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

Regular Meeting – February 5, 2019
5:30 P.M.
CITY COUNCIL CHAMBERS

Mayor Carbone opened the meeting 5:30 p.m.

The Pledge of Allegiance was led by Commander Vito Graziano

Present: Mayor Mary Ann Carbone
Vice Mayor Blackwelder
Council Member Hawthorne
Council Member Sofer
Council Member Cruz

Staff: Fred Meurer, Interim City Administrator
Vibeke Norgaard, City Attorney
Vito Graziano, Police Commander
Charles Pooler, City Planner
Connie Horca, Deputy City Clerk

AGENDA ITEM 4, ANNOUNCEMENTS BY MAYOR AND CITY ADMINISTRATOR

Mayor Carbone announced that her Mayor's report and several handouts were provided to include the 2019 League of California Cities Strategic goals report, information and application for in home weatherization, and the Governors FY 2019-2020 Budget, and an updated appointments list for Agenda item 6C.

Interim City Administrator Fred Meurer announced that a meeting will be held on February 27th for the City Council to provide an orientation for new Council Members, discuss the process of operating as a team, and to review of the Brown Act. The meeting will also include Mr. Meurer's initial observation of City operations, a mid-year financial review of revenue and expenditures, and overview of the fiscal year 2019-2020 budget. The proposed time for the Council orientation meeting on the 27th is 9:00 a.m. to 1:00 p.m. He further reminded the Council that individual meetings with the executive search firm of Avery and Associates will be held tomorrow.

AGENDA ITEM 5, PUBLIC COMMENT

5:39 P.M. Floor opened for Public Comment.

Cathy Biala from the City of Marina commented that the majority of women on the City Council is quite impressive. The Cal-Am slant well project obtained an Environmental Impact Report (EIR) approval and a CPCN despite the fatal flaws of a project with absolutely no ground water rights, and one that will harm Marina's sole source of potable water and commit its own Peninsula ratepayers to a continued future of untenable water rates. How is it possible that the CPUC failed to hear the fundamental issues of water rights, best science, economic feasibility, and environmental justice issues. Please simply ask four questions; 1) does Cal-Am hold any current valid groundwater rights, 2) does using best science verification take of water cause harm to the Salinas Valley groundwater basin, 3) are there affordable sustainable regional alternatives to this project, and 4) are mandates for environmental justice and human rights to water violated?. The CPUC says it doesn't determine water rights yet they proceeded without verifying any water rights. Please simply ask Cal-Am to produce a document showing allocated ground water rights to our basin. Do not accept Cal-Am's claims that they can obtain future appropriative groundwater rights in lieu of having no current ground water rights. That will never happen. A clearly superior and already completed 3D AEM imaging study was not allowed as evidence. Instead, a grossly inadequate methodology was accepted that claimed no harm to a neighboring community's sole source of water. Please simply ask Marina Coast Water District (MCWD) to show you the 2017 Stanford University 3D AEM imaging study. The CPUC requested Monterey One Water to research an alternative expansion of their recycled water project, but then on September 13th they refused to consider this report and approve the CPCN regardless. Please simply ask to read the Pure Water Monterey expansion document. Not one word of Marina or the Ord community's water demand needs were ever documented in the final EIR because we are not in the same jurisdiction as Cal-Am and therefore Cal and was not required to address our water needs, but we are the area in which the water will be illegally extracted. Marina was blatantly overlooked. Please simply go to the FEIR chapter on water demand assessments to verify this incredible omission. We ask you to invite Monterey One Water and MCWD to host a public informational workshop so that the Council and the public will have all the relevant information.

