

MINUTES
JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY
City Council Chambers
Regular Meeting - March 7, 2000
7:00 PM

Mayor Pendergrass opened the meeting at 7:01 p.m.

Reverend Kast led the invocation.

Pledge of Allegiance & Flag Ceremony was presented by the Girl Scouts of Monterey Bay, Troop #2053. Troop members Cassandra Berumen, Corrin Corbiere, Rebecca Flowers, Christine and Carolyn Clogston made the presentation.

Present: Councilmember Blackwelder
Vice Mayor Kline
Councilmember Hubler
Councilmember Wishon
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
Debra Taylor, City Clerk

AGENDA ITEM 4, COMMUNICATIONS:

- A. The written communications distributed to the City Council on Monday and this evening included a revised agenda adding item 9-C, and related materials, on a Planning & Technical Assistance grant from HCD for partial funding of the desal feasibility study; letter of intent, map, and updated Resolution regarding the water reservation/allocation for Monterey Fish Company (8-F); and endorsing signature from John King regarding the extension of the Exclusive Negotiating Agreement with King Ventures for the McDonald coastal site (9-A).
- B. The floor was opened, but there were no public oral communications.

Councilmember Wishon publically thanked and acknowledged Officer Robin Nowak for participating in the 3rd graders "community reading" program at Ord Terrace Elementary School where her son attends.

Mayor Pendergrass displayed the plaque the Sand City Police Department received from MADD (Mothers Against Drunk Drivers) and the California Office of Traffic Safety. Chief Klein said that his department partici-

pated in this campaign against drunk drivers; and Officer Panetta was very busy that evening for Sand City. The plaque will be displayed in the Council Chambers.

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 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 #194, Curtis Morrow (Mobile Home), 445 Orange Avenue
- (2) CUP #195, Alfa Etc. Inc/Thomas Gunter (Auto Repair), 543 Elder Avenue
- (3) CUP #295, David Wilson (Open Storage), Park & Fell Streets
- (4) CUP #342, Chris Dinner (Sheetmetal Shop & Electrical Contracting), 720 Dias Avenue
- (5) CUP #389, Loren Speck/Loren Speck Framing & Gilding Studio (Framing), 591 Ortiz Avenue
- (6) CUP #390, Brad Klemek/GFI Pest Control (Office/Storage), 605 Redwood Avenue
- (7) CDP #93-04, Steve Tilford/Small Plant Studios (Art Studios), 1 John Street
- (8) CDP #97-02, Sal Lucido & David Hernandez/D&S Painting (Contractor Warehouse & 2 Apartment Units), 460 Orange Avenue

B. There was no discussion of the February 15, 2000 Minutes.

C. There was no discussion of the February Fort Ord Reuse Authority (FORA) report.

D. There was no discussion of the City/Redevelopment Agency Financial Reports, January 2000.

E. There was no discussion of the City **RESOLUTION Proclaiming April as "Child Abuse Prevention Month."**

F. There was no discussion of the \$500 athletic donation to Felecia Brown to participate in the Olympics Track & Field.

- G. There was no discussion of the report on the 1999 Habitat Monitoring Report, Sand Dollar Shopping Center, as provided by the Community Development Director.
- H. Denial of claim by James Ogle against the City of Sand City, in the amount of \$35,000. Council consensus to pull this item to be discussed under agenda item 6.

Motion to approve Consent Calendar items A-G was made by Councilmember Kline, seconded by Councilmember Blackwelder. AYES: All members. NOES: None. Motion carried.

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

- A. Denial of claim by James Ogle against the City of Sand City, in the amount of \$35,000 as pulled from Consent Calendar 5-H. The first claim, filed on February 9 and February 16 of 1999, was rejected by the City Council on April 6, 1999. The time to amend that claim expired prior to February 24, 2000 and the February 24 amendment will not be considered by the City Council with regard to that claim, in accordance with Government Code Section 910.6(a). Mr. Ogle's February 24, 2000 amendment to the claim as presented to the City on December 29, 1999 was considered by the Council this evening. If denied, Mr. Ogle will be notified by certified mail and the claim will be forwarded to Kent Rice, Risk Manager, Monterey Bay Area Insurance Fund. Mr. Ogle has six months from the date of the certified mail to file a court action on the amended claim in accordance with Government Code Section 945.6.

Motion to reject claim for damages filed with the City on December 29, 1999 as amended by the claimant, by documents filed with the City on February 24, 2000 was made by Councilmember Hubler, seconded by Councilmember Blackwelder. AYES: All members. NOES: None. Motion carried.

AGENDA ITEM 7, PUBLIC HEARING(S):

No items.

AGENDA ITEM 8, OLD BUSINESS:

- A. Community Development Director Matarazzo presented the City RESOLUTION Authorizing Service Agreement and Scope of Work with Martin Feeney et al to Prepare a Hydrogeologic Feasibility Study Related to the Sand City Water Project. This item was continued from the February 15th Council meeting, and is discussed under the related agenda item 9-C. A public hearing is required as part of the grant process. This resolution will be amended to reflect the requirements of the Planning & Technical Assistance (PTA) grant. Council consensus to continue this item to the March 21st agenda.

