



SPECIAL MEETING

SAND CITY COUNCIL

AND

**SUCCESSOR AGENCY OF THE FORMER
REDEVELOPMENT AGENCY**

AGENDA

SAND CITY COUNCIL CHAMBERS

MONDAY, JANUARY 4, 2015

5:30 P.M.

AGENDA JOINT SAND CITY COUNCIL AND SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY

SPECIAL Meeting – Monday, January 4, 2016
5:30 P.M.

CITY COUNCIL CHAMBERS
Sand City Hall, One Sylvan Park, Sand City, CA 93955

1. **INVOCATION**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **COMMUNICATIONS**

Members of the public may address the City Council/Successor Agency on matters not appearing on the City Council/Successor Agency Agenda at this time for up to three minutes. In order that the City Clerk may later identify the speaker in the minutes of the meeting, it is helpful if speakers state their names. Public comments regarding items on the scheduled agenda will be heard at the time the item is being considered by the City Council/Successor Agency.

The City Council Chambers podium is equipped with a portable microphone for anyone unable to come to the podium. If you need assistance, please advise the City Clerk as to which item you would like to comment on and the microphone will be brought to you.

- A. Written
- B. Oral

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. Approval of December 15, 2015 Sand City Council Meeting Minutes
- B. Approval of City RESOLUTION Making Re-Appointments to the Design Review Committee (Davis, Kruper, & Lindberg)
- C. Approval of City RESOLUTION Approving Time Extensions to April 30, 2016 of Multiple Conditional Use Permits (CUPs 450, 503, 508, 527, 532, 540, 541, 562, 576 & 578) and Coastal Development Permit 14-01 to continue as Interim Uses at their respective locations within the South of Tioga Area
- D. Acceptance of Fort Ord Reuse Authority (FORA) Meeting Report, December 2015

E. Approval of Confirmation of Future Dates for 2016 Sand City Events

F. Approval of City Donation/Contribution
1) Panetta Institute for Public Policy - \$500

6. **CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR**

7. **PUBLIC HEARING**

A. **FIRST READING:** Ordinance of the City Council of Sand City to Amend Chapter 18.69 of Title 18 (Zoning Ordinance) of the Sand City Municipal Code Prohibiting Medical Marijuana Dispensaries, Cultivation of Marijuana, Commercial Marijuana Deliveries, and all Commercial Medical Marijuana Activities in Sand City

8. **OLD BUSINESS**

A. Progress report on Public Works projects, South of Tioga Redevelopment project, Coastal projects, and other Sand City community programs by City Engineer/Community Development Director/City Administrator

9. **NEW BUSINESS**

A. Consideration of City RESOLUTION Authorizing the City Administrator to Enter into an Agreement with California Coastal Commission regarding Acceptance, Holding, and Disbursal of In-Lieu Public Parking Funds required as a condition of Coastal Development Permit A-3-SNC-98-114 for the Monterey Bay Shores Project

B. Comments by Council Members on Meetings and Items of interest to Sand City

C. Upcoming Meetings/Events

The regularly scheduled Council meeting on January 5, 2016 has been cancelled due to anticipated lack of a quorum.

10. **ADJOURNMENT**

Next Scheduled Council Meeting:
Tuesday, January 19, 2016
5:30 P.M.
Sand City Council Chambers
1 Sylvan Park, Sand City

This is intended to be a draft agenda. The City reserves the right to add or delete to this agenda as required.

The current Sand City agenda is available in PDF format on our website at:
www.sandcity.org/agenda

Sand City Council Agenda
01.04.16 SPECIAL Council Meeting

If you have a request for a disability-related modification or accommodation, including auxiliary aids or services, which will allow you to participate in a Sand City public meeting, please call the City Clerk at (831) 394-3054 extension 20, or give your written request to the City Clerk at One Sylvan Park, Sand City, CA 93955 at least 48 hours prior to the scheduled meeting to allow the City Clerk time to arrange for the requested modification or accommodation

AGENDA ITEM

5A

MINUTES
JOINT SAND CITY COUNCIL AND SUCCESSOR AGENCY
OF THE REDEVELOPMENT AGENCY

Regular Meeting – December 15, 2015
5:30 P.M.
CITY COUNCIL CHAMBERS

Mayor Pendergrass opened the meeting at 5:30 p.m.

The invocation was led by Reverend Robert Hellam.

The Pledge of Allegiance was led by Police Chief Brian Ferrante.

Present: Council Member Blackwelder
Council Member Carbone
Council Member Hubler
Council Member Kruper
Mayor Pendergrass

Staff: Todd Bodem, City Administrator
Jim Heisinger, City Attorney
Leon Gomez, City Engineer
Brian Ferrante, Chief of Police
Linda Scholink, Administrative Services Director/City Clerk
Charles Pooler, Associate Planner

AGENDA ITEM 4, COMMUNICATIONS

A. Written communication distributed to the Council was a resolution for Agenda item 5D and additional information for Agenda item 7C.

B. Oral

5:33 p.m. Floor opened for Public Comment.

There was no comment from the Public.

5:33 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 Sand City Council Meeting Minutes,

December 1, 2015.

- B There was no discussion of the Public Works Monthly Report, November 2015.
- C. There was no discussion of the Police Department Monthly Report, November 2015.
- D. There was no discussion of the City **Resolution** recognizing Vito Graziano as the 2015 Employee of the Year.
- E. There was no discussion of the City **Resolution** approving a Memorandum of Understanding (MOU) between the Association of Monterey Bay Area Governments (AMBAG) and the City of Sand City for AMBAG to Enter into a Technical Services Contract with Pictometry International Corporation to Provide Services Related to Orthophotography of the Monterey Bay Region.

Motion to approve the Consent Calendar was made by Council Member Kruper, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: 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

- A. **Presentation on and Consideration of the Audited Financial Statements for the Year ended June 30, 2015 and Independent Auditor's Report by Therese Courtney and Mike Nolan of Hayashi & Wayland (10 minutes)**

- 1) **Approval of City RESOLUTON Accepting the Audited Financial Statements for the Year Ended June 30, 2015 and Independent Auditor's Report**

Mike Nolan of Hayashi Wayland presented the audited financial statements for the year ended June 30, 2015. The auditors met with the Budget Committee last week to go over in detail the attached financial statements to review significant accounting rules and operational changes that have impacted the City over the past year. The audit has presented a materially correct and clean opinion of the audited financial statements. Mr. Nolan highlighted the assets of the City that exceeded its liabilities by over \$22M; however \$12M is a net investment in capital assets, with \$10M due from the Successor Agency. A large part of the net assets relate to pension accounting, and for several years past pension accounting was

not included within the financial statements. Due to new accounting rules, the pension obligations are now required to be recorded. The City's unfunded liabilities including other post-employment benefits (OPEB) totals approximately \$3.6M and the City may consider implementing a plan to pay these pension liabilities in order to reduce the amount. The remainder of the financial statements provides financial schedules and additional financial information. He introduced Therese Courtney who reported on the required letter to the governing board. Ms. Courtney commented that the letter indicates the responsibility of the auditors, highlights the fact that the City now has to record pension liabilities, includes an extensive list of accounting standards that the City will need to begin complying with, and pointed out Statement #75 involving OPEB. The governmental standards accounting board (GASB) has required the City to record the OPEB, and beginning in 2018, another large liability involving OPEB will be recorded on the financial statements as well. Several audit adjustments made reflected pension liabilities that had to be booked. There were no disagreements with management, internal controls were in place, and Staff provided the auditors with documentation as needed. In conclusion, Ms. Courtney expressed her thanks to Staff for their help and cooperation.

5:42 P.M. Floor opened for Public Comment.

There was no comment from the Public.

5:42 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** by title, accepting the Audited Financial Statements for the Year Ended June 30, 2015 and Independent Auditor's Report was made by Council Member Blackwelder, seconded by Council Member Hubler. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

B. FIRST READING: Ordinance of the City of Sand City amending Sand City Municipal Code Title 18 (Zoning Ordinance) to Amend Chapters 18.68, 18.72, and 18.92 and Sections 18.62.111 and 18.74.010, to add Section 18.74.015, and Delete Section 18.62.180

Associate Planner Charles Pooler commented that EMC Planning Group and Staff reviewed the planning department's application process and related fees with the objective to update the fee schedule, and streamline the permitting process. This would include a reimbursement agreement for projects that would involve reviews and consultant expenses. The first reading of the attached draft Ordinance is recommended for Council's approval and adoption.

5:44 P.M. Floor opened for Public Comment.

There was no comment from the Public.

5:44 P.M. Floor closed to Public Comment.

Motion to approve the First Reading of the **Ordinance** of the City of Sand City Amending Sand City Municipal Code Title 18 (Zoning Ordinance) to Amend Chapters 18.68, 18.72, and 18.92 and Sections 18.62.111 and 18.74.010, to add Section 18.74.015, and Delete Section 18.62.180 was made by Council Member Carbone, seconded by Council Member Kruper. Roll call Vote AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

The Mayor thanked Associate Planner Pooler for his hard work and efforts. The audience and Council gave Mr. Pooler a round of applause.

C. Consideration of City RESOLUTION approving a modified Vesting Tentative Map and associated Findings of a Responsible Agency pursuant to the California Environmental Quality Act for the Monterey Bay Shores Resort Development consistent with the Conditions and Requirements of the California Coastal Commission's Coastal Development Permit (CDP) A-3-SNC-98-114

Associate Planner Pooler commented that the California Coastal Commission approved a reconfigured version of the Monterey Bay Shores Project in April 2014 and issued the permit to Dr. Ghandour on November 9, 2015. Dr. Ghandour has submitted an application for certification of the previously approved vesting tentative map together with modifications to the vesting tentative map (VTM) to make it compliant with the coastal development permit issued by the California Coastal Commission. As conditioned by Staff, the VTM will comply with the City's General Plan, Local Coastal Program, Municipal Code, and Coastal Commission Development Permit. Mr. Pooler pointed out the proposed parcel subdivisions and project development for the parcels. Staff has diligently reviewed the submitted map and finds it sufficiently complete pending the inclusion of correction notes and conditions of approval which were outlined in the staff report and draft resolution. A handout was provided to Council with two additional conditions provided, as well as minor corrections that were added to the draft resolution. The final version of the resolution is what has been handed out to Council. Staff recommends approval of the resolution approving the modified vesting tentative map. Mr. Pooler concluded by expressing his thanks to the City Attorney and City Engineer for all the work involved in preparing the documents. The City Engineer mentioned the substantial amount of time that Mr. Pooler contributed to the preparation of the documents as well. There was a round of applause for Mr. Pooler and Staff.

In response to Council Member Blackwelder's question whether City Staff would need help for the permitting process, Associate Planner Pooler

commented that he will be holding a meeting with the City of Monterey's Building Department Staff and City Engineer in January to establish a game plan on the best way to move forward.

5:50 P.M. Floor opened for Public Comment.

Dr. Ghandour expressed his pleasure in being present at tonight's meeting and commented that he has an incredible team of engineers who understand the complexity of the project. The undertaking is not just a construction issue, but involves smart building and sustainability. The project will be a model for other generations, and will not spare costs for the project. After 23 years, it defies imagination. Following a long 17 year journey, what is about to happen in Sand City will result in an amazing iconic project that will leave a legacy for the City. An enormous amount of difficulties and hurdles have been overcome, and what will be constructed will be a great project. Dr. Ghandour concluded with the statement: *"Infinity is closer than you think, maybe it is 25 years, but who would have imagined."* He also thanked Staff and Council for their belief in the project and for standing by him throughout all the years.

The Mayor added that it was quite a bridge to cross, and commended Dr. Ghandour's tenacity and persistence.

