

**MINUTES**  
**JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY**  
**City Council Chambers**  
**Regular Meeting-October 4, 2005**  
**7:00 P.M.**

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Mayor Pendergrass opened the meeting at 7:00 PM

Invocation was led by Reverend Snyder

The pledge of allegiance was led by Police Chief Michael Klein

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

Staff: Kelly Morgan, City Administrator  
Michael Klein, Police Chief  
Steve Matarazzo, Community Development Director  
Jim Heisinger, City Attorney  
Richard Simonitch, Assistant City Engineer  
Linda Scholink, City Clerk  
Charles Pooler, Associate Planner

**AGENDA ITEM 4, COMMUNICATIONS:**

- A. The additional written communications distributed to the City Council this evening included a Resolution Approving CUP # 467 (Item 7A), Endangered Species Act article (Item 8B), and a map of the Seaside Ground Water Basin (Closed Session Item 10A).

7:03 P.M. The floor was opened to Public Comment

**Steve Wilson** (Resident): He inquired when the City issues a permit for a new business, who is responsible for following up on the enforcement of those conditions. If businesses are not following their conditions what are the consequences? He would like to see the City cleaned up.

The Community Development Director responded that the Planning Department is responsible for reviewing and enforcing the permits. Some businesses are old businesses that don't have conditions attached to their permits. Trash and dumpsters are a problem within the City. A lot of these problems will be taken care of with redevelopment, when water becomes available. Land uses will convert to mixed use, land values will increase, and market conditions will take care of some of these issues.

It was agreed to put the Topic of Zoning/Code Enforcement on the November 1<sup>st</sup> Council meeting agenda for discussion.

**Michael Kokkinos** (Owner, Mediterraneo Imports): Mr. Kokkinos stated that he had been away for several months on a trip to restock his shop, which was going to close last year because Mr. Orosco wanted to buy the property. That did not happen because Mr. Orosco did not offer the amount that the property is worth. Meanwhile, two potential buyers of the property approached the City and were told they could only get a six-month permit. Upon hearing this, the buyers disappeared. Mr. Kokkinos explained that while he was away on his trip, "Beverages and More" was going into the corner of Tioga and California, next door. He inquired as to the status of that project. He expressed his desire to do something with the property; whether to sell it, beautify it, or redevelop it himself. Something needs to be done. He explained that it has been many years to be hanging on without progress or direction. Mr. Kokkinos stated that he's lost a lot of money and customers, which has been a great hardship. He asked for answers. He explained that the last time he spoke with Mr. Orosco in September of last year, he got very mad at him. Mr. Orosco was told that he would not be sold the property until he comes up with the fair market value. The property was appraised eight months ago, and Mr. Orosco's offer is not adequate. Mr. Kokkinos pleaded with the Council for a resolution to this now. Michael Morris responded that trying to figure out what to do about this is difficult, but the current situation is not fair. The City has been working with this developer for a long time and we can't seem to light a fire under him.

The Community Developer Director said that he volunteered recently to be the intermediary in the negotiation process between the developer and the Kokkinos's, because their relationship had become so strained. Michael Kokkinos provided me what would be his final offer for sale of the property, which was conveyed via voice mail to Don Orosco, and we have not yet heard a response. Mr. Matarazzo talked to Mr. Orosco and Don has indicated what he thought a reasonable price was, which was told to the Kokkinos's. Then they came back with a counter offer and that is where it stands right now. It is in DBO's court.

The City Administrator stated that we plan on scheduling a meeting for the South of Tioga project either at the next Council meeting or the one after that, so we can address some of these issues.

**Dave Bianchi**, (Director for Family Service Agency of the Central Coast): I wanted to thank you for your ongoing support that allows us to provide your residents with 24 hour multi-lingual suicide crisis line coverage, great support services, and outreach to high risk youth in schools that your kids attend. I know this item is on the consent agenda, and I wanted to thank you and let you know I was here, in case you had any additional questions.