Janice Perisi, resident of Pacific Grove commented that the issue of economic feasibility was completely bypassed by the CPUC in the approval of the Cal-Am slant well project. CPUC is the very same agency that has approved every rate increase for Cal-Am customers, and giving us the highest water rates in the country. This is the same CPUC that approved every failed Cal-Am project costing millions to its ratepayers. Desalinated water is the most expensive method of water production because it also entails high energy costs which have not been addressed yet. Why should a desalination facility be a monopoly and owned by a 'for' profit corporation rather than a shared venture paid for and benefiting many public agencies in our region. The cost of building the $320,000,000 plant will inevitably result in attorney fees, mitigation for the damage to the Salinas Valley groundwater basin, and the future cost of ongoing desalinated water will be added to our monthly bills. Desalinated water costs $6,000 to $7,000 dollars per acre feet while recycled water cost about $2,000 per acre feet. Historically, Cal-Am

has pursued smaller business shareholder profits over public welfare. Given the overwhelming success of Measure J, the public must be the decision makers as to whether a commitment to a fatally flawed illegal project will once again encounter the ratepayers for years to come. The viable expansion of the Pure Water Monterey project would have the support of the Peninsula ratepayers, Marina, and MCWD by controlling cost of and avoiding environmental harm, and meeting all milestones for the Carmel River cease and assist order. We wish to engage in a true regional project as opposed to the illegal water grab by investor owned corporation. The CPUC is fully aware of viable water expansion options and failed to give any consideration for the Pure Water Monterey expansion option that could meet Peninsula water needs for the next 20 years. In order to hold open discussion of the Pure One Monterey expansion project, the public and the Council should hear directly from Monterey One Water and MCWD. We need to consider all truly regional and viable short and long-term projects. But we must start now and begin the environmental impact report for the expansion project by September of this year. Time is of the essence.

Julie Hoffman President of Marina, commented that in November there was a media blitz that Cal-Am produced and spent a lot of money on. One of its print pieces was called 'think before you ink' that was an initiative against Measure J. In that piece Cal-Am claimed that the State Water Resources Control Board concluded that Cal-Am had the right to pump seawater and would be able to develop appropriative rights to pump and desalinate currently unusable brackish groundwater. If Cal-Am only pumped seawater, that would be no issue or need for any ground water rights but Cal-Am plans to utilize groundwater and it's pumping which absolutely requires groundwater rights. This entire project hinges on gaining appropriative water rights. Appropriative water rights are based on archaic California laws shaped during the gold rush. In a nutshell, if you steal something long enough and if no one challenges you it's yours. Does Cal-Am actually believe no one will challenge this trespass? The State Water Board wrote a clarification letter in September 4, 2018 to the CPUC. This letter essentially says that if Cal-Am were to possess appropriative rights they must demonstrate that. It is quoted that "*establishing that the water project source is surplus to the needs of the ground water users in the Salinas Valley groundwater basin and that operating the project would not injure other lawful users of water*". Given this, Cal-Am will never get appropriative water rights. There is no surplus groundwater, and seawater intrusion is a growing problem. Monterey County is so concerned about seawater intrusion that in June of 2008 they adopted an urgency ordinance prohibiting new wells in our County to protect the Salinas Valley groundwater basin. Users of this water are actively planning regional compliance to the sustainable Groundwater Management Act of 2014. The issue of ground water rights and sigma mandates were completely ignore by the CPUC in approving the Cal-Am project. This project absolutely infringes on the rights and responsibilities of public water systems of Marina and Ord communities and this will ultimately impact whether this project gets built at all. On January 30 Attorney Mark Del Piero, an expert on groundwater rights in the Salinas Valley groundwater basin definitively told a crowd of 120 people that Cal-Am has, nor ever will have any path to obtaining groundwater rights in this basin. He reminded us that Cal-Am has squandered

millions of dollars of the Peninsulas ratepayer's money to promote an illicit project. Given these facts the communities need local leadership to support another water source for the Peninsula and to begin to research other viable affordable and legal projects.