- B. Report by City Attorney on the lawsuit by Lou Haddad regarding pueblo water rights against the State Water Resources Control Board (SWRCB) et al. Pueblo water rights were in law before California ceded from Mexico in the 1840's. California then became a republic, and later became part of the united states. Mr. Haddad claims the City of Monterey had rights to take water from the Carmel and Salinas Rivers. This lawsuit is purported to be on behalf of all Monterey Peninsula cities. Monterey has rejected the request to participate directly in this lawsuit. The summons to appear has not been served on any city on the Peninsula. City Attorney Heisinger will make a "special appearance" in court on Friday, March 17th to state that no summons was served and that the information the City has received from Mr. Haddad may be incomplete. He will seek to have Sand City removed from this lawsuit. A letter from William Connors, Monterey City Attorney, was included in the packet regarding "Real Parties in Interest" because it is still unclear if any city is a Petitioner or Respondent.

Council consensus to approve the City Attorney's special appearance in court and his proposed action.

[Due to Councilmembers Blackwelder and Hubler residing or owning property within 300' of this project area, they were excused from the dais and joined the audience.]

- C. Consideration of authorizing request for bids for Ortiz Avenue Street improvements was presented by City Engineer Kulakow. Construction documents (plans, specifications and estimates) have been completed for improvements on Ortiz, Redwood, Hickory and Holly Avenues. Improvements will include, but are not limited to, removing and replacing curb, gutter, sidewalk, driveway approaches, installation of storm drain pipe, valves, appurtenances and connections to the existing system. The request for bids need to be advertised, with a bid date of April 6, 2000, and awarded at the April 18th Council meeting. It is anticipated that construction will start in May and be completed in August. These capital improvements are included in the FY 1999-2000 budget, but may require some funds from next fiscal year. A change order or addendum will be forthcoming, once the degree of additions and crosswalk improvements are decided. A mainline extension agreement is also required by CalAm prior to the actual connection. City Attorney Heisinger said it cannot be automatically assumed that these new water lines and pipes will be dedicated to CalAm.

City Administrator Morgan said the City will be carrying out the obligation for the work needed near the Saroyan project (781 Redwood) as part of this improvement project. This work will also improve the water supply capabilities for general water use and fire protection.

Staff is recommending that the crosswalk improvements have distinctive paving and painting designs. Visitors would then know they are in Sand City by adding this kind of embellished pavement design to the overall look of the City. If not all funds are available in this year's budget for this contract, it will be included in the capital improvement program for next fiscal year.

Motion to approve the request to advertise for bids was made by Mayor Pendergrass, seconded by Councilmember Wishon. AYES: Councilmembers Kline, Wishon and Pendergrass. NOES: None. ABSTAINED: Councilmembers Blackwelder and Hubler.

[Councilmembers Blackwelder and Hubler returned to the dais.]

- D. Update on coastal projects and Habitat Conservation Plan (HCP) was presented by Community Development Director Matarazzo. The Sterling and Monterey Bay Shores projects are related to the HCP which is currently on hold. State Parks is reluctant to dedicate all of the South of Tioga for habitat protection. They also have "recreational goals" to consider for visitors. US Fish & Wildlife can look at both coastal project HCP's separately. Mr. Ghandour may initiate a declaratory judgment lawsuit against US Fish & Wildlife regarding the snowy plover because it has not been on his property for some time. He may also be requesting some form of adjudication regarding the Seaside Basin water rights. Staff met with Mr. Ghandour and a potential investor, David Dibo, who is very excited about this project. Staff also met with Senator McPherson to discuss some of the coastal issues in Sand City. King Ventures still has an interest in the Sterling site. The site may have a desal plant, but the Coastal Commission will not allow it to be owned privately. Mr. King may be waiting to see what will occur with Mr. Ghandour's declaratory relief.

City Administrator Morgan related that state Senator McPherson is interested in helping to implement the 1996 coastal Memorandum of Understanding (MOU). Staff decided to wait until after today's primary election results to be final because of some key seats and propositions that are on the ballot, especially Prop 12 - coastal open space. Mr. Morgan also reported on a meeting yesterday with representatives from the construction and visitor-serving unions, along with City representatives Morgan, Matarazzo, Pendergrass and Kline, to discuss potential development projects. Ghandour has "made peace" with the unions, but both developers (Ghandour and King) have differences in how they want to deal with the unions. Staff and Council representatives expressed support for union workers in Sand City. Union issues must be addressed with King Ventures prior to finalizing the DDA on the McDonald site. [Mark Weller, H.E.R.E. union, was in the audience this evening.]

- E. Progress report on Public Works projects, City water project, and other Sand City development projects by City Engineer/Community Development Director. City Engineer Kulakow stated that all work on the desal is on hold until grant funds are approved for Sand City.

