under those circumstances where the new tax is applicable. Transaction tax is based upon the location where customers take possession of a product sold. Items delivered outside of Sand City, will not have a transaction tax collected for Sand City.

Council Member Morris asked if the set up fee with the State Board of Equalization was a one time fee, and if there was a sunset clause on the new Transaction and Use Tax.

Administrator Morgan replied that the preparation fee is a one-time fee, then monthly administrative fees for the State's processing of this new tax, and that there is no sunset clause on the aforementioned tax.

Motion to approve, **RESOLUTION to authorize the City Administrator to Execute Agreements with the State Board of Equalization** was made by Council Member Blackwelder, seconded by Council Member Carbone. AYES: All Council Members. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

- B. Motion to approve, **RESOLUTION authorizing examination of transaction and use tax records** was made by Council Member Blackwelder, seconded by Council Member Carbone. AYES: All Council Members. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.
- C. Motion to ratify appointments of City Representatives to Various Agencies/Organizations and Election of Vice Mayor was made by Council Member Hubler, seconded by Council Member Blackwelder. AYES: All Council Members. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.
- D. There was a reminder of the League of Cities dinner in Scotts Valley on January 24, 2005.

#### **AGENDA ITEM 10, CLOSED SESSION:**

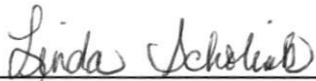
- A. It was determined that the City Council did not need to adjourn to Closed Session to confer with legal council regarding existing litigation pursuant to

§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 Morris, to the next regularly scheduled City Council meeting on February 1, 2005, 7:00 p.m. There was unanimous consensus of the Council to adjourn at 8:45 p.m.

  
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Linda Scholink, City Clerk