Susan Schiavone resident of the City of Seaside commented that this Cal-Am project will extract groundwater from a neighboring district without water rights. How would you react if Marina decided to drill a well in your jurisdiction without any water rights? The legal rights issue will be determined at a court of law and likely take years to resolve. As such, this project cannot be dependent upon to deliver water by the December 31, 2021 cease and desist order milestone. Do we need to pay for an illegal project at a cost of over $320,000,000 that will not deliver the promised water or should we invest in an alternative recycled expansion project of only $38,000,000 that will produce the needed water. A modified EIR for the expansion project will cost one million and would take about eight months to complete. It can be started right now as the first important step to ensuring water for 2021. Would you support first steps to fund this important first task? Ratepayers had no say in this matter but with Measure J we have said loudly that we want transparency and local control, and we the public can manage and assume responsibility for our future water supply. In August the Peninsula will know whether the Cal-Am buyout is feasible. After the buyout we can choose a more affordable sustainable recycled water project as well as research the two deep ocean desalination projects at Moss Landing as true regional projects that are currently winding their way through the approval processes. Cal-Am wants us to believe that we must begin to build a slant well project now or the sky will fall and that we will have rationing on the Peninsula. This is just not true. Pure Water Monterey's expansion project with contributions from the Marina Coast Water District can meet all of the CDO requirements. Cal-Am's project will likely be tied up in court for years. We must have a safety net and a fallback position already in place and operational by 2021. It would take a bit over two years to complete the expansion but we must begin acting on this option by September this year. Please conduct informational workshops on Pure Water Monterey's expansion as part of the City Council agenda.

City of Marina resident Brian commented that Cal-am asserts that no harm will come to the Salinas Valley groundwater basin from which they intend to extract any available ground water on our behalf. Science is complex, and a layperson often takes the word of experts. But ignoring best science could perpetuate a disaster for the Peninsula. Paying for project's negative impacts on others, and all the costs associated with that impact for litigation and mitigation. He mentioned the CPUC Section 8.2 regarding the use of ground water imaging. The ERT methodology, and incidentally we now have a second generation and more advanced method called AEM Airborne Electromagnetic Imaging. Both of which were never allowed as evidence in CPUC approval processes, for the Cal-Am slant wells project. I quote CPUC, "*the lead agencies consider this additional technology and while they are required to utilize best available science to make conclusions on the potential environmental harm of a project, the use of every possible technology available to evaluate the impacts of the project is not*

required." Not using the best science for multiple studies on an experimental technology that has never been done successfully anywhere in the world, and of the four scientists who evaluated the test slant well data, two are paid by Cal-Am and one of these; Dennis Williams owns the patents to the new technology. This is the cavalier stance CPUC took evaluating potential real harm to entire neighboring water basin. The AEM study completed by Stanford University is state of the art methodology that generated 3D imaging through 350 flight miles over the Salinas Valley groundwater basin to depths of 1,000 feet. This AEM study was never used in any of the CPUC approval processes for the Cal-Am desalination project. CPUC instead asserted their prerogative to choose between what they called opposing methodologies. Relying instead on 8 random vertical data sets in a highly constricted area with a supermodel to fill in the gaps of the baseline data they collected. This was chosen over the millions of real data points generated by helicopter assisted AEM 3D imaging methodology. The data generated from the AEM study shows harm will be done to the Salinas Valley groundwater basin. Compare this to the scanty data used by Cal-Am to prove no harm to the basin. Please do not accept shoddy science when best practices are available.

Troy Isacawa resident of Carmel commented that we have a difficult situation here in which the Peninsula needs water and Marina Coast Water District needs to protect their water. We have a Cal-Am project that seeks to meet the water needs of the Peninsula by committing their ratepayers to even higher water bills than they currently have, and harming Marina in the process. This is clearly not a win-win solution. The only parties that benefit are Cal-Am shareholders. But there is clearly a solution that will satisfy both the Peninsula ratepayers and the people of Marina. The CPUC requested a study on the Pure Water Monterey expansion and then refused to consider it, and opted on September 13, 2018 to approve the Cal-Am slant well project. However, this recycled water project is worthy of serious consideration because it piggybacks on the $150,000,000 Pure Water Monterey recycled water project due to come online and produce potable water by July of this year. This project already involves Cal-Am and will create necessary recycled water and replenish the Seaside Basin for years to come. The project the CPUC rejected is an expansion of that same project and will produce additional water for the Peninsula at 1/3 the cost of desalinated water, and can meet all the water cutback milestones required by the cease and desist order for December 31, 2021. This expansion project will cost only $38,000,000 and will take 27 months to complete. The Cal-Am project will cost $320,000,000 but because of legal challenges will likely not produce the water needed by 2021. No outrageous escalation of Peninsula water rates, no intrusion into Marina's sole source of water, and water for the Peninsula, that would be a win-win all around. Remember Measure J won by a landslide, with voters basically saying they will no longer tolerate the absorbitant water rates under Cal-Am. The expansion of Pure Water Monterey fits with regional cooperation and sharing the cost risks and benefits. Please invite Monterey One Water and Marina Coast Water District to your City Council meetings to explain the expansion project and its benefits. You must hear directly from them and not filtered through Cal-Am or the CPUC who only want to promote the most costly and detrimental option: The Slant Well project.