6:06 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution by title**, as amended, approving a modified Vesting Tentative Map and associated Findings of a Responsible Agency pursuant to the California Environmental Quality Act for the Monterey Bay Shores Resort Development consistent with the Conditions and Requirements of the California Coastal Commission's Coastal Development Permit (CDP) A-3-SNC-98-114 was made by Council Member Blackwelder, seconded by Council Member Kruper. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

A round of applause was given for Dr. Ghandour.

AGENDA ITEM 8, OLD BUSINESS

- A. Progress report on Public Works projects, South of Tioga Redevelopment project, Coastal projects, and other Sand City community programs by City Engineer/Community Development Director/City Administrator**

City Engineer Leon Gomez reported that Cal-Am is continuing to monitor the high salinity levels at the feed water wells and its inability to meet the brine discharge limits. The desalination plant produced less than 1 acre feet of water for the month of November. Cal-Am is closely monitoring the situation and will inform Staff when the plant will begin operation. The City

Administrator added that Cal-Am is still investigating the issue. Mayor Pendergrass commented that the low production levels may be a mechanical failure somewhere within the system.

The Association of Monterey Bay Area Government (AMBAG) is working with Staff to revise and update the storm drain mapping elements. The Stormwater Program year 3 permit mapping will need to include not only public owned facilities, but also privately owned facilities such as the 'Independents' storm water system. The City Administrator provided authorization to proceed with the Hickory and Dias Street improvements and design of construction documents. The first step would be to engage the surveyor and geo-technical engineer that would involve conducting a survey for design of the streets. A set of biddable construction documents may be presented to the Council in May of 2016 or sooner.

City Administrator Todd Bodem reported that the Oversight Board approved the Long Range Property Management Plan and the Plan will be submitted to the Department of Finance for their review and approval. Council Member Kruper added that the Mayor consider sending an email to the previous City Administrator Kelly Morgan stating that the LRPMP has been approved by the Oversight Board.

AGENDA ITEM 9, NEW BUSINESS

A. Comments by Council Members on Meetings and Items of interest to Sand City

Council Member Blackwelder commented that he and the City Council Member Kruper were involved in a rescue at the ocean. As he checked the outfall, a raccoon was identified and they were able to call the SPCA who came to the site to take the raccoon aka: "Rocky" to safety.

Vice Mayor Carbone reported that a damaged boat appeared on the shore wrecked into several pieces. Most of the debris was cleaned and removed. Gift wrapping will occur this Friday in collaboration with the Monterey Fire Department for Christmas gift deliveries scheduled to take place on Saturday. She invited the Council to participate and those who are interested should meet at City Hall by 9:00 a.m.

Council Member Todd Kruper reported that at the last meeting of the Monterey County Convention and Visitors Bureau (MCCVB) the sales team reported that 50,000 nights were booked resulting in a 151% increase from last year. The Monterey County was featured on Travel Magazine, and the travel channel reaching over 1 Million viewers in Europe, the United Kingdom, Africa and the Middle East.

The Mayor reported that he was able to speak with Costco's CEO, Craig Jelinek regarding the proposed gas station. It was communicated to him that the City is very proactive and interested in a gas station. A

conversation also occurred with Mr. Orosco of DBO Development regarding the gas station.

B. Consideration of Holding a Future Special Meeting of the City Council regarding Marijuana Ordinance

The Mayor reported that the Vice Mayor will be unavailable for the regular scheduled Council meeting on January 5th. A Special meeting will need to occur on January 4, 2016 to hear the Marijuana Ordinance. The City Attorney reported that a second reading cannot be held at a Special meeting, and may only be heard at a regular meeting. There was consensus of the Council to hold a Special meeting on Monday, January 4, 2016. The second reading of amendments to Title 18 of the Municipal Code will occur at the January 19, 2016 Council meeting.

C. Upcoming Meetings/Events

The City Clerk reported that 85 people have RSVP'd for the Awards Banquet. She also reminded the Council of the upcoming MPCC Annual Business Excellence Awards Luncheon on January 26, 2016

AGENDA ITEM 10, CLOSED SESSION

The City Attorney deemed that there was no need for Closed Session.

AGENDA ITEM 11, ADJOURNMENT

The Mayor wished everyone a very Merry Christmas and Happy New Year.

Motion to adjourn the meeting was made by Council Member Blackwelder, seconded by Council Member Hubler. There was consensus of the Council to adjourn the meeting at 6:33 p.m. to the next Special City Council meeting scheduled for Monday, January 4, 2016 at 5:30 P.M.

Linda K. Scholink, City Clerk

AGENDA ITEM

5B

CITY OF SAND CITY

STAFF REPORT

DECEMBER 17, 2015
(For City Council Review on January 4, 2016)

TO: Mayor and City Council

FROM: Charles Pooler, Associate Planner

SUBJECT: Re-Appointments to Design Review Committee
(Paul Davis, Chuck Lindberg, Todd Kruper)

BACKGROUND

Membership on the Sand City Design Review Committee (DRC) is for 2-year intervals. Three of the five DRC members' terms are due to expire at the end of January. These individuals are Paul Davis Jr. (acting Committee Chairman), Todd Kruper, and Chuck Lindberg. They have served on the Design Review Committee for many years, positively contributing towards the development and revitalization efforts of Sand City. Paul Davis, Todd Kruper, and Chuck Lindberg have expressed their desire to continue on the Committee, and a renewal of their terms.

RECOMMENDATION

Staff recommends the approval of the attached resolution, reappointing Paul Davis Jr., Todd Kruper, and Chuck Lindberg to the Design Review Committee for a 2-year term, to terminate on January 31, 2018.

CITY OF SAND CITY

RESOLUTION SC _____, 2016

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY MAKING
RE-APPOINTMENTS TO THE DESIGN REVIEW COMMITTEE
(Davis, Kruper, & Lindberg)**

WHEREAS, Design Review Committee (DRC) members Paul Davis, Todd Kruper, and Chuck Lindberg, have successfully completed their 2-year term of office on the Sand City DRC; and

WHEREAS, these members have been effective and conscientious reviewers of development projects within Sand City; and

WHEREAS, Paul Davis, Todd Kruper, and Chuck Lindberg have expressed their interest in continuing their membership and participation on the DRC.

NOW, THEREFORE, BE IT RESOLVED by the Sand City Council that Paul Davis, Todd Kruper, and Chuck Lindberg are hereby re-appointed to the DRC for a two (2) year term to January 31, 2018.

PASSED AND ADOPTED by the Sand City Council on this ____ day of January, 2016 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

ATTEST:

David K. Pendergrass

Linda K. Scholink, City Clerk

AGENDA ITEM

5C

CITY OF SAND CITY

STAFF REPORT

DECEMBER 17, 2015
(For City Council Review on January 4, 2016)

TO: Mayor and City Council

FROM: Charles Pooler, Associate Planner

SUBJECT: 90-Day Time Extensions for Use Permits within the South of Tioga Planning District Area

BACKGROUND

The South of Tioga development project was anticipated to have moved forward by the mid 2000s; and interim uses with temporary use permits were to be for a short period of time. Development of this area continues to be indefinite. Uses with temporary approvals have come and gone, but there remain operations with active use permits still subject to ongoing 90-day time extensions. These businesses are Glass Mosaic Tile & Marble, Gachina Landscaping, U-Haul Rentals, John Ley Tree Service, DBO Development's fenced yards along Fir Avenue and East Avenue, Frank Lloyd Jenkins' contractor storage yard, Jump-N-Around, and Red Door Art and Garden Gallery. The use permits for these operations are nearing their next scheduled termination on January 31, 2016. Continuation of these uses are dependant upon the City Council granting another 90-day time extension, in accordance with the terms of those permits.

DISCUSSION

The following are brief summaries and discussion of those permits and businesses within the South of Tioga Planning Area that remain subject to 90-day time extensions:

CUP 450 - Glass Mosaic Tile & Marble - 1855 East Avenue

The City Council issued a conditional use permit (CUP 450) on March 16, 2004 to Fred Cimoli of Glass Mosaic Tile & Marble, to use an approximate 5,300 square foot portion of an existing 10,000 sq.ft. commercial building located at 1855 East Avenue in Sand City (APN 011-135-014). This is a cabinet and counter manufacturer who specializes in cutting marble/granite slabs for counter-tops, and performing woodworking to build cabinets. Stone cutting is also performed for other construction purposes. All items manufactured are for off-site contract job locations. Equipment used on-site includes a marble saw, a polisher, cutting tables, small hand equipment, a forklift, and other miscellaneous fabrication equipment (blades, sandpaper, polishes, etc.).

CUP 503 - U-Haul Rentals - 840 Tioga Avenue

Conditional Use Permit (CUP) 503 was approved on February 19, 2010 for Jennifer Lenz to use the former Waste Management transfer facility at 840 Tioga Avenue in Sand City for the storage and rental of U-Haul moving trucks, trailers and hitches. Ms. Lenz vacated the property in March due to an eviction served by the property owner (DBO Development). The Permit was transferred to Jeff Cecilio in late 2012, with no association to Ms. Lenz. Under Mr. Cecilio's ownership, the site had been cleaned up and trucks parked in an orderly fashion on the site. The Permit was transferred again to Stacy Spung; who worked with Mr. Cecilio, but has now taken over the operation. Occurrences of street parking of U-Haul vehicles continues sporadically. Customer drop-offs of vehicles, when the office is closed, tends to perpetuate this situation. Staff continues to notify the operation to stay on top of the parking.

CUP 508 - John Ley Tree Service - Fir Avenue (No address)

Conditional Use Permit (CUP) 508 was issued by the City Council in August of 2010 to John Ley authorizing the storage of vehicles, equipment, and green waste related to his tree service. This was the former location of Harbor Concrete Services. Items stored include trucks, chippers, stump grinders, and a wood splitter. Miscellaneous equipment is stored within an 8'x8' steel portable shed. A 4'x3' shed is used to store fuel and oil for equipment. Employees meet at the site around 7:30 a.m., Monday through Friday, and occasionally on Saturdays, to pick up vehicles and/or equipment before heading to job sites. No complaints have been submitted on this use.

CUP 527 - Gachina Landscaping - East Avenue (No address)

Conditional Use Permit (CUP) 527 was issued by the City Council in August of 2011 to Gachina Landscaping to utilize an existing fenced property fronting Scott Street and Fir Avenue. The permit authorizes the parking of vehicles and equipment within the yard. Upon initiation of use, there was an issue of employees parking throughout the neighborhood and the nearby dunes; however, this was rectified upon notice by the City. There have been no further complaints filed with the City regarding this use.

CUP 532 - Storage Yard - Fir Avenue (No address)

Conditional Use Permit (CUP) 532 was issued by the City Council in November of 2011 (along with Site Plan Permit 11-03) to PM Landscaping for the establishment and use of a fenced yard at the north end of Fir Avenue for the storage of company vehicles and equipment. In addition to creating the 10,000 square foot fenced yard, the permit authorizes the parking of vehicles and equipment within a 5,000 square foot segment of that yard. In November of 2014, PM Landscaping, along with Kelcon Construction vacated the site. Staff recommends allowing this permit to continue, and be granted a 90-day time extension so that the yard itself can remain. A future use of the 5,000 square foot segment of that yard could then operate under CUP 532 provided that the scope and scale of that operation is the same or less than PM Landscaping.

CUP 540 - DBO Development - Fir Avenue (No address)

Conditional Use Permit (CUP) 540 was issued by the City Council in April of 2012 to DBO Development to establish a perimeter fence with several gate entrances on this

property fronting Fir Avenue, California Avenue, and Beach Avenue with the former Fish Company cannery abutting to the northwest. Establishment of this fencing has relocated substantial parking activity to within the railroad right-of-way along California Avenue. There is only one occupant of one yard in this area; Frank Lloyd Jenkins, a general contractor (see discussion of CUP 562 below). The other yards remain vacant.