**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 **City RESOLUTION Granting a 90-Day Time Extension of Conditional Use Permit #426 for Brad Harbor of Harbor Concrete at the end of Fir Avenue**
- B. There was no discussion of **City RESOLUTION Granting a 90-Day Time Extension of Conditional Use Permit #432 for Advanced Towing, at 841 Fir Avenue**
- C. There was no discussion of **City RESOLUTION Granting a 90-Day Time Extension of Conditional Use Permit #450 for Glass Mosaic Tile & Marble, at 1855-B East Avenue**
- D. There was no discussion of **City Resolution Granting a 90-Day Extension of Conditional Use Permit #455 for Glass Mosaic Tile & Marble, at 840 Fir Avenue**
- E. **City RESOLUTION Granting a 90-Day Time Extension of Conditional Use Permit #434 for Gordon Rudy Authorizing Continued Storage and Operation of a Truck Rental Business as an interim use at 840 Tioga Avenue** was pulled due to a possible Conflict of Interest, and considered under agenda item # 6.
- F. There was no discussion of the August 16, 2005 Council meeting minutes.
- G. There was no discussion of City and Redevelopment Agency Treasury Report for quarter ending June 30, 2005
- H. There was no discussion of the Monthly City/Redevelopment Agency Financial Report for July 2005
- I. There was no discussion of City Contribution requested by the Suicide Prevention Service for \$500.00

Motion to approve Consent Calendar items A, B, C, D, F, G, I, was made by Council Member Carbone, seconded by Council Member Blackwelder. AYES: All members. NOES: None. ABSENT: None. ABSTAINED: None. Motion carried.

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

*{Due to a possible conflict of interest by residing within the 500' of the area, Council Member Morris stepped down and left the dais}*

- E. There was no discussion of **City RESOLUTION Granting a 90-Day Time Extension of Conditional Use Permit #434 for Gordon Rudy Authorizing Continued Storage and Operation of a Truck Rental Business as an interim use at 840 Tioga Avenue**

Motion to approve was made by Council Member Carbone, seconded by Council Member Blackwelder: AYES: Council Members Blackwelder, Carbone, Hubler and Pendergrass. NOES: None. ABSENT: None. ABSTAINED: Council Member Morris. Motion carried.

*{Council Member Morris returned to the dais}*

#### **AGENDA ITEM 7, PUBLIC HEARINGS:**

*{Due to a possible conflict of interest by residing within 500' of the project area, Council Member Blackwelder stepped down and left the dais}*

- A. Associate Planner Pooler presented a **RESOLUTION Approving Conditional Use Permit # 467 Authorizing Lester B. Waddel to operate a chiropractic/physiotherapy office within an existing commercial building located at 425A Orange Avenue.** Neighboring uses include mixed-use developments, commercial service operations, and artist studios. This will be a one-on-one/doctor-patient business and there will be no employees beyond the applicant himself. Only 2 parking spaces are needed with this application. No allocation of water is necessary. The proposed use is not anticipated to generate any negative impact to the surrounding area or the City as a whole. Staff supports the proposed use as being compatible with the Planned Mixed-Use Zoning District. Staff recommends approval of a use permit allowing a chiropractor's office at the subject property.

7:28 P.M. Floor Opened to Public Comment-No Comments

The Mayor asked the applicant if he agreed with all of the Conditions and the applicant answered yes.

7:29 P.M. Floor Closed to Public Comment

Motion to approve Resolution, by title only, was made by Council Member Morris, seconded by Council member Hubler. AYES: Council Member Carbone, Pendergrass, Hubler, and Morris. NOES: None. ABSENT: None. ABSTAINED: Council Member Blackwelder. Motion Carried.

*{Council Member Blackwelder returned to the dais}*

- B. Associate Planner Charles Pooler distributed a revised Resolution and presented the **Resolution to Deny an Application for a Conditional Use Permit to Louise and Tom Ratcliffe for a dog kennel operation.** The business would establish and operate a dog daycare, training, and boarding facility at 865 Fir Avenue. The subject property is located within the South of Tioga proposed

Redevelopment Project Area. The applicants want to create a business where dog owners can leave their pets while working, shopping, or on long trips. Other amenities offered will be dog training, dog parties, and limited retail. Animals boarded over night will be kept in kennel enclosures. The applicant stated that some of the training might need to be conducted outside the building for short durations. The closest applicable parking requirement would be a 1/300 ratio for retail and service uses, which would require eleven (11) on-site spaces for the applicant's 3,500 square feet of floor area. The adjacent manufacturing use needs five (5) parking spaces for both tenants. This does not leave adequate parking for the proposed use. It is estimated that the proposed use will generate a substantial amount of trash from animal cleanup. Staff is concerned with the amount of waste generated by approximately 30 dogs on a daily (24-hour) basis. Staff is also concerned with the generation of noise within a 24-hour period by multiple animals. On-site water credit is adequate to facilitate the proposed use, and no allocation is necessary. Staff is concerned that this type of use is not a compatible land use in the South of Tioga, East Dunes, or the West End planning districts. There are concerns regarding noise and waste. Staff recommends the City Council deny the application for a conditional use permit for a dog kennel facility at the subject property.

