

**MINUTES**  
**JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY**  
**City Council Chambers**  
**Regular Meeting - July 6, 2004**  
**7:00 PM**

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Mayor Pendergrass opened the meeting at 7:00 p.m.

Reverend Kast led the invocation.

Police Chief Klein led the Pledge of Allegiance.

Present: Councilmember Jerry Blackwelder  
Vice-Mayor Mary Ann Carbone  
Councilmember Craig Hubler  
Councilmember Todd Kruper  
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  
Debra Taylor, City Clerk  
Charles Pooler, Associate Planner

**AGENDA ITEM 4, COMMUNICATIONS:**

- A. Additional written communications distributed to the City Council this evening included an updated resolution and draft ordinance on the proposed tax measure for November 2<sup>nd</sup> ballot (item 9-A); and event information (item 10-A).
- B. The floor was opened at 7:04 p.m., but there were no oral communications from the public.

**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 Councilmember 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 #223, San Juan Pools of Monterey (Open Storage), 756 California Avenue
  - (2) CUP #321, John Groves (Open Storage), 872 Afton Avenue
  - (3) CUP #367, Sand Dollar Art & Framing Center (Art & Framing Shop), 824 Playa Avenue
  - (4) CUP #368, Jersey's (Sandwich Shop), 832 Playa Avenue
  - (5) CUP #402, Cary Norman/Can-Tron (Electronics), 710 California Avenue
  - (6) CUP #435, Do It Yourself Storage (Temporary Trailer), 575 California Avenue
- B. There was no discussion of the June 15<sup>th</sup> Minutes.
- C. There was no discussion of the Monthly City/Redevelopment Agency Financial Report, May.
- D. There was no discussion of the Arts Committee Minutes for June 3<sup>rd</sup> and June 16<sup>th</sup>.
- E. There was no discussion of the City **RESOLUTION Authorizing Renewal of an Agreement for Police Backup Services Between the City of Seaside and the City of Sand City and Rescinding Former Sand City Resolution SC 04-46**. The City of Seaside requested this contract be on an annual basis, not every two years.
- F. There was no discussion of the City **RESOLUTION Accepting the West End Urban Design and Parking Implementation Plan**.
- G. There was no discussion of the City **RESOLUTION Authorizing Renewal of a Maintenance Services Agreement with HOPE Rehabilitation Services** for FY 2004-05. There was a 2.5% increase for a total not to exceed \$80,000.

Motion to approve Consent Calendar was made by Councilmember Carbone, seconded by Councilmember Kruper. AYES: All members. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

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

No items.

**AGENDA ITEM 7, PRESENTATION(S):**

- A. Presentation by Jackie McManus of Fenton & Keller, regarding Americans with Disability Act accessibility issues. Due to lawsuits over the last few years, it has triggered an update on accessibility issues. Many lawsuits are filed by out of town lawyers and clients, especially on public accommodation facilities. In response to a question by City Administrator Morgan, Ms. McManus said that a phased plan of accessibility improvements can be done in old buildings if historical exemptions do not apply. A member of the public, Michael Miller, confirmed that a perfect plan is impossible considering the regulatory issues for contractors with ADA, UBC, city and county requirements. New construction is much easier to make these ADA accommodations.
  
- B. Presentation by California American Water, Monterey County Water Resources Agency, and RBF Consulting updating the time line, methodology and process concerning the coastal water project. STEVE LEONARD (General Manager, CalAm Water) made introductions.

CURTIS WEEKS (Monterey County Water Resources Agency): The Monterey County Water Resources Agency and CalAm Water are working toward a partnership to supply needed water for Monterey County's coastal communities. The project must be technically and environmentally feasible, supported by the relevant communities and governmental agencies, and must support CalAm's ability to satisfy the State Water Resources Control Board Order 95-10 which requires the company to replace Carmel River illegal diversions. The project will make available water for other Monterey County communities. This will be a public/private project. The project site is proposed for Moss Landing, and the Seaside groundwater basin could be used to store approximately 20,000 acre feet for existing and future water users.

LARRY GALLERY (RBF Consulting): Provided a project description, cost estimates, permit needs, environmental documents, water storage and recovery system information. The goal is to have a coastal development permit (CDP) by the fall of 2006. A pilot plant will be available by early 2005 and will run for one year. Twenty-four miles of pipeline will be needed to service the community.

STEVE LEONARD: They will be back periodically to provide updates on the overall project. Their website will be operating by July 15<sup>th</sup> for meeting information, updates, and email enquiries. Mayor Pendergrass asked if they

felt 2006 was overly optimistic to get their CDP because of the many regulatory agencies that will be involved? Mr. Leonard replied there are many political leaders supporting this project (Mayors' Association, Board of Supervisors, etc.), and the Marine Sanctuary agrees the Duke Energy site is the best location, but the date may be premature. In response to a question, diagonal drilling is an option. It helps reduce the size of the plant, but is a trade off and may/may not work. There is plenty of space at the Duke Energy site and intake/outflow of seawater is huge and calculates out. One of the reasons for a pilot plant is to conduct the necessary biological/technical studies. The final design and construction of the desal plant is expected in 2008 or 2009. Councilmember Blackwelder asked if the water situation will be okay for the next five years (to accommodate the construction dates)? Mr. Weeks said that the water situation is problematic right now. Ninety-nine percent of the water comes from the ground and ASR to store in the Seaside basin will be an important element. Recycled water is another portion and part of a portfolio of options. Mayor Pendergrass raised questions about the "illegal water" designation and stated that current water supply system has enough water for two more years. Mr. Weeks said they will work together on the water reservations to solve this problem. There was no discussion of future costs to consumers.