CUP 541 - DBO Development - East Avenue (No address)

Conditional Use Permit (CUP) 541 was issued by the City Council in April of 2012 to DBO Development to establish a perimeter fence with gate access on its property fronting East Avenue, between Scott Street and California Avenue. This has reasonably cleaned up the site from the previous fire-wood storage operation. There are currently no uses/occupants authorized for this fenced yard; and future uses are required to obtain their own use permit approval. At this time, no use permit application has been submitted for use of this area.

CUP 562 - Frank Lloyd Jenkins (contractor storage yard) - Calif. Ave. & Fir. Ave.

Conditional Use Permit (CUP) 562 was issued by the City Council in May of 2013 to allow open storage for a general contractor's use within the fenced yard at the corner of Fir Avenue and California Avenue. Mr. Jenkins currently stores construction equipment, vehicles and materials on-site. To date, there have been no observed permit violations, nor have any public complaints been submitted to City Hall regarding this operation.

CUP 576 / CDP 14-01 - Jump-N-Around (recreation) - 880 Tioga Avenue.

Conditional Use Permit (CUP) 576 and Coastal Development Permit 14-01 were issued by the City Council in January of 2014 to allow a family oriented recreational center targeting young children within an existing 9,600 square foot commercial building at 880 Tioga Avenue (portion of APN 011-122-041). As a condition of approval, the use was evaluated after a 90-day initial trial period to observe whether potential concerns of delinquency would occur; of which there were no problems. This operation continues to operate within the conditions of their permit, and no complaints have been submitted to City Hall regarding this operation. The dead landscaping was removed from the site's corner just prior to the West End Celebration event.

CUP 578 - Red Door Arts & Garden Gallery (art-garden gallery) 860 Tioga Avenue.

Conditional Use Permit (CUP 578) was issued by the City Council in January of 2014 to allow an art and garden gallery for the display and sale of paintings, jewelry, sculptures, and wood works of local artists. The gallery space is used for studio production of paintings, photography, digital printing, and wood work. The outside yard area is to sell outdoor garden art, furniture, sculptures, and plants (primarily succulents). The applicant has vastly improved the aesthetics of the property. No parking issues have been observed. Operation has not posed any negative impacts, nor have any complaints been filed with the City regarding this use.

The Monterey Sculpture Center's permit is good until May 31, 2017. New uses approved in 2015 for the South of Tioga area include 1) Advantage Towing (auto storage) at 865 Fir

Avenue, 2) Mike Donnelly of 'Lil Abode' (office) at 825 California Avenue (actually fronting East Avenue), 3) Structural Services (contractor) at 856 Tioga Avenue, 4) Max Kammerer (metal shop) at 836 Afton Avenue, 5) and Karl Schaeffer (art studio) at 1830 California Avenue. Mike Donnelly obtained a building permit over the summer and completed construction on his demonstration model shed on the site. The permits for these uses will expire throughout 2016 and will need time extensions. The expiration dates for these uses are as follows:

- 1) Advantage Towing (CUP 588) - April of 2016
- 2) Mike Donnelly of 'Lil Abode' (CUP 589) - May of 2016
- 3) Structural Services (CUP 590) - May of 2016
- 4) Max Kammerer (CUP 594) - July of 2016
- 5) Karl Schaeffer (CUP 595/CDP15-02) - August of 2016

STAFF RECOMMENDATION

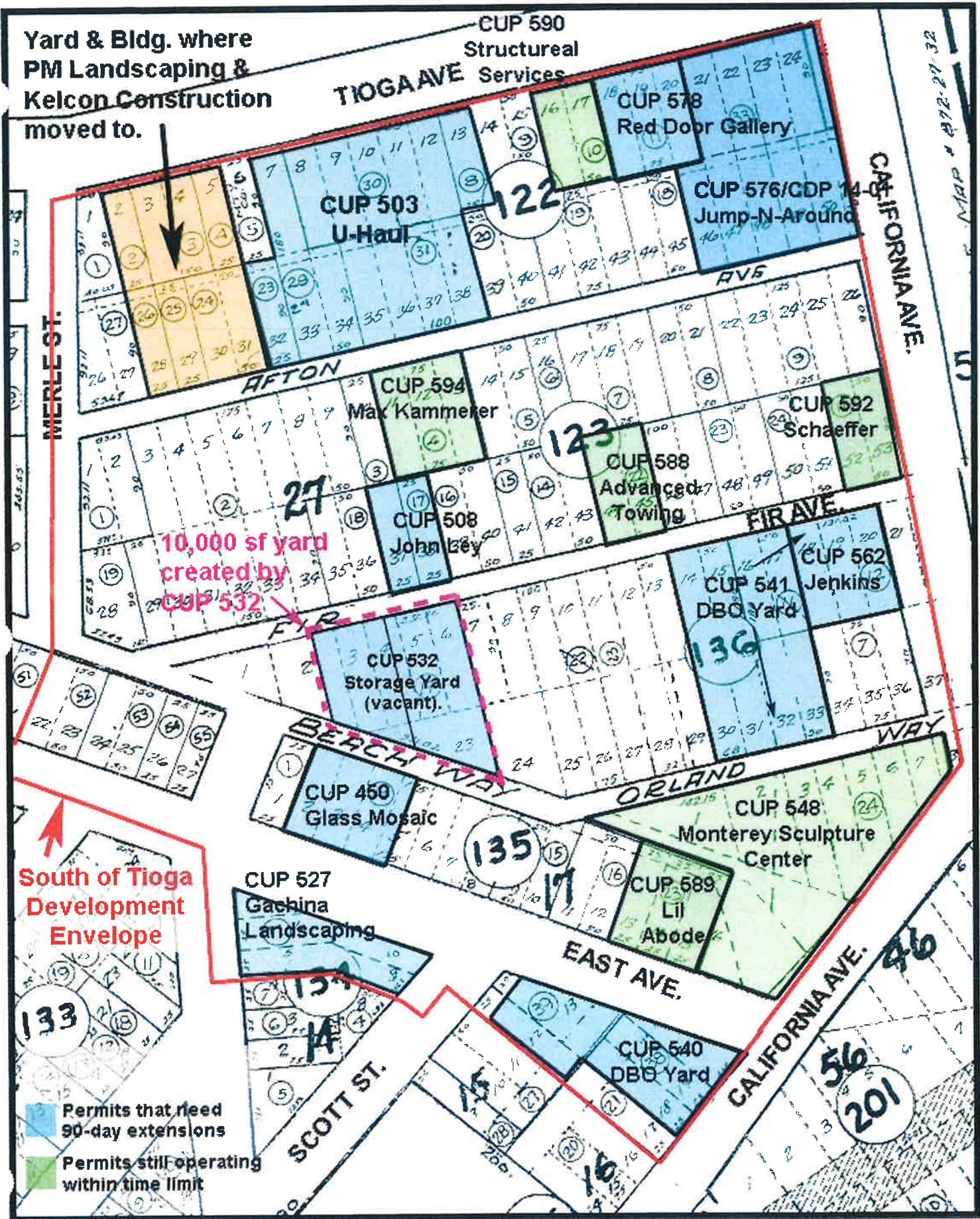
Planning staff recommends **APPROVAL** of the attached resolution, granting a ninety (90) day time extension of Conditional Use Permits 450, 503, 508, 527, 532, 540, 541, 562, 576, and 578 and Coastal Development Permit 14-01 to April 30, 2016.

Exhibits:

A. Location Map of Subject Permits

Attachment:

Draft Resolution to approve time extensions to April 30, 2016.



Temporary Permit Locations

CITY OF SAND CITY

RESOLUTION SC _____, 2016

RESOLUTION OF THE CITY COUNCIL OF SAND CITY APPROVING TIME EXTENSIONS TO APRIL 30, 2016 OF MULTIPLE CONDITIONAL USE PERMITS (CUPs 450, 503, 508, 527, 532, 540, 541, 562, 576 & 578) AND COASTAL DEVELOPMENT PERMIT 14-01 TO CONTINUE AS INTERIM USES AT THEIR RESPECTIVE LOCATIONS WITHIN THE SOUTH OF TIOGA AREA

WHEREAS, various conditional use permits and coastal development permits have been issued by the City Council over the years as temporary interim uses within the South of Tioga Project area until such time as revitalizing development of the area is ready to proceed; and

WHEREAS, Conditional Use Permit 450 is for Glass Mosaic & Tile on East Avenue, Conditional Use Permit 503 for U-Haul Rentals on Tioga Avenue, Conditional Use Permit 508 is for John Ley's Tree Service on Fir Avenue, Conditional Use Permit 527 for Gachina Landscaping on East Avenue, Conditional Use Permit 532 for the establishment of a 10,000 square foot storage yard at the northwest end of Fir Avenue, Conditional Use Permit 540 for DBO Development's fenced yard on the southeast end of Fir Avenue, Conditional Use Permit 541 for DBO Development's fenced yard on East Avenue, Conditional use Permit 562 for Frank Lloyd Jenkins' contractor storage yard, Conditional Use Permit 576/Coastal Development Permit 14-01 for Jump-N-Around at the corner of Tioga and California Avenues, and Conditional Use Permit 578 for Red Door Art and Garden Gallery on Tioga Avenue; and

WHEREAS, the aforementioned land use permits are subject to 90-day time extensions at the discretion of the City Council, with CUPs 450, 503, 508, 527, 532, 540, 541, 562, 576, 578, and CDP 14-01 scheduled to terminate on January 31, 2016; and

WHEREAS, those businesses noted above desire to continue their operations at their current locations within Sand City, and in accordance with the terms of their respective use permits, time extensions of those permits are now necessary for their continued operation; and

WHEREAS, granting temporary continuations of these uses are not foreseen to impede efforts of revitalizing and developing the South of Tioga Planning District, and continuation of these activities as interim uses qualifies as a Categorical Exemption under CEQA (California Environmental Quality Act) Guidelines, Section 15301; and

WHEREAS, the City Council of Sand City has accepted the findings for approving time extensions to April 30, 2016 for CUP 450, CUP 503, CUP 508, CUP 527, CUP 532, CUP 540, CUP 541, CUP 562, CUP 576, CUP 578, and CDP 14-01 as outlined in the City staff report, dated December 17, 2015.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Sand City does hereby grant time extensions for CUP 450, CUP 503, CUP 508, CUP 527, CUP 532, CUP 540, CUP 541, CUP 562, CUP 576, CUP 578, and CDP 14-01 to **April 30, 2016**, subject to the terms and conditions within each of those aforementioned Permits.

PASSED AND ADOPTED, time extensions to **April 30, 2016** for CUP 450, CUP 503, CUP 508, CUP 527, CUP 532, CUP 540, CUP 541, CUP 562 , CUP 576, CUP 578 , and CDP 14-01 by the City Council of Sand City this __ day of January, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED

ATTEST

David K. Pendergrass, Mayor

Linda K. Scholink, City Clerk

AGENDA ITEM

5D

MEMORANDUM

TO: City Council
FROM: Mayor Pendergrass
DATE: December 22, 2015
SUBJECT: FORA Board Meeting, December 11, 2015

The Agenda has been enclosed for reference. FORA Agenda items are often numerous; should you desire to review the items, you may go to the FORA website: www.fora.org.

ITEMS 1 & 2

Procedural.

ITEM 3, CLOSED SESSION

Closed Session topic.

ITEM 4, ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

No reportable actions were taken.

ITEM 5, ROLL CALL

Procedural.

ITEM 6, ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Procedural.