The Community Development Director spoke about the zoning technicalities. He discussed the previous resolution with the City Attorney, and they agreed it needed to be tightened up. The property south of Tioga Avenue is currently zoned Manufacturing. The General Plan recognizes it as either Regional-Commercial or Mixed Use and the City has not changed the zoning, because the City anticipated the master developer for the South of Tioga project, would do that. The Manufacturing district, which it is currently zoned now, does not allow this type of use. As staff, we try to discourage these types of uses, and similar uses that we find inconsistent with General Plan goals and objectives; but in this case, the applicants were quite insistent. I believe Mr. Pooler told them "no" twice and they wanted to talk with me and I also told them no. I gave them extensive reasons.

7:45 P.M. Floor Open for Public Comment

**Louise and Tom Radcliffe**, (Applicants): They stated that there had been some misunderstanding about the zoning because on their first visit to the City, Mr. Pooler said it would be suitable for mixed use. There were no buildings available for mixed use. Then we looked in the redevelopment area, and found a building. Mr. Pooler did advise us that it was in the redevelopment area. We were never told that the zoning was incorrect. We had heard several different time frames for the redevelopment project, which prompted us to speak with Mr. Matarazzo on the timing to see if we could come in and do this business. We were told a year and a half; we thought we could come in temporarily. We never heard anything about zoning. We never would have applied if we had been told about the zoning. The applicants said they were misinformed. We don't know if we should go any further.

**Andy Briant**, (Lessee of the Building and also representing the owner of the building, Jan Davidson, Trust): Under the Redevelopment Area condition in the



staff report, if the Council deems it appropriate to issue a permit staff recommends only a seven month permit with optional 90 day extensions. This one condition alone basically makes this property un-rentable to any potential tenant, which is unreasonable and unacceptable to both the owner of the property and me. By imposing this condition, I now face a financial loss of over \$3,000 a month, having now an un-rentable building, because of this one condition being imposed. This raises several serious legal questions for all landowners in the area South of Tioga. This area has been on hold for nearly three years; way too long, and waiting for the developer, DBO & Associates, under contract to the City to present plans for redevelopment. Consider the following; to date no suitable plans have been presented or approved for this redevelopment. The owner of this property on Fir Avenue, Jan Davidson has no desire to sell to any party, redevelopment notwithstanding and as the lessee with a successful business for over thirteen years with a lease in place I have no intention to move. The developer's son and business partner, at a recent Sand City Design Review meeting, stated categorically and on the record that his company would never exercise eminent domain since that is not how DBO & Associates conduct business. Even if redevelopment plans were delivered to City Hall tomorrow, DBO Development estimated the environmental and development review process would take two years. Given these facts at this time, a condition of a seven-month lease is neither sufficient nor fair for this applicant, or any future applicant that comes before you.

**Pete Erickson** (Commercial Real Estate Broker): I have put in 4 or 5 tenants in that area over the last 2 or 3 years. He reiterated the previous speaker (Andy Briant) comments. It is really difficult to try and convince someone to spend money and make a commitment, move in and have a short-term situation. If there were longer terms of approval with 90 day notice of early termination; that would be a much more useable situation as far as convincing somebody to move in. There is so much work that has to be done to make that project go. There are properties that haven't been "taken down", (purchased) and the plans change all the time, and it is unreasonable to the community, to me, the property owners and everyone involved.

The Mayor asked that Staff take these comments from the audience about South of Tioga, which is irritating to the Council and relay them to Don Orosco of DBO Development.

7:54 P.M.

Floor was closed to Public Comment

Council member Morris stated that he agreed with the Mayor. Something has to be done here. We have to do something about this project. We have these folks whose lives are at stake and we have to work with DBO and get something worked out quickly, because this is not fair. The Mayor asked that at the meeting coming up with Orosco that staff make it very specific that action needs to be taken and the comments made tonight be forwarded to him as soon as possible.

Associate Planner Pooler stated that it was true that the Radcliff's did come in several times. They asked about the West End District, I went over the Mixed Use zoning with them. Copies of the zoning and the map were provided. I told them I wasn't sure at that time how I felt about the use, I would need to meet with my boss and go over the zoning and his interpretation and see how that would apply to their use. Between their first visit and their second visit, I had discussed this with my boss and told them that I didn't think this was going to go ahead and be an appropriate use in the West End District. They then asked me about the Redevelopment area and I warned them that this area was being planned for Redevelopment and again they asked me about that area, and I told them that I didn't feel that would be an appropriate use for Sand City. I tried to discourage them from pursuing it and I didn't think that it would be an appropriate use, and I didn't want to waste their time and money, and I didn't want to waste my time and the City's money. After that they asked to have a meeting with Steve, which they did.