6:03 P.M. Floor closed to Public Comment.

The Mayor asked whether Mr. Meurer would like to provide additional comments. Mr. Meurer commented that this is not something that is easily answered and we spent a good portion of a City Council meeting on a lot of these issues. There were two environmental impact reports conducted by the PUC not by Cal-Am. The second report was done because of the concern over the participation of the first report that was done by the inventor. The third document was an environmental impact statement completed by the Sanctuary. The Marina Coast Water District and their issues can be discussed at a separate time. He provided information on why the project failed. The major concern of Measure J is not whether it is public or private ownership but rather how to define "feasible". Mr. Meurer reported on the aquifers where water was being pulled from. A separate in depth discussion is important to involve individuals representing both sides. Currently, the PUC denied the rehearing today it will go to the Supreme Court and the Supreme Court will decide whether the legal arguments are good or not. Measure J will continue and the City will continue to participate in Measure J. There are City representatives serving on the boards of water agencies and the Council is kept aware of the progress on water issues. The passion of Marina is very understandable and should be discussed at a meeting where this issue is agendized.

AGENDA ITEM 6, CONSENT CALENDAR

The Mayor commented that corrections were made to Consent agenda item 6C Exhibit A and that these changes are highlighted. She encouraged those who serve as alternates to review the meeting materials so that they are apprised of what is happening. She requested that the committee appointees report back to the Council on the meetings they attended. The Mayor will keep everyone updated of meetings she has attended and report back to the Council. Council Member Sofer remarked on the good job that was done regarding the letter sent to the Water Management District.

A. There was no discussion of the January 8, 2019 Special City Council Meeting Minutes.

B. There was no discussion of the January 15, 2019 Regular City Council Meeting Minutes

C. There was no discussion of the City **Resolution** continuing and Updating the Appointments to Various Local and Regional Agencies and Boards effective, February 5, 2019.

Motion to approve the Consent Calendar items was made by Council Member Hawthorne, seconded by Council Member Sofer. AYES: Council Members

Blackwelder, Carbone, Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

AGENDA ITEM 7, CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR

There were no items pulled from the Consent Calendar.

AGENDA ITEM 8, OLD BUSINESS

A. Consideration of City RESOLUTION Extending the Expiration Date of the Vesting Tentative Map for the Monterey Bay Shores Eco-Resort Project

City Planner Pooler commented that before the Council is the resolution to grant an extension on the vesting tentative map for the Monterey Bay Shores Ecoresort project. The vesting map was approved by the City Council on December 15, 2015 that followed the Coastal Commission's final approval for the issuance of the coastal development permit for the project. The standard length after approval of a vesting tentative map expires after 24 months. The Subdivision Map Act contains different sections that allows for time extensions or stays on those permits issued on the 24 months. One of these exceptions would be any litigation. The project was involved in 14 months of litigation which basically hit the pause button on the project. The Council granted an extension or rather recognition of the 'stay' which has extended the vesting tentative map to February 14th of this year. Mr. Ghandour is unable to attend tonight due to illness. Staff is recommending approval of the attached draft resolution to extend the expiration date of the vesting tentative map to February 14, 2020.

There was Council discussion regarding situations requiring extensions of the vesting tentative map. Extensions may be granted up to 6 years with a 10 year total. The project should keep moving and the City needs to remain supportive and continue to have patience with the developer. There was further Council discussion regarding the trailers that are located on Mr. Ghandour's property.