ITEM 7, CONSENT AGENDA

- a. Approve November 2 & November 13, 2015 Board Meeting Minutes
 - b. Approve 2015 Board Meeting Schedule
 - c. Denise Duffy & Associates Contract Amendment
 - d. Surplus II Industrial Hygienist Selection Update
 - e. Memorandum of Understanding with Association of Monterey Bay area Governments for Orthographic Imagery
 - f. Adopt 2016 FORA Legislative Agenda
- All consent items were unanimously approved.*

ITEM 8, BUSINESS ITEMS

- a. Oak Woodland conservation Planning Update
- Unanimously approved.*

- b. MCWD/FORA Facilities Agreement Dispute Resolution/MOA
Unanimously approved.
- c. Water Augmentation Project Planning Process
Information only.
- d. Fort Ord Reuse Authority Prevailing Wage Program Resolution
Continued to January for a second vote due to November unanimous 1st vote.

ITEM 9, PUBLIC COMMENT PERIOD

Procedural.

ITEM 10, EXECUTIVE OFFICER'S REPORT

Items a-h referenced only.

ITEM 11, ITEMS FROM MEMBERS

No comments.

ITEM 12, ADJOURNMENT

Adjourned at 4:20 P.M.



FORT ORD REUSE AUTHORITY

920 2nd Avenue, Suite A, Marina, CA 93933

Phone: (831) 883-3672 | Fax: (831) 883-3675 | www.fora.org

REGULAR MEETING FORT ORD REUSE AUTHORITY BOARD OF DIRECTORS Friday, December 11, 2015 at 2:00 p.m. 910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

AGENDA

RECEIVED

DEC 07 2015

CITY OF SAND CITY

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. CLOSED SESSION

- a. Conference with Legal Counsel-Potential Litigation, Gov. Code Section 54956.9(e)(2): FORA-Marina Coast Water District Dispute Resolution
- b. Conference with Legal Counsel-Potential Litigation, Gov. Code Section 54956.9(e)(2): FORA Prevailing Wage Issues/Exposure

4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

5. ROLL CALL

6. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

7. CONSENT AGENDA

- a. Approve November 2 and November 13, 2015 Board Meeting Minutes (pg. 1-7) ACTION
- b. Approve 2016 Board Meeting Schedule (pg. 8) ACTION
- c. Denise Duffy & Associates Contract Amendment (pg. 9-11) INFORMATION
- d. Surplus II Industrial Hygienist Selection Update (pg. 12-13) INFORMATION
- e. Memorandum of Understanding with Association of Monterey Bay (pg. 14-20) INFORMATION
Area Governments for Orthographic Imagery
- f. Adopt 2016 FORA Legislative Agenda (pg. 21-28) INFORMATION/ACTION

8. BUSINESS ITEMS

- a. Oak Woodland Conservation Planning Update (pg. 29-43) INFORMATION/ACTION
- b. MCWD/FORA Facilities Agreement Dispute Resolution / MOA (pg.44) INFORMATION/ACTION

- c. Water Augmentation Project Planning Process (pg. 45-46) INFORMATION/ACTION
- d. Fort Ord Reuse Authority Prevailing Wage Program Resolution (pg. 47-58) INFORMATION/ACTION

9. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Board on matters within its jurisdiction, but not on this agenda, may do so for up to 3 minutes. Comments on agenda items are heard under the item.

10. EXECUTIVE OFFICER'S REPORT

INFORMATION

- a. Outstanding Receivables (pg. 59)
- b. Habitat Conservation Plan Update (pg. 60)
- c. Administrative Committee (pg. 61-63)
- d. Finance Committee (pg.64)
- e. Post Reassessment Advisory Committee (pg. 65-67)
- f. Regional Urban Design Guidelines Task Force (pg. 68-70)
- g. Travel Report (pg. 71)
- h. Public Correspondence to the Board (pg. 72)

11. ITEMS FROM MEMBERS

12. ADJOURNMENT

NEXT BOARD MEETING: January 8, 2016

Persons seeking disability related accommodations should contact FORA 48 hrs prior to the meeting. This meeting is recorded by Access Monterey Peninsula and televised Sundays at 9 a.m. and 1 p.m. on Marina/Peninsula Chanel 25. The video and meeting materials are available online at www.fora.org.

AGENDA ITEM

5E

A decorative border surrounds the page, featuring various floral motifs, butterflies, and swirling patterns in shades of pink, purple, and red.

CONFIRMATION OF FUTURE DATES FOR 2016 SAND CITY EVENTS

Mayors Luncheon
Friday, March 4, 2016

City Barbeque
Saturday, May 21, 2016

West End Celebration
Friday, August 26, 2016 – Kick off Concert
Saturday, August 27, 2016
Sunday, August 28, 2016

Tree Lighting Ceremony
Friday, December 2, 2016

Annual Awards Banquet
Friday, December 9, 2016

Employee Luncheon
Friday, December 16, 2016

AGENDA ITEM

5F

Memo

To: City Council
From: Todd Bodem, City Administrator
Date: December 28 2015
Subject: Review of City Contribution/Donation

Enclosed is a request from one organization for support and contribution for Fiscal Year 2016-17. After reviewing this request, the following donation is recommended:

The Panetta Institute for Public Policy - \$500

If any Council member wants to discuss this request or to propose a different contribution, then this item should be pulled from the consent calendar for discussion with the full Council.

The following finding is specified in the annual City/Successor Agency Budget: *"The Sand City Council finds that it is a valid public purpose and in the best interest of this small city to support and participate in various community programs and activities of the larger Monterey Peninsula area. This support includes not only the City's financial contributions outlined in the attached pages but also the active involvement/participation by council members, city staff, Sand City businesses and citizens. This is Sand City's pledge and commitment of support for the larger regional community in which it is an active and dedicated member".*



The Panetta Institute for Public Policy

December 11, 2015

RECEIVED

DEC 18 2015

The Hon. David Pendergrass
City of Sand City
City Hall
One Sylvan Park
Sand City, California 93955

CITY OF SAND CITY

Dear Dave:

With a big election year coming up, two sets of presidential candidates are crisscrossing the country, vigorously comparing their records and positions at rallies, town meetings and televised debates.

This grueling process tests the candidates' rhetorical skills and personal resilience, but when the dust has settled a year from now, the winner is going to face an even greater challenge: how to govern ... how to break the political gridlock in Washington. The response to this challenge will determine whether the new president and new Congress actually take action on public policy or do nothing.

Our mission here at The Panetta Institute for Public Policy is to help all of us to understand what it takes to govern in our democracy -- by preparing citizens for the real-life decisions of self-government and equipping future leaders for the bipartisan negotiation and compromise that our constitutional system requires.

Our democracy cannot succeed without informed and committed public engagement. And the Panetta Institute cannot succeed without your personal support. We're writing today to ask again for your help.

Thanks to friends like you, we've built a number of highly successful programs here since we founded this Institute eighteen years ago. Three of them focus specifically on the next generation of American leaders:

- In June of each year, student government officers from twenty-six California universities gather here for our Leadership in Public Service course. They meet with national, state and local officials, plus scholars, journalists and community leaders, and engage in exercises that improve their leadership skills and their ability to build consensus on difficult issues. Many have gone on to careers in public service and have described this course as a turning point their lives.
- Our annual Congressional Internship Program brings in another set of students from those same twenty-six campuses. Arriving here in early August, they undergo an intensive two-week orientation course before being sent on to Washington to work for members of the California congressional delegation. There they learn firsthand how the legislative process works, and also meet with a bipartisan array of leaders and policy thinkers to discuss major issues. To

ensure that students of all backgrounds can participate, the Institute covers all costs of travel to and from Washington, along with lodging and support for living expenses.

- Our Policy Research Fellows program allows upper-division law students the opportunity to come here for a semester of research on a wide range of issues. During this term, for example, our Fellows are drafting a legislative proposal that would establish a program of voluntary national service – an idea inspired by the Institute’s spring survey, which found this year that nearly two-thirds of U.S. college students would be interested in participating in such a program in exchange for help with their college tuition.

Meanwhile, the Panetta Institute continues its outreach to the broader community to promote a more informed and engaged electorate:

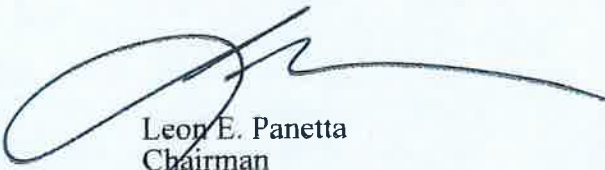
- Our annual Leon Panetta Lecture Series brings top leaders and policy experts from both major parties to the Monterey Peninsula to address important issues, always making sure that the younger generation will be included in the discussion. In addition to their evening presentations to the series subscribers, our speakers meet in afternoon sessions with students from area high schools, colleges and military installations to answer their questions on the scheduled topics.
- And the Monterey County Reads program, which the Panetta Institute has coordinated since 1997, continues to recruit and train volunteers from the area’s schools, businesses, military bases and community organizations and place them in participating elementary schools to work with children who are having trouble with their reading. Both the volunteers and the children they help come away from the experience better equipped and motivated to participate in the civic life of our country.

All of these efforts contribute to a stronger democracy – to the ability of citizens to evaluate the claims and proposals the candidates make and to the ability of future leaders to make good on their promises and actually get things done.

And all of them depend on the ongoing support of thoughtful individuals like you. So please give now, as generously as you can, to The Panetta Institute for Public Policy. Your gift is tax-deductible and will be put to immediate and effective use.

With thanks in advance for any amount you may be able to give ...

Sincerely,



Leon E. Panetta
Chairman



Sylvia M. Panetta
Co-Chair and CEO

LEP/SMP:jf/c
Enclosures

AGENDA ITEM

7A

CITY OF SAND CITY

STAFF REPORT

(For City Council Consideration on January 4, 2016)

TO: Mayor and City Council

FROM: Charles Pooler, Associate Planner

SUBJECT: Draft Ordinance to Prohibit Medical Marijuana Dispensaries and Marijuana Cultivation, Distribution, and Sales in All Zoning Districts

BACKGROUND

The Compassionate Use Act ("CUA"), codified at California Health and Safety Code Section 11362.5 (see Exhibit A), was approved by California voters in 1996, which legalized the use of marijuana for specific medical purposes in California. Thereafter, the Medical Marijuana Program Act ("MMP") of 2003 (Cal. Health and Safety Code Section 11362.7) (see Exhibit B) clarified the scope of the Compassionate Use Act and allows local governments to adopt and enforce rules concerning the distribution of medical marijuana consistent with the Medical Marijuana Program Act. On October 5, 2010, the City Council of Sand City unanimously approved Ordinance 10-07, adopting Municipal Code Chapter 18.69 prohibiting the sale of medical marijuana within any zoning district within the municipal boundaries of the City. The City Council found that such use was contrary to the general public's health, safety, and welfare.

On October 9, 2015, Governor Brown signed three bills into law (AB 266, AB243, and SB 643), collectively known as the Medical Marijuana Regulation and Safety Act (hereafter "MMRSA"), establishing a State licensing scheme for commercial medical marijuana uses while protecting local control by requiring all such businesses to have a local license or permit to operate in addition to a State license. The MMRSA allows local jurisdictions to completely prohibit commercial marijuana activities, including sales, cultivation, production, and distribution; however, those regulations must be in effect by March 1, 2016, or the State will become the sole licensing authority for those uses, negating the need of a City license.

DISCUSSION

The MMRSA allows the City to completely prohibit commercial medical marijuana activities; however, the City's Municipal Code must be revised to address the regulatory language contained in the MMRSA. The Ordinance now being presented for City Council consideration replaces Section 18.69.010 of the Sand City Municipal Code, originally enacted by Council Ordinance 10-07, expanding the prohibited activities to include cultivation and all commercial marijuana activities, including commercial

deliveries, processing and distribution in addition to the establishment of fixed or mobile dispensaries.