[Due to Councilmembers Kline and Wishon residing within 300' of this project area, they were excused from the dais and joined the audience.]

- F. City Administrator Morgan presented the City **RESOLUTION Authorizing Water Reservation/Allocation to Monterey Fish Company for their East Dunes Lots**. A revised resolution, request letter from Monterey Fish Company attorney, and a site map were distributed this evening. The City Council approved Resolution SC 00-12 at the February 8, 2000 meeting which approved a water credit implementation agreement between Monterey Fish Company and Sand City. In this implementation agreement, it was agreed that Sand City and Monterey Fish Company would cooperate on the reuse and allocation of water credits as follows: a) 3.796 acre feet shall be allocated to Monterey Fish Company or its assignees to be used in any future commercial or residential projects within the City; and b) the remaining 20 acre feet of water credits shall be held by the City. Resolution SC 00-16 allocated this 20 acre feet of water to King Ventures for the McDonald coastal site. This resolution will reserve the 3.796 acre feet for Monterey Fish Company's East Dunes lots as shown on the map provided this evening. Staff may have concerns of developing homes on some of these proposed lots that are along Highway One. The City Council has expressed a desire for a berm/buffer zone in the design of the East Dunes along this fence line. These properties may require setbacks. By approving this proposed resolution, it is not approving any designs or projects. In response to a question by Councilmember Blackwelder, Mr. Morgan said that Monterey Fish Company is subject to habitat constraints, design criteria, and setbacks from the freeway, but some of the lots can be developed. City Attorney added that water is a separate action from any land use decisions. Mayor Pendergrass reminded Council that the HCP has not be approved for that area. Mr. Matarazzo said the General Plan and the East Dunes plan is recommending a 50' setback in this area. They would have to cluster their development because of required setbacks. Most of these lots are deeper, but not wider, and may allow for the setback requirements. Mr. Morgan said that Alta Street will also require setbacks. Staff feels that there will be workable solutions. There are no agreements in place for any projects. The maximum this water will allow is 15 units and it will require a Planned Unit Development (PUD). There was a minor change made to resolve A to included the two attachments (Fish Company letter and map).

Motion to approve Resolution by title only, as amended, was made by Councilmember Hubler, seconded by Councilmember Blackwelder. AYES: Councilmembers Blackwelder, Hubler, Pendergrass. NOES: None. ABSTAINED: Councilmembers Kline, Wishon. Motion carried.

[Councilmembers Kline and Wishon returned to the dais.]

AGENDA ITEM 9, NEW BUSINESS:

- A. Consideration of Redevelopment Agency **RESOLUTION Extending the Exclusive Negotiating Agreement with King Ventures** (McDonald coastal site APN 011-011-01 & 02) was presented by Executive Director Morgan. The current ENA expires on March 15, 2000. The March 15th date was selected as the expiration date of the current ENA to provide some lead time before the next COP bond payment due on April 1, 2000 of \$227,715 (\$175,000 principal and \$52,715 interest). As provided in the ENA, the interest portion is not refundable to King Ventures; the principal payments are refundable to the developer if the ENA expires before a DDA can be executed between the Redevelopment Agency and King Ventures. This second amendment to the ENA will extend the term from March 15th to June 15, 2000. King Ventures must make this bond payment to the Redevelopment Agency on or before March 15, 2000. The California Coastal Commission did not routinely extend the Sterling Coastal Development Permit (CDP). This will now require a full hearing, and three issues must be addressed prior to reconsideration - habitat, water, and traffic on Highway One. Due to the current political climate, especially prior to an election, timing is a critical issue. Agency Attorney Heisinger stated that this extension is contingent on the negotiating fee being paid by King Ventures to the Agency.

Motion to approve Resolution, by title only, was made by Agency member Kline, seconded by Agency member Wishon. AYES: Agency members Blackwelder, Kline, Hubler, Pendergrass. NOES: None. Motion carried.

- B. Police Chief Klein presented his staff report on the arrangements for the 40th Sand City birthday and annual barbecue celebrations. Council consensus to have Saturday, May 20th as the celebration date. Staff will work with the Budget Committee to establish a budget for this event.
- C. Review and comment on a planning and technical assistance (PTA) grant to the State Housing and Community Development Department (HCD) for funding of \$35,000 for partial funding of the desalination feasibility study was presented by Community Development Director Matarazzo. This agenda item is related to item 8-A. The \$35,000 grant is approximately half of the cost for the feasibility study. There must be a public hearing on this item

which will be scheduled and advertised for March 21st. The corresponding resolution for a contract with Martin Feeney (agenda item 8-A) will also be considered at the next Council meeting. Council consensus to continue this item to a public hearing on March 21, 2000.

AGENDA ITEM 10, ADJOURNMENT:

- A. Motion to adjourn was made by Councilmember Hubler, seconded by Councilmember Blackwelder, until the regular City Council meeting on March 21, 2000, 7:00 pm. There was unanimous Council consensus to adjourn at 8:28 p.m.

Debra Taylor

Debra Taylor, City Clerk