#### **AGENDA ITEM 8, PUBLIC HEARING(S):**

*[Due to residing within 500' of the project area, Councilmembers Blackwelder, Hubler and Kruper had to draw straws to determine participation and retain a quorum. As a result of that drawing Councilmembers Blackwelder and Hubler abstained and left the dais.]*

- A. Associate Planner Pooler presented the Conditional Use Permit application by John and Michael Miller dba Miller Associates Concrete to utilize an existing commercial building located at 1714 Contra Costa Street (APN 011-232-012 & 013) for an office, showroom and accessory storage for their concrete operation. The project qualifies as a categorical exemption under State CEQA Guidelines, Section 15301; and corresponding **City RESOLUTION**. There will be no concrete or large mixer stored at this location, but there will be some equipment storage within the fenced yard. Parking for the property is currently provided along Elder Avenue and encroaches into the right-of-way. As Elder Avenue is not a collector street staff does not feel this encroachment should present a problem. Future street improvements should consider design concepts of the Parking & Urban Design Program to preserve parking while improving public amenities such as sidewalks. There will be eight parking spaces provided and striped, perpendicular to the building with an approximate 10' encroachment into the street right-of-way, until such time as final street improvements are installed, and an encroachment permit will be issued. Two of the eight parking spaces are to be kept clear for customers, not employees. On recommendation from the City Engineer, an

Owner Participation Agreement (OPA) for street improvements will be required.

8:00 P.M. Floor Open for Public Comment

JOHN MILLER (Applicant): They are looking forward to owning this building and moving to Sand City. They have immediate plans to do some cosmetic work on the building. In the future, they would like to remodel the building for mixed use. He agrees to the conditions of the permit. In response to a question by Councilmember Kruper, Mr. Miller stated they do not have many deliveries to this address and most of their work is done off-site. Councilmember Carbone confirmed that there will be no loading/unloading prior to 10:00 a.m. on the weekends.

8:04 P.M. Floor Closed to Public Comment

Motion to approve Resolution, by title only, was made by Councilmember Kruper, seconded by Councilmember Carbone. AYES: Councilmembers Carbone, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Councilmembers Hubler, Blackwelder. Motion carried.

*[Councilmembers Hubler and Blackwelder returned to the dais.]*

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

- A. City Attorney Heisinger presented the City **RESOLUTION Approving Placement of a General Purpose Transactions and Use Tax Measure on the November 2, 2004 Ballot**. An updated resolution was distributed this evening as directed at to the June 30<sup>th</sup> meeting. This will be a transaction and use tax, not a sales tax and can pass with a 50% + 1 vote of the electorate. The proposed ordinance will be considered at the August meetings and is not enforceable unless it is approved by the voters. Mr. Heisinger gave a history of the sales tax arrangement made in 1989, the Seaside agreement, and the buy-down of the Costco land site. Current sales taxes are paid to the Redevelopment Agency not the City. Mr. Heisinger opined that this proposed transactions and use tax will be paid to the City and is not related by the Seaside sales tax agreement. There is no sunset clause in this proposed measure, but the City Council can reduce or eliminate a tax in the future without a vote of the people. City Administrator Morgan stated firmly that expenditures are now exceeding revenues which effect capital improvement projects and threaten the desal project. Council discussed setting up a committee of their members to educate the public on the proposed tax and why it is being recommended. City staff will provide the subcommittee a list of pass through agencies and general purpose fund categories.



Motion to approve Resolution by title only, as amended, was made by Councilmember Blackwelder, seconded by Councilmember Hubler. AYES: All members. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

- B. Sub-committee member Blackwelder gave an update on the civic center improvement project. The subcommittee (Carbone and Blackwelder) was supposed to meet with the contractor today, but no one from Earthworks showed up. It is their general opinion that the contractor has not met obligations of this job. If a 6" veneer is used it must meet certain requirements to work well. Police Chief Klein has raised concerns that if the 6" veneer is added and the next project is not acceptable - how will final approval be handled? City Engineer Kulakow was directed to send a letter to Earthworks and include the need of a time line. Mr. Kulakow said there is a penalty clause in the contract, and recommends giving them 48 hours for the contractor to determine how they will proceed while working with the architect and inspector. City Attorney Heisinger will review the letter prior to sending it to Earthworks. There was Council consensus to have the contractor conform to the sub-committee's recommendations.
- C. Progress report on Public Works projects, City water project, and other Sand City community programs by City Engineer/Community Development Director/City Administrator. Community Development Director Matarazzo reported the Draft Environmental Impact Report (EIR) has been circulated and there will be a public hearing at the August 3<sup>rd</sup> meeting. The Coastal Commission keeps implying they only want a regional desal plant, but no formal comments have been submitted yet. Staff also received Marina's Draft EIR and the City Administrator requested the report be checked for financial issues/info.

#### **AGENDA ITEM 10, NEW BUSINESS:**

- A. Upcoming events/meetings - there were numerous handouts this evening and all RSVP's will be given to the City Clerk.

#### **AGENDA ITEM 11, CLOSED SESSION:**

- A. It was determined 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 (4 cases) -
  - (1) Cal-Am Water v. Seaside, Sand City et al
  - (2) Security National Guaranty, Inc. (Case No. 03-55847-NM)
  - (3) Coos County v. Department of the Interior (U.S.D.C. Case No. CV 6128 HO)
  - (4) City of Cerritos, et al v. State Board of Equalization et al (Case No. RG04144275)

B. Closed Session was not held.

**AGENDA ITEM 12, ADJOURNMENT:**

A. Motion to adjourn was made by Councilmember Hubler, seconded by Councilmember Blackwelder, to the next regularly scheduled City Council meeting on July 20, 2004, 7:00 p.m. There was unanimous consensus of the Council to adjourn at 9:17 p.m.



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Debra Taylor, City Clerk