Public Notification:

Notification of the public hearing was published in 'The Herald', a newspaper publication of local and regional distribution. As of the date of preparing this report, staff has not received any public comment in regards to this issue.

CEQA:

The proposed Ordinance is exempt from CEQA (California Environmental Quality Act) pursuant to CEQA Guidelines Section 15060(c)(2) when an activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and 2) CEQA Guidelines Section 15060(c)(3) when the activity is not a project as defined in Section 15378 of the CEQA Guidelines. Adoption of the proposed Ordinance to prohibit a specific land use will have no possibility of having a significant effect on the environment; therefore, no further environmental review is necessary in accordance with Section 15061(b)(3) of the CEQA Guidelines

RECOMMENDATION

Staff recommends the City Council take action to **APPROVE** the draft Ordinance as presented. The ordinance would go into effect 30-days following its second reading (2nd public hearing).

Exhibits:

- A. Health & Safety Code Section 11362.5 - Compassionate Use Act of 1996
- B. Health & Safety Code Section 11362.7 - Medical Marijuana Program
- C. Assembly Bill, Section 19300.5 - Definitions

Attachments:

Draft Ordinance (for first reading) to Amend Section 18.69.010 of the Sand City Municipal Code



California

LEGISLATIVE INFORMATION

Code: Select Code ▾ Section:

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HEALTH AND SAFETY CODE - HSC

DIVISION 10. UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651] (*Division 10 repealed and added by Stats. 1972, Ch. 1407.*)

CHAPTER 6. Offenses and Penalties [11350 - 11392] (*Chapter 6 added by Stats. 1972, Ch. 1407.*)

ARTICLE 2. Marijuana [11357 - 11362.9] (*Article 2 added by Stats. 1972, Ch. 1407.*)

11362.5. (a) This section shall be known and may be cited as the **Compassionate Use Act of 1996**.

(b) (1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

(*Added November 5, 1996, by initiative Proposition 215, Sec. 1.*)

EXHIBIT A

038

Code: Select Code ▾ Section:

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HEALTH AND SAFETY CODE - HSC

DIVISION 10. UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651] (*Division 10 repealed and added by Stats. 1972, Ch. 1407.*)

CHAPTER 6. Offenses and Penalties [11350 - 11392] (*Chapter 6 added by Stats. 1972, Ch. 1407.*)

ARTICLE 2.5. Medical Marijuana Program [11362.7 - 11362.83] (*Article 2.5 added by Stats. 2003, Ch. 875, Sec. 2.*)

11362.7. For purposes of this article, the following definitions shall apply:

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

(b) "Department" means the State Department of Health Services.

(c) "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.

(d) "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

(1) In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

(f) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

(g) "Identification card" means a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

(h) "Serious medical condition" means all of the following medical conditions:

- (1) Acquired immune deficiency syndrome (AIDS).
- (2) Anorexia.
- (3) Arthritis.
- (4) Cachexia.
- (5) Cancer.
- (6) Chronic pain.
- (7) Glaucoma.
- (8) Migraine.
- (9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.

EXHIBIT B

039

- (10) Seizures, including, but not limited to, seizures associated with epilepsy.
- (11) Severe nausea.
- (12) Any other chronic or persistent medical symptom that either:
- (A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).
- (B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health.
- (i) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.
- (Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)*

- 11362.71.** (a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.
- (2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.
- (b) Every county health department, or the county's designee, shall do all of the following:
- (1) Provide applications upon request to individuals seeking to join the identification card program.
 - (2) Receive and process completed applications in accordance with Section 11362.72.
 - (3) Maintain records of identification card programs.
 - (4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).
 - (5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.
- (c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes marijuana.
- (d) The department shall develop all of the following:
- (1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.
 - (2) Application forms that shall be issued to requesting applicants.
 - (3) An identification card that identifies a person authorized to engage in the medical use of marijuana and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.
- (e) No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in an amount established pursuant to this article, unless there is reasonable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.
- (f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.
- (Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)*

- 11362.715.** (a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:
- (1) The name of the person, and proof of his or her residency within the county.
 - (2) Written documentation by the attending physician in the person's medical records stating that the person has been diagnosed with a serious medical condition and that the medical use of marijuana is appropriate.
 - (3) The name, office address, office telephone number, and California medical license number of the person's attending physician.
 - (4) The name and the duties of the primary caregiver.
 - (5) A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.
- (b) If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person's legal representative, including, but not limited to, any of the following:
- (1) A conservator with authority to make medical decisions.

(2) An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.

(3) Any other individual authorized by statutory or decisional law to make medical decisions for the person.

(c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.

(d) The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.72. (a) Within 30 days of receipt of an application for an identification card, a county health department or the county's designee shall do all of the following:

(1) For purposes of processing the application, verify that the information contained in the application is accurate. If the person is less than 18 years of age, the county health department or its designee shall also contact the parent with legal authority to make medical decisions, legal guardian, or other person or entity with legal authority to make medical decisions, to verify the information.

(2) Verify with the Medical Board of California or the Osteopathic Medical Board of California that the attending physician has a license in good standing to practice medicine or osteopathy in the state.

(3) Contact the attending physician by facsimile, telephone, or mail to confirm that the medical records submitted by the patient are a true and correct copy of those contained in the physician's office records. When contacted by a county health department or the county's designee, the attending physician shall confirm or deny that the contents of the medical records are accurate.

(4) Take a photograph or otherwise obtain an electronically transmissible image of the applicant and of the designated primary caregiver, if any.

(5) Approve or deny the application. If an applicant who meets the requirements of Section 11362.715 can establish that an identification card is needed on an emergency basis, the county or its designee shall issue a temporary identification card that shall be valid for 30 days from the date of issuance. The county, or its designee, may extend the temporary identification card for no more than 30 days at a time, so long as the applicant continues to meet the requirements of this paragraph.

(b) If the county health department or the county's designee approves the application, it shall, within 24 hours, or by the end of the next working day of approving the application, electronically transmit the following information to the department:

(1) A unique user identification number of the applicant.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

(c) The county health department or the county's designee shall issue an identification card to the applicant and to his or her designated primary caregiver, if any, within five working days of approving the application.

(d) In any case involving an incomplete application, the applicant shall assume responsibility for rectifying the deficiency. The county shall have 14 days from the receipt of information from the applicant pursuant to this subdivision to approve or deny the application.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.735. (a) An identification card issued by the county health department shall be serially numbered and shall contain all of the following:

(1) A unique user identification number of the cardholder.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

(4) A 24-hour, toll-free telephone number, to be maintained by the department, that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of the card.

(5) Photo identification of the cardholder.

(b) A separate identification card shall be issued to the person's designated primary caregiver, if any, and shall include a photo identification of the caregiver.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.74. (a) The county health department or the county's designee may deny an application only for any of the following reasons:

(1) The applicant did not provide the information required by Section 11362.715, and upon notice of the deficiency pursuant to subdivision (d) of Section 11362.72, did not provide the information within 30 days.

(2) The county health department or the county's designee determines that the information provided was false.

(3) The applicant does not meet the criteria set forth in this article.

(b) Any person whose application has been denied pursuant to subdivision (a) may not reapply for six months from the date of denial unless otherwise authorized by the county health department or the county's designee or by a court of competent jurisdiction.

(c) Any person whose application has been denied pursuant to subdivision (a) may appeal that decision to the department. The county health department or the county's designee shall make available a telephone number or address to which the denied applicant can direct an appeal.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.745. (a) An identification card shall be valid for a period of one year.

(b) Upon annual renewal of an identification card, the county health department or its designee shall verify all new information and may verify any other information that has not changed.

(c) The county health department or the county's designee shall transmit its determination of approval or denial of a renewal to the department.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.755. (a) The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number. Each county health department or the county's designee may charge an additional fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.

(b) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.76. (a) A person who possesses an identification card shall:

(1) Within seven days, notify the county health department or the county's designee of any change in the person's attending physician or designated primary caregiver, if any.

(2) Annually submit to the county health department or the county's designee the following:

(A) Updated written documentation of the person's serious medical condition.

(B) The name and duties of the person's designated primary caregiver, if any, for the forthcoming year.

(b) If a person who possesses an identification card fails to comply with this section, the card shall be deemed expired. If an identification card expires, the identification card of any designated primary caregiver of the person shall also expire.

(c) If the designated primary caregiver has been changed, the previous primary caregiver shall return his or her identification card to the department or to the county health department or the county's designee.

(d) If the owner or operator or an employee of the owner or operator of a provider has been designated as a primary caregiver pursuant to paragraph (1) of subdivision (d) of Section 11362.7, of the qualified patient or person with an identification card, the owner or operator shall notify the county health department or the county's designee, pursuant to Section 11362.715, if a change in the designated primary caregiver has occurred.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. However, nothing in this section shall authorize the individual to smoke or otherwise consume marijuana unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit.

(b) Subdivision (a) shall apply to all of the following:

(1) A qualified patient or a person with an identification card who transports or processes marijuana for his or her own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away marijuana for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

(3) Any individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section

11359 or 11360.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.768. (a) This section shall apply to individuals specified in subdivision (b) of Section 11362.765.

(b) No medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana pursuant to this article shall be located within a 600-foot radius of a school.

(c) The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medical marijuana cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.

(d) This section shall not apply to a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider that is also a licensed residential medical or elder care facility.

(e) This section shall apply only to a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider that is authorized by law to possess, cultivate, or distribute medical marijuana and that has a storefront or mobile retail outlet which ordinarily requires a local business license.

(f) Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider.

(g) Nothing in this section shall preempt local ordinances, adopted prior to January 1, 2011, that regulate the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider.

(h) For the purposes of this section, "school" means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

(Added by Stats. 2010, Ch. 603, Sec. 1. Effective January 1, 2011.)

11362.77. (a) A qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature marijuana plants per qualified patient.

(b) If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs.

(c) Counties and cities may retain or enact medical marijuana guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a).

(d) Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of marijuana under this section.

(e) The Attorney General may recommend modifications to the possession or cultivation limits set forth in this section. These recommendations, if any, shall be made to the Legislature no later than December 1, 2005, and may be made only after public comment and consultation with interested organizations, including, but not limited to, patients, health care professionals, researchers, law enforcement, and local governments. Any recommended modification shall be consistent with the intent of this article and shall be based on currently available scientific research.

(f) A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of marijuana consistent with this article.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.775. Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.78. A state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.785. (a) Nothing in this article shall require any accommodation of any medical use of marijuana on the property or premises of any place of employment or during the hours of employment or on the property or premises of any jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

(b) Notwithstanding subdivision (a), a person shall not be prohibited or prevented from obtaining and submitting the written information and documentation necessary to apply for an identification card on the basis that the

person is incarcerated in a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained.

(c) Nothing in this article shall prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has an identification card, to use marijuana for medical purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

(d) Nothing in this article shall require a governmental, private, or any other health insurance provider or health care service plan to be liable for any claim for reimbursement for the medical use of marijuana.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.79. Nothing in this article shall authorize a qualified patient or person with an identification card to engage in the smoking of medical marijuana under any of the following circumstances:

- (a) In any place where smoking is prohibited by law.
- (b) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence.
- (c) On a schoolbus.
- (d) While in a motor vehicle that is being operated.
- (e) While operating a boat.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.795. (a) (1) Any criminal defendant who is eligible to use marijuana pursuant to Section 11362.5 may request that the court confirm that he or she is allowed to use medical marijuana while he or she is on probation or released on bail.

(2) The court's decision and the reasons for the decision shall be stated on the record and an entry stating those reasons shall be made in the minutes of the court.