Community Development Director reported on the meeting he had with the Ratcliff's. He stated that he had spent a good length of time explaining about the General Plan and the mixed-use concept, and was very straightforward in discouraging them. They then asked about the South of Tioga area; and I would describe it as a shrug of the shoulder response and said that it may be something the Council might consider. They were not encouraged to file an application, but they went ahead anyway. Applicants spend money for a reason, and one of those reasons is for staff to analyze their proposal more thoroughly. That is what we did in the intervening weeks, and that is why you have the lengthy staff report and recommendation for denial.

The Mayor stated that the Council was not considering the length of the permit, but the specific application and whether the Council approves of this type of use.

Council Member Morris stated that he does not feel that is an appropriate use. It has the potential of being a nuisance, and I do not think it is a good idea. If it were zoned for this, he would still not be in favor of this particular use. There are too many problem businesses in the City as it is.

Council Member Hubler agreed with Council Member Morris, and did not feel that this was a proper use for this area.

The Mayor repeated that it was not a proper location for animals, thought it would generate problems, and it is not a permitted use.

Council Member Blackwelder said he felt the same way as Council Member Morris. This is not a technical zoning issue as much as it is an inappropriate use for this area.

Motion was made by Council Member Blackwelder, seconded by Council Member Carbone to approve the revised **Resolution to Deny an Application for a Conditional Use Permit to Louise and Tom Radcliffe for a Dog Kennel Operation at 865 Fir Avenue.** AYES: Council Member Blackwelder, Carbone,

Pendergrass, Hubler, and Morris. NOES: None. ABSENT: None. ABSTAINED: None. Motion Carried.

*{Due to a possible conflict of interest by residing within 500' of the project area, Council Members Carbone and Hubler abstained and left the dais}*

- C. Community Development Director Matarazzo presented the next two items as house keeping items. City Hall has Public Facility Zoning on it and has no zoning text to go with it. What prompted this was the proposed parking lot for City Hall expansion. The proposal tonight is for a zoning text amendment to add public facilities zoning regulations to the zoning ordinance and a zoning map change to add the lot for a City parking lot and to recognize the corporation yard as a public facility zoning designation and a corresponding general plan land use designation on the general plan. I went over some changes with the City Attorney this afternoon. I spoke with David Wilson this afternoon, he is here tonight and I believe he objects to the PF zoning at the corporation yard. What we are trying to do is to legitimize what has been here for a long time.

8:11 P.M. Floor Opened to Public Comment

**David Wilson** (Property Owner): The proposed zoning is a problem because it is not time to zone City streets as public facilities. When the corporation yard went in, there was quite a bit of discussion at that time. It was stated that when I got ready to build up there or extend that street, I was guaranteed that corporation yard would move out. Now it seems as though the City is trying to zone the property to allow the corporation yard to stay there forever and sit in the middle of a street that fronts on my property. I would object to that. There is no objection to the parking lot in the back that the City wants to make public facility. I don't want to see the corporation yard locked into the middle of a City street. I plan to develop that area some day, and would like the City Street to go through.

The City Attorney explained that taking this action does not jeopardize the street status in any way. Council member Morris added that we are not taking any action tonight that would jeopardize the street in any way.

**Pete Erickson** (Commercial Real Estate): The rezoning is an indication that something is going to happen that is more permanent. It appears this means that this is a more permanent use. He asked why zone the street? It was temporary before; why not keep it that way?

Council Member Blackwelder explained that it is being used for public use and it should be zoned for public use.

Community Development Director pointed out again that right now the corporation yard is not appropriately zoned as a corporation yard and that is all we are trying to do tonight.

After further discussion, the Council decided to amend the Resolution by taking the Corporation Yard Site out of the proposed map amendment.



Motion to approve **Resolution as Amended, (Including elimination of Corp-Yard Site) Approving A General Plan Map Amendment To Include Properties Adjacent To City Hall Within the "Public Facilities" General Plan Designation** was made by Council Member Morris, seconded by Council Member Blackwelder. AYES: Council Members Blackwelder, Pendergrass and Morris. NOES: None. ABSENT: None. ABSTAINED: Council Members Hubler and Carbone. Motion Carried.

- D. The City Attorney explained that the change to the Ordinance would be to E Exhibit A of the map, and eliminate the corporation yard. He pointed out several clerical corrections, and added some text changes to Exhibit B.