6:16 P.M. Floor opened for Public Comment.

There were no comments from the Public.

6:16 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** extending the Expiration Date of the Vesting Tentative Map for the Monterey Bay Shores Eco-Resort Project was made by Council Member Blackwelder, seconded by Council Member Hawthorne. AYES: Council Members Blackwelder, Carbone,

Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

B. Engineering and Public Works Department Summary Report including the Sand City Water Supply Project, Storm Water Management Program, Integrated Water Management Planning Group, City, West Bay St. Coastal Access Repair Project, Calabrese Park Improvement Project, Development Projects including the South of Tioga Project, and Grant Updates. Community Development and Planning Department updates by the City Administrator/City Planner

City Engineer Leon Gomez reported that the desalination plant produced 18.5 acre feet for the month of January. The plant was temporarily inoperable due to maintenance and rehabilitation of the wells for approximately 3-4 days. The City Engineer's office has been in contact with P.G. & E. regarding the Proposition 1 Technical Assistance grant for Contra Costa Street. In order for the streets to qualify under the Rule 28 Program the street has to have a minimum classification as either a minor and/or major collector. Staff will need to iron out some of the issues regarding street classifications with CalTrans.

On January 21, the applicant for the South of Tioga project submitted improvement plans, supporting documents, and final map for Phase 1 of that project. City staff has been reviewing the submittal for completeness. Staff will be getting back with the applicant with an amount for the cost of submittal of the package and any other documents that may be required.

A site inspection of the Monterey Bay Shores project was conducted with John Kuehl of the City of Monterey. The site was reviewed for construction Best Management Practices (BMP's). There are some construction and maintenance repairs that need to be performed, and a few issues with Waste Management that will need to be addressed. Staff took photos and noted the deficiencies, and wrote a letter to the applicant regarding the issues and that he address them within 14 days.

The Seaside Sanitation District project work has been completed. Materials that were uncovered contained elevated levels of copper zinc and other materials. This cannot be disposed of at the local landfill. Storage of this material is still at the Carroll property. Staff has asked the contractor to have the materials removed within two weeks.

Some grading has been conducted at the San Juan Pools site along with minor demolition. No activity has been noted for some time and Staff will contact the applicant regarding its status. There has been no activity as well at the Dayton Property.

There was Council discussion regarding the materials that were

discovered following the Seaside project and whether there was current contact information for the applicant of the Dayton project.

AGENDA ITEM 9, NEW BUSINESS

A. Consideration of City RESOLUTION Authorizing the Interim City Administrator to Execute a Memorandum of Understanding (MOU) to Join the Integrated Regional Water Management Group for the Monterey Peninsula, Carmel Bay, and South Monterey Bay Region

City Engineer Leon Gomez presented the Staff report and MOU regarding the City's participation as part of the Integrated Regional Water Management (IRWM) Planning Group. The purpose of the MOU to recognize a mutual understanding among entities in the Southern Monterey Bay area regarding their joint efforts toward IRWM planning. The understanding would continue to increase coordination, cooperation, and communication for comprehensive management of water resources in the Cities and unincorporated portions of the Monterey Bay region. The lead agency is the Monterey Regional Water Management District. The benefits of joining the Integrated Regional Water Management Group is to promote cross jurisdictional projects with a greater regional impact. A formally adopted IRWM Plan (IRWMP) is required by the State in order to be eligible to apply for grant funds to implement projects. An IRWMP must comply with Proposition 1 requirements and must address at a minimum: water supply, groundwater management, ecosystem restoration, and water quality. It would increase, or promote water quality aquifer recharge on Contra Costa, and would assist in differing costs for the City's potential joint trash capture and diversion project with the City of Seaside, and the West End Stormwater Improvement project. There is no cost to join the IRWMP with the exception of City Staff and City Engineer time to attend the meetings during the project and grant application process. Mr. Gomez provided the history of the Proposition 1 funding that was allocated to the Monterey Peninsula IRWMPG. There is $3.7 million remaining which the region is vying for between this year and next year. The City's Proposition 1 project is a strong contender. The draft MOU was reviewed by both the City Attorney and City Administrator.