(3) During the period of probation or release on bail, if a physician recommends that the probationer or defendant use medical marijuana, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of medical marijuana.

(4) The court's consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(b) (1) Any person who is to be released on parole from a jail, state prison, school, road camp, or other state or local institution of confinement and who is eligible to use medical marijuana pursuant to Section 11362.5 may request that he or she be allowed to use medical marijuana during the period he or she is released on parole. A parolee's written conditions of parole shall reflect whether or not a request for a modification of the conditions of his or her parole to use medical marijuana was made, and whether the request was granted or denied.

(2) During the period of the parole, where a physician recommends that the parolee use medical marijuana, the parolee may request a modification of the conditions of the parole to authorize the use of medical marijuana.

(3) Any parolee whose request to use medical marijuana while on parole was denied may pursue an administrative appeal of the decision. Any decision on the appeal shall be in writing and shall reflect the reasons for the decision.

(4) The administrative consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.8. No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11362.72. However, this section shall not apply to acts performed by a physician relating to the discussion or recommendation of the medical use of marijuana to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.81. (a) A person specified in subdivision (b) shall be subject to the following penalties:

(1) For the first offense, imprisonment in the county jail for no more than six months or a fine not to exceed one thousand dollars (\$1,000), or both.

(2) For a second or subsequent offense, imprisonment in the county jail for no more than one year, or a fine not to exceed one thousand dollars (\$1,000), or both.

(b) Subdivision (a) applies to any of the following:

(1) A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining an identification card.

(2) A person who steals or fraudulently uses any person's identification card in order to acquire, possess,

cultivate, transport, use, produce, or distribute marijuana.

(3) A person who counterfeits, tampers with, or fraudulently produces an identification card.

(4) A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program.

(c) In addition to the penalties prescribed in subdivision (a), any person described in subdivision (b) may be precluded from attempting to obtain, or obtaining or using, an identification card for a period of up to six months at the discretion of the court.

(d) In addition to the requirements of this article, the Attorney General shall develop and adopt appropriate guidelines to ensure the security and nondiversion of marijuana grown for medical use by patients qualified under the Compassionate Use Act of 1996.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.82. If any section, subdivision, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion thereof.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.83. Nothing in this article shall prevent a city or other local governing body from adopting and enforcing any of the following:

(a) Adopting local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective.

(b) The civil and criminal enforcement of local ordinances described in subdivision (a).

(c) Enacting other laws consistent with this article.

(Amended by Stats. 2011, Ch. 196, Sec. 1. Effective January 1, 2012. Note: Section 11362.9 is in Article 2, following Section 11362.5.)

19300.5. For purposes of this chapter, the following definitions shall apply:

- (a) "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.
- (b) "Applicant," for purposes of Article 4 (commencing with Section 19319), means the following:
- (1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.
 - (2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.
 - (3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.
- (c) "Batch" means a specific quantity of medical cannabis or medical cannabis products that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.
- (d) "Bureau" means the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.
- (e) "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.
- (f) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- (g) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- (h) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.
- (i) "Certificate of accreditation" means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.
- (j) "Chief" means Chief of the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.
- (k) "Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.
- (l) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (m) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.
- (n) "Dispensary" means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.
- (o) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- (p) "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.

- (q) "Distributor" means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.
- (r) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (s) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.
- (t) "Fund" means the Medical Marijuana Regulation and Safety Act Fund established pursuant to Section 19351.
- (u) "Identification program" means the universal identification certificate program for commercial medical cannabis activity authorized by this chapter.
- (v) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.
- (w) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the license.
- (x) "Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.
- (y) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.
- (z) "Testing laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:
- (1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.
 - (2) Registered with the State Department of Public Health.
- (aa) "Transporter" means a person issued a state license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between facilities that have been issued a state license pursuant to this chapter.
- (ab) "Licensee" means a person issued a state license under this chapter to engage in commercial cannabis activity.
- (ac) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.
- (ad) "Lot" means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, "lot" means a specifically identified amount produced in a unit of time or a quantity in a manner that ensures its having uniform character and quality within specified limits.
- (ae) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.
- (af) "Manufacturing site" means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.
- (ag) "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in

California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(ah) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

(ai) "Permit," "local license," or "local permit" means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

(aj) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

(ak) "State license," "license," or "registration" means a state license issued pursuant to this chapter.

(al) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.

(am) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

CITY OF SAND CITY

ORDINANCE _____ (2016)

AN ORDINANCE OF THE CITY OF SAND CITY TO AMEND SECTION 18.69 OF TITLE 18 (ZONING ORDINANCE) OF THE SAND CITY MUNICIPAL CODE PROHIBITING MEDICAL MARIJUANA DISPENSARIES, CULTIVATION OF MARIJUANA, COMMERCIAL MARIJUANA DELIVERIES, AND ALL COMMERCIAL MEDICAL MARIJUANA ACTIVITIES IN SAND CITY

WHEREAS, in 1996 the voters of the State of California approved Proposition 215, the Compassionate Use Act of 1996 (Cal. Health and Safety Code Section 11362.5 *et seq.*), the intent of which was to enable seriously ill residents of California to obtain and use marijuana for medical purposes; and

WHEREAS, in 2003, the California Legislature enacted the Medical Marijuana Program Act (“MMP”) (Cal. Health and Safety Code Section 11362.7, *et seq.*) to clarify the scope of the Compassionate Use Act of 1996; and

WHEREAS, in 2009, the City Council adopted an urgency interim ordinance imposing a temporary ban on the establishment of medical marijuana dispensaries in Sand City; and

WHEREAS, on October 5, 2010, the City Council of Sand City unanimously approved Ordinance 10-07, adopting Municipal Code Chapter 18.69 prohibiting medical marijuana dispensaries and the sale of medical marijuana within any zoning district within the municipal boundaries of the City of Sand City; and

WHEREAS, the California Supreme Court in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, held that neither the Compassionate Use Act nor the Medical Marijuana Program expressly or impliedly preempt the authority of California counties or cities, under their police powers, to allow, restrict, limit, or entirely exclude facilities that distribute medical marijuana and that cities and counties may adopt local ordinances that regulate the location, operation or establishment of medical marijuana cooperatives or collectives, and to enforce such ordinances; and

WHEREAS, in *Maral v. City of Live Oak* (2014) 221 Cal.App.4th 975, the appellate court held that the Compassionate Use Act and the Medical Marijuana Program Act do not preempt a city’s police power to prohibit marijuana cultivation; and

WHEREAS, on October 9, 2015, Governor Brown signed three bills into law (AB 266, AB243, and SB 643), collectively are known as the Medical Marijuana Regulation and Safety Act (the “Act”); and

WHEREAS, no medical marijuana businesses (dispensary sales, delivery services, cultivation, or transport) may operate in the City unless it has both a State license and approval by the City; and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. Section 901 et seq., classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States of America, and that has not been accepted as safe for use under medical supervision; and further, the Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute, dispense, or possess with intent to manufacture, distribute or dispense marijuana; and

WHEREAS, it is recognized by the 'Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use' that marijuana cultivation or other concentration of marijuana in any location or premises without adequate security increased the risk that surrounding homes and/or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, the limited immunity from specified California state marijuana laws provided by the Compassionate Use Act and the Medical Marijuana Program Act does not confer a land use right or the right to create or maintain a public nuisance; and

WHEREAS, the California Constitution grants charter cities the power to make and enforce all ordinances and regulations with respect to municipal affairs; and thus, the City of Sand City, through its Council, can and may exercise all powers necessary to ensure the general welfare of its inhabitants; and

WHEREAS, the goals, policies, and objectives of the Sand City General Plan call for the elimination of urban blight and reinvestment of public and private funds to revitalize Sand City, whereby the establishment of marijuana dispensaries, sales, cultivation, and/or distribution activities and/or facilities can potentially undermine such policies by inhibiting private reinvestment in the vicinity of medical and/or recreational marijuana sales, cultivation and/or distribution activities and facilities; and

WHEREAS, The City Council finds that medical marijuana activities, as allowed by the Compassionate Use Act and Medical Marijuana Program Act, can adversely affect the health, safety, and welfare of City residents and visitors; justifying a city-wide prohibition as proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, high water usage, and malodorous odors that may result from such activities; and

WHEREAS, the City hereby finds it necessary at this time to amend Section 18.69.010 of the Sand City Municipal Code in extend the existing prohibit on medical

marijuana dispensaries and sales to include the prohibition of cultivation, storage, processing, production, and distribution of marijuana; and

WHEREAS, there is no feasible alternative other than adoption of this Ordinance that will satisfactorily mitigate or avoid those previously identified impacts to the public health, safety, and welfare; and

WHEREAS, this Ordinance is exempt from CEQA (California Environmental Quality Act) pursuant to CEQA Guidelines Section 15060(c)(2) when an activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and 2) CEQA Guidelines Section 15060(c)(3) when the activity is not a project as defined in Section 15378 of the CEQA Guidelines; whereby the City Council finds that there is no possibility that the adoption of these regulations could have a significant effect on the environment; therefore, no further environmental review is necessary in accordance with Section 15061(b)(3) of the CEQA Guidelines; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Sand City as follows:

SECTION 1: Adoption of Recitals. The foregoing recitals are true and correct and are hereby adopted by the City Council.

SECTION 2: Section 18.69.010 of the Sand City Municipal Code is hereby amended to read in its entirety to read as follows:

“Section 18.69.010 Medical Marijuana Dispensaries, Delivery, Cultivation and Sales.

A. Medical Marijuana Dispensaries Prohibited. Medical marijuana dispensaries are prohibited in the City. No person shall locate, operate, own, suffer, allow to be operated or aid, abet, lease to or assist in the operation of any fixed or mobile medical marijuana dispensary within the City in any zoning district. The operation of a medical marijuana dispensary in the City shall constitute a public nuisance.

(1) “Medical marijuana dispensary” shall mean any facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical cannabis and medical cannabis products as part of a retail sale.

B. Commercial Marijuana Activities Prohibited. Commercial marijuana or cannabis activities of all types, including the cultivation, possession,

manufacture, processing, storing, laboratory testing, labeling, transport, deliver, dispensing, transfer, distribution or sale of medical cannabis or medical cannabis products all as defined under California Business and Professions Code section 19300.5, as the same may be amended from time to time, are expressly prohibited in all zones and specific plan areas of the City. No person shall establish, operate, conduct or allow a commercial cannabis activity anywhere within the City.

C. Medical Marijuana Delivery Prohibited. Deliveries of medical marijuana and medical cannabis products are prohibited.

(1) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products.

D. Medical Marijuana Cultivation Prohibited. Marijuana cultivation by any person or business, including but not limited to primary caregivers, qualified patients, collectives, cooperatives, or dispensaries, is prohibited.

(1) "Cultivation" shall include planting, growing, harvesting, drying, curing, grading, trimming, or other related processing method of cannabis.

E. Enforcement. The activities prohibited by this Section 18.69.010 are hereby declared to be a public nuisance. The City Attorney shall, upon order of the Council, immediately commence a civil action or proceeding for the abatement and removal and enjoyment of any such prohibited activity. In any civil action to enforce the provisions of this Section 18.69.010, where the City seeks recovery of its costs and attorneys' fees, the prevailing party shall be entitled to recover from the losing party its reasonable costs including, but not limited to attorneys' fees, the costs of investigation, court costs, and the costs of monitoring compliance with any order or judgement entered in such an action. Upon entry of a second or subsequent civil judgement within a two year period for abatement of medical marijuana dispensary, the court may order the property owner to pay treble the costs of abatement, except as otherwise provided by State Law.