8:31 P.M. Floor Opened to Public Comment – No Comments- Floor Closed to Public Comments

Motion to approve the **ORDINANCE as Amended, Amending Title 18 of the Municipal Code to Reclassify Certain Properties to Public Facilities (PF) and to add Zoning Regulations, Section 18.21, Related to Said Zoning Classification** by title only was made by Council Member Blackwelder, seconded by Council Member Morris. Roll Call Vote-AYES: Council Members Blackwelder, Morris, and Pendergrass. NOES: None. ABSENT: None. ABSTAINED: Council Member Carbone, Hubler. Motion Carried.

*{Council Member Carbone and Hubler returned to dais}*

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

- A. The Community Development Director reported on the meeting last week with the Coastal Commission staff. The meeting was set up primarily to talk about the King Ventures Coastal Resort project. They encouraged combining the two sites of McDonald/Sterling. When the MOU of 1996 was mentioned, they got very defensive and said the only thing the MOU did was to legitimize open space and park and recreation uses on the Sand City Coastal zone. I responded that the City believed the MOU solved most of the City's LCP amendment problems with significantly reduced density on the coast side. The second topic we talked about was the faxed letter I received regarding the bike trail lights. Charles Pooler completed a very nice Photoshop presentation regarding the bike trail lights. He did a visual simulation of lights, no lights, every other light and it turned out very well.

The Mayor reported that the Coastal Commission, by action of their own, approved the Park Override Amendment everywhere in our coast except the recognized development envelopes. The Mayor requested the Community Development Director research the 1996 action of the Commission. That discussion and motion was made by Sam Karas; recognizing our development envelopes.

- B. The City Administrator reported on the new rule regarding the Endangered Species Act that is up for a 30-day review. There is some indication that someone may file a lawsuit. The rule that they have published does eliminate the three development sites in Sand City from the snowy plover critical habitat designation.

**AGENDA ITEM 9, NEW BUSINESS:**

*{Due to a possible conflict of interest by residing within the 500' of the proposed development, Council Member Morris stepped down from the dais}*

- A. The Community Development Director explained that this was going to be a preliminary review of the proposed apartment project; and all Council Members are asked to give their opinion and no action will be taken. Based on Council's preliminary opinion the applicant will either proceed forward or not with a formal application. This would be for the 51,000 plus square foot site at the northeast corner of Tioga Avenue and Highway One where Cypress Investors wants to put thirteen apartment units later to be converted into residential units and condominiums. This site has a long history to it. This use will be close to the highway. It was suggested that seven conditions be added to this proposal, which are listed in your packet. The Planning Department is neutral on this project.

**Peter Taormina, (Representing Cypress Pacific Investors):** He stated that he is part of a group of local investors that have developed residential/commercial projects from Carmel to Marina, also run a construction company. They have an option to purchase the property on both the east and west side of the highway. There is a 3-story elevation on the one side. It does provide the wind protection and it will be insulated. Mr. Matarazzo's staff report really puts together what is being proposed here. There is a nexus between this project and the west side. If this project can get on the East side, we think we can work something out with John King for his Coastal Development Expansion on the West side.

The Mayor asked if Mr. Taormina agreed with the conditions that had been presented. Mr. Taormina stated that he was not too knowledgeable with the LCP amendment process and couldn't speak on that condition. I feel the zoning should take place before the letter from the Water District. Except for the letter from the water agency I don't have a problem with the conditions.

It was the Council consensus to let them proceed with the application process.

*{Council Member Morris returned to the dais}*

- B. Upcoming Events/Meetings

The City Clerk received responses from the Council for the upcoming events.

9:04 P.M. Mayor Pendergrass called for a recess.

9:13 P.M. Council re-adjourned.

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

- A. The City Council adjourned to Closed Session to confer with legal counsel regarding existing litigation pursuant to §54956.9(a) of the Ralph M. Brown Act (2 cases)
  - 1) Palozzolo v. Sand City et al, Case No. M64359
  - 2) CalAm Water v. Seaside, Sand City et al
  
- B. Re-adjourn to Open Session to report any action taken at the conclusion of Closed Session in accordance with §54957.1 of the Ralph M. Brown Act. The City Council gave direction to the City Attorney.

### **AGENDA ITEM 11, ADJOURNMENT**

- A. Motion to adjourn was made by Council Member Hubler, seconded by Council Member Morris to the next regularly scheduled Council meeting on October 18, 2005. There was unanimous consensus of the City Council to adjourn at 9:34 p.m.

  
Linda K. Scholink  
Linda K. Scholink, City Clerk