Council Member Hawthorne commented that it would be fiscally advantageous to the City to receive some of the grant funding available. City Administrator Meurer added that by joining the program, the City would have a chance of procuring funds for City projects.

6:32 P.M. Floor opened for Public Comment.

There was no comment from the Public.

6:32 P.M. Floor closed to Public Comment.

Motion to approve the City **Resolution** authorizing the Interim City Administrator to Execute a Memorandum of Understanding (MOU) to Join the Integrated Regional Water Management Group for the Monterey Peninsula, Carmel Bay, and South Monterey Bay Region as made by Council Member Hawthorne, seconded by Council Member Blackwelder. AYES: Council Members Blackwelder, Carbone, Cruz, Hawthorne, Sofer. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried.

B. Discussion and Possible Council Action regarding Changing the Title of City Administrator to City Manager

City Attorney Vibeke Norgaard reported that a resolution is not included because if a change were to be approved, it would happen by Ordinance. Ms. Norgaard briefly explained the differences between the role of a City Administrator and City Manager. Under the City's Municipal Code, the City's advisory committee "oversees" the City administration process. While the City Administrator is the "position responsible for the implementation of City Council policies, the committees "advise and assist" and "work with" the City Administrator in doing so. Under the City's municipal code, the powers currently provided to a City Administrator are equivalent to the powers normally provided to a City Manager. The City's recruitment firm of Avery and Associates suggested that the title of 'manager' is more credible and appealing when searching for a candidate to fill the position.

Council Member Blackwelder provided a history on why the title was changed several years ago from 'manager' to 'administrator", and explained the needs of Sand City in its recruitment for a new City Administrator. Council Member Sofer commented that the title of 'manager' carries more weight and that there should be no change in structure. Council Member Hawthorne added that by changing the name, it would appeal to a broader range of candidates. Council Member Cruz remarked that the title of 'manager' would be more feasible and would carry more weight in the recruitment process.

6:41 P.M. Floor opened for Public Comment.

Sand City resident Roy Meadows commented that he remains impartial to the name change.

6:41 P.M. Floor closed to Public Comment.

There was consensus of the Council to move forward with the name change and to make necessary amendments to the City Municipal Code by Ordinance.

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

Council Member Sofer reported on her attendance of the League of California's Cities conference for New Council Members. She spoke highly of the sessions and what they had to offer. She also attended a meeting held at the Middlebury Institute and that it would be advantageous for the City to be affiliated with them.

Council Member Hawthorne reported that at the last Arts Committee meeting several ideas were presented for an event during the West End Celebration that would involve something other than a fashion show.

D. Consideration of Cancelling the Tuesday, March 5, 2019 Council meeting due to the absence of the Mayor and Interim City Administrator

Council Member Hawthorne commented that it would be feasible to cancel the March 5th Council meeting due to the Mayor and City Administrator's absence.

There was consensus of the Council to cancel the March 5, 2019 Council meeting.

E. Upcoming Meetings/Events

There were no RSVP's from the City Council. Mayor Carbone reminded the Council that a meeting with Paul Kimura of Avery and Associates will be held in the Council Chambers on March 6, 2019 to discuss what the Council is seeking in regards to a new City Administrator.

AGENDA ITEM 10, CLOSED SESSION

6:48 p.m.

A. City Council/Agency Board adjourned to Closed Session pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding new well construction for desalination facility

Agency Negotiator: Interim City Administrator
Location: Public Right of Way along Sand Dunes Drive near West Bay Street

7:17 p.m.

B. The City Council/Agency Board re-adjourned to Open Session to report any action taken at the conclusion of Closed Session in accordance with 54957.1 of the Ralph M. Brown Act

No action was taken. Direction was given to agency negotiator.

AGENDA ITEM 11, ADJOURNMENT

There was consensus of the Council to adjourn the meeting at 7:20 p.m. to the next regularly scheduled Council meeting on Tuesday February 19, 2019.

Connie Horca, Deputy City Clerk