SECTION 3: **Severance.** All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: **Effective Date.** This Ordinance shall become effective thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SAND CITY, this ____ day of January, 2016 by the following vote:

**AYES:
NOES:
ABSTAIN
ABSENT:**

APPROVED:

David K. Pendergrass, Mayor

ATTEST:

Linda K. Scholink, City Clerk

AGENDA ITEM

9A

CITY OF SAND CITY

STAFF REPORT

DECEMBER 17, 2015

(For City Council Review on January 4, 2016)

TO: Mayor and City Council

FROM: Charles Pooler, Associate Planner

SUBJECT: Agreement between Sand City and the California Coastal Commission regarding the payment and expenditure of In-Lieu Parking fees for the Monterey Bay Shores Project

BACKGROUND & DISCUSSION

The California Coastal Commission issued Coastal Development Permit (CDP) A-3-SNC-98-114 for the Monterey Bay Shores (MBS) coastal resort project in November of 2015. Condition No. 5(h) of the CDP (see Exhibit A) requires the MBS project to "...provide the construction and development of free public beach access parking spaces... no...further than one-half mile from the MBS site." Condition No. 5(h) further requires that if the project cannot provide the required number of public beach access parking spaces, then MBS is required to make payment to the City of Sand City's in-lieu parking fee fund at the current rate for the number of spaces that are deemed by the Coastal Commission's Executive Director to be infeasible, and that such payment shall be specifically earmarked, reserved, and only allowed to be used for providing and maintaining public beach access parking. It has been determined by the Coastal Commission's Executive Director of the Coastal Commission that the MBS project will be deficient thirty-five (35) of these public parking spaces.

At the request of Ed Ghandour earlier this year, City staff did put in a request to the manager of the Edgewater Shopping Center to inquire if any of the parcel owners in that shopping center were willing to dedicate 35 parking spaces in perpetuity for public beach access parking. There were no willing parties; which leaves the City's in-lieu parking fee the only practical option at this time for MBS' compliance with CDP Condition 5(h).

An agreement was drafted by the Coastal Commission staff to address the payment of the parking in-lieu fee to the City in accordance with the terms of CDP approval for the MBS project. This draft agreement was reviewed and edited by the City Attorney; and those modifications were found acceptable by the Commission's legal counsel. That version is attached to the draft Resolution being presented for City Council consideration. This agreement establishes the terms of how the in-lieu fees are paid (consistent with the City's current municipal code requirements) by MBS, how those funds will be held separately from the overall general in-lieu parking funds, and how those funds will be eventually disbursed in accordance with the terms of the CDP condition.

Fee Amount: The City's current in-lieu fee parking fee is \$500 per year for each space for which adjustment to parking requirements are granted; as established by Municipal Code Chapter 10.12. For the 35 spaces the MBS project cannot provide, a total annual payment to the City will be \$17,500. Per the terms of the proposed agreement between the City and the Coastal Commission, these funds can only be expended to provide free public beach access parking subject to the Coastal Commission's Executive Director's discretion.

CONCLUSION

Construction activities for the MBS project cannot commence until an agreement for the payment of in-lieu fees is established and accepted by both the City and the California Coastal Commission. Failure of the City to accept this (or similarly intended) agreement, consistent with the terms of the CDP, will place the MBS project in a precarious position to either find a location for public parking acceptable to the Commission's Executive Director, which has so far proved fruitless, or otherwise be in violation of CDP A-3-SNC-98-114 inhibiting any construction activity for the project. Staff finds the terms of the draft agreement to be reasonable, and Monterey Bay Shores is willing to make the annual payments of \$17,500 to the City.

RECOMMENDATION

Staff recommends **APPROVAL** of the draft Resolution authorizing the City Administrator to enter into an agreement with the California Coastal Commission and Security National Guarantee regarding the acceptance, holding, and disbursement of in-lieu parking funds required by the Monterey Bay Shores' Coastal Development Permit.

Exhibits:

A. Page 17 of CDP A-3-SNC-98-114, Condition No. 5(h) - Offsite Public Parking

Attachment:

1. Draft Resolution for Council Consideration, Authorizing City Administrator to Enter into Agreement w/ California Coastal Commission and Security National Guarantee for Accepting In-Lieu Parking Fees from Monterey Bay Shores

NOTICE OF INTENT TO ISSUE CDP CDP A-3-SNC-98-114 (Monterey Bay Shores Resort)

NOI Issue Date: May 30, 2014

Page 17 of 31

with respect to temporary low rope and pole barriers or similar measures set forth above, any development, as defined in Public Resources Code Section 30106, that diminishes public access and recreational use of the access areas and amenities required by this CDP shall be prohibited.

- (e) **Reconstruction/Relocation Required.** In the event that the approved public access amenities (including but not limited to the pathway system, overlook, and beach stairway/pathway) are threatened to a degree that they are in danger of being damaged or destroyed, or are damaged or destroyed, or become located ten feet or more seaward of the toe of the bluff, such amenities shall be reconstructed with due diligence and speed, and with minimum disruption to continued public use (and relocated inland as necessary to provide long term stability). Prior to reconstruction, the Permittee shall submit two copies of a Reconstruction Plan to the Executive Director for review and approval. If the Executive Director determines that an amendment to this CDP or a separate CDP is legally required, the Permittee shall immediately submit and complete the required application. The Reconstruction Plan shall clearly describe the manner in which such amenities are to be reconstructed (and relocated as applicable), and shall be implemented immediately upon Executive Director approval or approval of the CDP or CDP amendment application, unless such CDP or CDP amendment identifies a different timeframe for implementation.
- (f) **Public Access Use Hours.** All public access areas and amenities shall be available to the general public from 5 a.m. until midnight, except that the beach shall be available to the public 24 hours a day, and all public access areas shall be free of charge.
- (g) **Public Access Required Prior to Occupancy.** All public access areas and amenities of the approved project shall be constructed and available for public use prior to occupancy of the approved development.
- (h) **Offsite Public Parking.** The plan shall provide for the construction and development of free public beach access parking spaces as close as possible to the project site, and in no case further than one-half mile from the project site, unless the Permittee submits evidence substantiating to the Executive Director's satisfaction that only construction and development of a lesser number of such spaces is feasible. If the Executive Director determines that only a lesser number of such spaces is feasible, then the plan shall provide for payment to the City of Sand City's in-lieu parking fee fund at the current rate for the number of such spaces that are deemed by the Executive Director to be infeasible, and such payment shall be specifically earmarked and reserved and only allowed to be used for providing and maintaining public beach access parking. Any such funds shall only be used for said purpose subject to Executive Director review and approval. For any such parking spaces that are deemed feasible, the plan shall clearly document the manner in which the 35 (or fewer if fewer are deemed feasible) required parking spaces are to be constructed, developed, and maintained, including providing for other property owner consent, for as long as some portion of the approved development remains. The Permittee shall undertake such offsite parking space development in accordance with the approved plan, and such spaces shall be available prior to occupancy of the approved development.



CITY OF SAND CITY

RESOLUTION SC _____, 2016

RESOLUTION OF THE CITY COUNCIL OF SAND CITY AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH CALIFORNIA COASTAL COMMISSION REGARDING THE ACCEPTANCE, HOLDING, AND DISBURSAL OF IN-LIEU PUBLIC PARKING FUNDS REQUIRED AS A CONDITION OF COASTAL DEVELOPMENT PERMIT A-3-SNC-98-114 FOR THE MONTEREY BAY SHORES PROJECT

WHEREAS, the Security National Guarantee, Inc., a California Corporation, dba SNG Development Company (the "**Applicant**") received approval and issuance of Coastal Development Permit A-3-SNC-98-114 (the "**CDP**") from the California Coastal Commission (the "**Coastal Commission**") authorizing the development of a coastal resort project on certain property designated as Assessor Parcel Number (APN 011-501-014), a vacant ocean-front site containing an approximate 39.04 gross acres of land (the "**Project Site**") within a coastal zone generally located south of property formerly known as the Fort Ord Military Reservation, north of property owned by the Monterey Peninsula Regional Park District, and west of Highway 1 and the railroad right-of-way, within the municipality of the City of Sand City (the "**City**"); and

WHEREAS, the CDP, issued to the Applicant by the Coastal Commission on November 9, 2015, authorizes the development of a 368-unit mixed-use residential and visitor serving development encompassing a 184-room hotel, 92 visitor serving condominium units, 92 residential condominium units, auxiliary facilities including restaurants, conference rooms, swimming pools, garden spa, surface and underground parking and other commercial auxiliary facilities, open space, public access trails and recreation area, and restored and stabilized sand dune habitat; and

WHEREAS, Special Condition 5(h) of the CDP requires, in relevant part, the construction and development of free public beach access parking spaces as close as possible to the project site, and in no case further than one-half mile from the project site, unless the Applicant submits evidence substantiating to the Commission's Executive Director's satisfaction that only construction of a lesser number of such spaces is feasible; whereby, if only the lesser number of spaces is deemed feasible, then the Applicant shall provide payment to the City of Sand City's in-lieu parking fee fund at the current rate for the number of such spaces that are deemed by the Executive Director to be infeasible, where such payment(s) shall be earmarked and reserved and only allowed to be used for providing and maintaining public beach access parking, where any such funds shall only be used for said purpose subject to the Executive Director's review and approval; and

WHEREAS, the City has the authority, according to Chapter 10.12 of the Sand City Municipal Code, to collect those funds required by CDP Special Condition 5(h), and to keep them in an interest bearing account (if possible) for the purpose of holding and

disbursing those funds to provide public beach access parking to the satisfaction of the Coastal Commission's Executive Director; and

WHEREAS, the Applicant agreed to make annual payments of \$500 for each of the thirty five (35) required free public beach parking spaces that have been determined to be infeasible by the Commission's Executive Director, in accordance with the City's In-Lieu Parking Program (Chapter 10.12 of the Sand City Municipal Code); whereby the initial payment shall be paid prior to obtaining a City business license for the approved development and no later than prior to certificate of occupancy, whichever occurs first; and

WHEREAS, an agreement between the City and the Coastal Commission is necessary to mutually bind these parties to the specific terms of collection, withholding, and expenditure of these funds paid by the Applicant into the City's In-Lieu Parking Program, held by the City, and expended as necessitated by the CDP's Special Condition 5(h) to the satisfaction of the Commission's Executive Director.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Sand City hereby authorizes and directs the City Administrator to enter into an agreement, attached hereto as 'Resolution Exhibit A' and incorporated herein by this reference, subject to City Attorney review and/or modifications prior to execution, with the California Coastal Commission and Security National Guarantee, Inc. regarding the collection, withholding, and expenditure of specific funds paid by the Monterey Bay Shores Coastal Development Permit Applicant into the City's In-Lieu Parking Program, for expenditure as necessitated by CDP A-3-SNC-98-114 Special Condition 5(h) and to the satisfaction of the Coastal Commission's Executive Director

PASSED AND ADOPTED by the City Council of Sand City this ___ day of January, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

ATTEST:

Linda K. Scholink, City Clerk

David K. Pendergrass, Mayor

RESOLUTION EXHIBIT A
SC 16-__ (2016)

**Agreement between the City of Sand City and the California Coastal Commission
Regarding In-Lieu Offsite Public Parking Funds for the Monterey Bay Shores
Project**

AGREEMENT

Between the City of Sand City, the California Coastal Commission, and Security National Guaranty, Inc.

Regarding the City of Sand City's Acceptance of Permit Condition and In-Lieu Offsite Public Beach Access Parking Funds from Coastal Development Permit No. A-3-SNC-98-114

The City of Sand City ("City"), the California Coastal Commission ("**Commission**"), and Security National Guaranty, Inc. ("**SNG**") enter into this agreement ("**Agreement**") with respect to the Commission's desire that the City accept, hold and disburse In-Lieu Public Beach Access Parking funds from SNG as required by the Commission as a condition of coastal development permit ("**CDP**") number A-3-SNC-98-114. This Agreement shall become effective when signed by all parties.

WHEREAS, the Commission, as a state agency established under Division 20 of the Public Resources Code (Section 30000, et. seq.), is charged with implementing the California Coastal Act ("**Coastal Act**"), the California Environmental Quality Act, and the federally certified Coastal Management Program for the approximately 1,100 mile mainland shoreline and offshore islands of the California coastal zone; and

WHEREAS, SNG applied to the City for a CDP to develop a resort and condominium project within the City's coastal zone. The City approved the CDP which was subsequently appealed to the Commission.

WHEREAS, the Commission approved CDP number A-3-SNC-98-114 for SNG's development, subject to 22 special conditions, and issued said CDP on November 9, 2015. One such special condition, Special Condition 5(h) requires, in relevant part:

the construction and development of free public beach access parking spaces as close as possible to the project site, and in no case further than one-half mile from the project site, unless the Permittee submits evidence substantiating to the Executive Director's satisfaction that only construction and development of a lesser number of such spaces is feasible. If the Executive Director determines that only a lesser number of such spaces is feasible, then the plan shall provide for payment to the City of Sand City's in-lieu parking fee fund at the current rate for the number of such spaces that are deemed by the Executive Director to be infeasible, and such payment shall be specifically earmarked and reserved and only allowed to be used for providing and maintaining public beach access parking. Any such funds shall only be used for said purpose subject to Executive Director review and approval.

and

**Agreement: City of San Diego and California Coastal Commission
(Security National Guaranty: Coastal Development Permit No. A-3-SNC-98-114)**

WHEREAS, SNG has agreed to comply with this condition by providing in-lieu beach access parking fees to the City consistent with the parameters of the City's In-Lieu Parking program (Chapter 10.12 of the City's municipal code). SNG shall pay an annual fee of at least the currently required fee under the program (currently \$500 per space) for each of the 35 required free public beach parking spaces that the Commission's Executive Director ("**Executive Director**") has determined to be infeasible to provide on-site at this time. Based on the current annual fee of \$500 per space multiplied by the 35 spaces, the current annual fee will be \$17,500. The total annual fee per space will increase in accordance with any increases to the City's in-lieu parking fee. The total number of spaces used to calculate the annual fee will decrease in proportion to the number of public beach parking spaces provided pursuant to the Commission's Special Condition. The initial annual fee shall be paid prior to obtaining a business license for the approved development and in any event no later than prior to certificate of occupancy, whichever comes first; and

WHEREAS, the City has the authority to accept such funds required by Special Condition 5(h) ("**Funds**") and keep them in an interest bearing account (if possible) for the purpose of holding them and disbursing them to provide for free public beach parking spaces pursuant to the terms of this Agreement.

NOW, THEREFORE, for consideration of the mutual covenants and representations in this Agreement, the Commission, the City, and SNG (on behalf of itself and all successors and assigns) agree as follows:

1. Transfer of the Funds. Prior to obtaining a business license for the approved development and prior to occupancy of the approved development (whichever comes first) and annually thereafter, the City shall require SNG to transfer to the City all applicable monies required by Special Condition 5(h), consisting of annual payments of a minimum of \$17,500.
2. City Deposit of Permit Funds. The City shall deposit all Funds accepted pursuant to this Agreement in a separately designated and tracked account, identified as the "Monterey Bay Shores Account," consistent with the City's internal accounting practices. This Monterey Bay Shores Account shall, to the extent possible, bear interest. The City will be responsible for accurately tracking costs, expenditures, and any revenues for each project funded from the Monterey Bay Shores Account.
3. Purpose of Funds. The City shall hold the Funds and any interest received on them, and shall make disbursements from the Monterey Bay Shores Account only to provide for free public beach parking for beach access within or near the City.
4. Project Sponsors and Proposals. The City's Planning Director and the Executive Director of the Commission, through their respective staffs, will work together to identify projects or project sponsors with proposals eligible to receive funds from the Monterey Bay Shores Account.

Agreement: City of San Diego and California Coastal Commission
(Security National Guaranty: Coastal Development Permit No. A-3-SNC-98-114)

5. Executive Director Eligibility Determination. Once City staff has identified a sponsor and proposal for a project that appears to be eligible for funding from the Monterey Bay Shores Account, the Planning Director shall in writing request a determination from the Executive Director that the project is eligible for funding from the Monterey Bay Shores Account. This request shall include a brief statement that the Planning Director has found that the identified fund recipient has the intention and capability to carry out the project. The Executive Director shall provide to the City a written eligibility determination within 30 days of receipt of the request. Unless the Executive Director determines that the project is ineligible and notifies the City within this time, the project is deemed eligible for purposes of this Agreement; the City may choose to proceed with the project (subject to obtaining any other necessary project permits and approvals, including CDPs).
6. City Disbursements. After the Executive Director's determination of eligibility of a specific project proposal, as required in paragraph 5 of this Agreement, and subject to the authorization of the City Council, the City may disburse funds from the Monterey Bay Shores Account for the project, subject to the terms of this Agreement. The amount of funds that the City is obligated to disburse under this Agreement shall in no event exceed the amount of funds accepted by the City under this Agreement plus any interest accrued on the Funds.
7. Yearly Reports. Within twelve months of the first disbursement of funds from the Monterey Bay Shores Account, and annually thereafter, the City shall provide to the Executive Director a report showing how the funds disbursed from the Monterey Bay Shores Account were used, the amount of funds disbursed and the funds remaining in the Monterey Bay Shores Account. The City will be responsible for accurately tracking the incomes, costs and expenditures for the projects it funds out of the Monterey Bay Shores Account.
8. Termination. Either the City or the Commission may terminate this Agreement for any reason by providing the other party with thirty days notice in writing. Following termination, the City shall transfer all unspent Funds in the Monterey Bay Shores Account to an alternate entity approved by the Executive Director, within 60 days after the Executive Director has identified such alternate entity. The City shall not be required to transfer any Funds that the City is required to expend as the result of obligations legitimately incurred by it prior to notice of termination of this Agreement.
9. Amendment. Any modification, waiver, or amendment of any provision of this Agreement shall be effective only if in writing and if signed by the City and the Commission. This Agreement supersedes all other agreements, whether written or oral, between the parties, relating to acceptance of free public beach parking space funds required by CDP Number A-3-SNC-98-114.
10. Records Retention. The City shall retain all pertinent books, documents and papers, including, but not limited to, financial transactions and supporting documents, consistent with City policy and procedure, for the entire period during which the Funds are being held and/or disbursed by the City under this Agreement, and for a period of three years thereafter for potential examination by the State Auditor.

**Agreement: City of Sand City and California Coastal Commission
(Security National Guaranty: Coastal Development Permit No. A-3-SNC-98-114)**

11. Counterparts. This Agreement and any amendment of it may be executed in three or more counterparts, and by each party on a separate counterpart, each of which, when executed and delivered, shall be an original and all of which together shall constitute an instrument, with the same force and effect as though all signatures appeared on a single document.
12. Assignment. Neither the City nor the Commission may assign any rights granted by this Agreement without prior written approval of the other party, which approval may be granted or withheld in any party's reasonable discretion.

13. Notices.

- a. Any demand upon or notice required or permitted to be given by the City or the Commission to the other shall be in writing, shall be made in the following manner, and shall be effective (a) upon receipt if given by personal delivery, (b) on the date indicated on the receipt if given by certified or registered mail, return receipt requested, or (c) on the succeeding business day after mailing or deposit if given by Express Mail or by deposit with a private delivery service of general use (e.g. Federal Express). The notice shall be made postage or fee paid, as appropriate, and addressed to the party indicated in section 13(b).

Notice of a change of address or designated contact person shall be given by written notice in the manner provided in this section, within ten business days of the change.

b. Designated Contact Persons

Susan Hansch, Chief Deputy Director
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

Dan Carl, Deputy Director
California Coastal Commission
Central Coast District Office
725 Front St., Suite 300
Santa Cruz, CA 95060-4508

Todd Bodem, City Administrator
City of Sand City
1 Sylvan Park
Sand City, CA 93955

**Agreement: City of Sand City and California Coastal Commission
(Security National Guaranty: Coastal Development Permit No. A-3-SNC-98-114)**

Ed Ghandour, President
Security National Guaranty, Inc.
505 Montgomery Street, 11th floor
San Francisco, CA. 94111

14. Authority. Each of the parties represents that it has the authority to execute, deliver and perform under this Agreement.

SECURITY NATIONAL GUARANTY, INC.

By: _____

Date: _____

CITY OF SAND CITY

By: _____

Date: _____

CALIFORNIA COASTAL COMMISSION

By: _____

Date: _____

Charles Lester
Executive Director

AGENDA ITEM

9C



Advertising with the Chamber Works!

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Event Date:

Jan 26, 2016 at 11:30 AM to 1:30 PM

Location:

The Inn at Spanish Bay

2700 17 Mile Drive

Pebble Beach View Map

Fees/Admission:

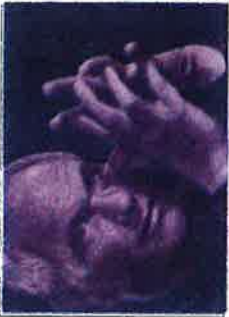
Members \$50 - Non Members \$60

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CHAMBER MEMBERSHIP KEEPING OUR BUSINESSES HEALTHY

Registration: 11:30am-noon, Program: noon-1:30pm Join us in recognizing milestone-year (5, 10, 15, 20, 25+) MPCC members and introducing the new leadership of the 2016 Chamber Board of Directors, while you network with fellow members, potential customers and community leaders.

For more information, contact info@montereychamber.com at
info@montereychamber.com



Richard Macdonald



Mary Anderson



Sonia Aramburo



Sandra Gray



Lee Rosen



Adela Castillo & Jose A. Moran



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Butch Lindley, Auctioneer

For tickets, please RSVP with the enclosed card

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Philanthropist

ADELA CASTILLO and JOSE A. MORAN
Volunteer Leaders

Connie Horca

From: Adam Joseph | Monterey Peninsula Chamber of Commerce
<communications@montereychamber.com>
Sent: Wednesday, December 23, 2015 12:41 PM
To: connie@sandcityca.org
Subject: Member2Member: Register For TPO Employment Law and Leadership Conference

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Member2Member

REGISTER NOW FOR TPO'S EMPLOYMENT LAW & LEADERSHIP CONFERENCE, JAN. 21, 2016

Have You Registered Yet?

Thursday, January 21, 2016
Embassy Suites, Monterey Bay
8:00 am – 4:00 pm

12th Annual Employment Law & Leadership Conference

A PREMIER CONFERENCE FOR BUSINESS OWNERS, MANAGERS, HR, RISK MANAGEMENT AND LEGAL COUNSEL
IN PUBLIC, PRIVATE AND NON-PROFIT ORGANIZATIONS

HOT TOPICS IN LABOR & EMPLOYMENT LAW
The SAQUI LAW GROUP

AM GENERAL SESSION
12:45pm – 4:00pm

AFTERNOON BREAK-OUT SESSIONS

- **UNINTENDED PAY DISCRIMINATION:** California's New Fair Pay Act – One of the Toughest Equal Pay Laws in the Country!
- **HR Q&A:** Balancing both Legal and Leadership Perspectives!
- **THE TOP TEN AVOIDABLE MISTAKES EMPLOYERS MAKE:** How to NOT Meet the Labor Commissioner!
- **DRIVING THOSE DIFFICULT CONVERSATIONS:** Gaining Clarity, Improving Communication and Taking Action!

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Monterey Peninsula Chamber of Commerce
www.montereychamber.com | communications@montereychamber.com



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200 | Monterey | CA | 93940