

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

Regular Meeting – April 16, 2019
5:30 P.M.
CITY COUNCIL CHAMBERS

Interim City Administrator joined the meeting via conference call.

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

The invocation was led by Reverend Robert Hellam.

The Pledge of Allegiance was led by Chief Brian Ferrante.

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

Staff: Fred Meurer, Interim City Administrator (participated by phone)
Vibeke Norgaard, City Attorney
Leon Gomez, City Engineer
Brian Ferrante, Police Chief
Connie Horca, Deputy City Clerk
Linda K. Scholink, Administrative Services Director/City Clerk

AGENDA ITEM 4, ANNOUNCEMENTS BY MAYOR AND CITY ADMINISTRATOR

The Mayor announced that her monthly report is available and was distributed to the Council. She reported her attendance at the grand re-opening of Camp Transformation with Council Members Blackwelder and Sofer at their new location on Elder Avenue, as well as an event held by the District Attorney's Office in recognition of their 20th Annual Crime Victims Week and presented a proclamation at the event.

Interim City Administrator Fred Meurer reported that the Coastal Commission passed the permit extension for the construction of the new wells. Staff is working with Cal-Am regarding the costs for construction of the wells and is hopeful that they will assume all expenses. A number of issues regarding the South of Tioga project and the Habitat Management Plan may require an incidental take permit and will be discussed at length under New Business. The worst case scenario may involve project delay of 4 months which Staff would like to avoid. There have also been discussions regarding the fees involved with the demolition and construction process. A development agreement will be discussed, and the City

Attorney will be providing a report when the agenda item is presented. A memo regarding a feasibility study was presented to the Council which outlined a process. The Chief, Police Officers Association leadership, and Staff will be working on this and should come before the Council at the second May meeting. Mr. Meurer reported that he had met with the City Managers of Del Rey Oaks and Monterey to discuss City services and they have expressed interest in providing services to Sand City. He has a meeting with the Seaside City manager to discuss several topics to include the sewer waste station, gaining permission to obtain the railroad right of way, and to potentially have Sand City take ownership of the streets bordering Sand City. He is continuing to work on the budget revenues and expenses. The City Manager recruitment firm has received twenty applicants to date and have a few high quality candidates. He requested that the Council continue the first reading of Engineering Standards, Agenda item 9A due to the street light standards that require updating.

In response to Council Member Hawthorne's question whether the South of Tioga project can move forward with demolition without the incidental take permit, Mr. Meurer indicated that they may have to wait the 4-5 months to proceed. City Attorney Norgaard clarified that the incidental take permit allows for incidentally removing a plant during the demolition process. The EIR indicates that a qualified biologist needs to remove seeds and plants from the impacted area and move them to the habitat area. The biologist would need this permit to move forward in order to avoid an illegal "take" of a listed species.

City Clerk Scholink added that additional information for agenda item 11A was distributed to the Council.

AGENDA ITEM 5, COMMUNICATIONS

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.

AGENDA ITEM 6, CONSENT CALENDAR

- A. There was no discussion of the April 2, 2019 Sand City Council Meeting Minutes.
- B. There was no discussion of the City/Successor Agency Monthly Financial Report, February 2019.
- C. There was no discussion of the City **Resolution** recognizing Community Human Services on their 50th Anniversary.
- D. There was no discussion of the City **Resolution** authorizing the Interim City Administrator to Approve the Contract Amendment to the Agreement

with EMC Planning Group for the Completion of the Vibrancy Plan.

- E. There was no discussion of the City **Resolution** amending the Existing Contract with Michael McCarthy for Special Projects/Human Resources Consulting Services for Fiscal Year 2018/2019.

Motion to approve the Consent Calendar 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, PRESENTATIONS

- A. Presentation by Robin McCrae, CEO of Community Human Services regarding Community Programs {10 minutes}**

The Mayor introduced Robert Rapp, Development Director of Community Human Services, who will be making the presentation on behalf of Robin McCrae.

Mr. Rapp reported that Community Human Services (CHS) was founded in 1969, and in 1973, counties, cities, and school districts adopted the nonprofit to become a joint powers agency (JPA). CHS merged with the Family Service Agency of Monterey County in 2002.

The mission of CHS is to identify addiction, mental illness, and homelessness that destroys lives and affects families. Therefore Community Human Services provides people of all ages with tools and support to overcome these challenges, and to create lasting change in their lives. The agencies annual budget is approximately \$7 million with 68 full-time and 26 part-time employees. The organization serves a target population of low and very low-income residents of Monterey County estimated at 3,500 people annually in all of the different programs combined. These programs include Genesis House which is a 36 bed licensed residential drug treatment program for adults in Seaside. Recently, the Elm House facility was newly licensed to become a women's residential drug treatment program in Seaside and focuses on women facing recovery from drug addiction.

The Off-Main clinic is a drug assisted medical treatment facility. CHS also has family service centers in Salinas and Seaside that provides individual and group counseling, parenting education classes, supervised visitation,

domestic violence and drug intervention services. We also have a Super-Kid/Super-Teen school based counseling program, that gives students access to counseling services.

Safe Places is one of our biggest programs operating in downtown Monterey, that assists 300 youth each year, and has recently opened 12 emergency shelter beds for homeless youth who can stay for the night and receive food, clothing, hygiene items, and counseling. Safe Passage also located in Monterey provides transitional housing for homeless youth ages 18 to 21 and is a program that assists homeless youth who have been in foster care and provides them with necessary life skills such as balancing a check book, applying for jobs, etc.

Mr. Rapp invited the Council to the CHS partner appreciation breakfast to be held on April 25th at the Salinas sports complex in recognition of their 50th year anniversary. He presented the City a plaque that read, *"Thank you for your dedication to the youth and families of Monterey County through your support of Community Human Services. We appreciate you"*

At the request of the Mayor, Mr. Rapp also provided additional information regarding the Silver Star Program which provides drug and alcohol intervention services for youth and works collaboratively with the City of Salinas probation department.

He acknowledged Robin McCrae who was originally scheduled to be at tonights Council meeting for receiving the Lifetime Achievement Award. Robin has served as CHS' Chief Executive Officer for 25 years, has worked in the organization for 27 years, and is an amazing person who is well deserving of the award and recognition.

The Mayor also invited the Council to attend a future Community Human Services meeting which is held in the Council Chambers once a month on Thursdays.

Mr. Meuer encouraged the new Council members to attend a meeting to better understand the services that CHS provides to the community.

AGENDA ITEM 9, PUBLIC HEARINGS

- A. FIRST READING: ORDINANCE Amending Sand City Municipal Code Section 12.04.010 to Adopt New Engineering Standards (this item to be continued)**

Mayor Carbone commented that this item will be continued to the next City

Council meeting.

AGENDA ITEM 10, OLD BUSINESS

- A. Engineering and Public Works Department Summary Report comprising of the Sand City Water Supply Project, Storm Water Management Program, City Projects including the West End Stormwater Improvement Project (Prop 1 TA), TAMC Parcel Landscaping Project, Calabrese Park Improvement Project, Prop 68 Grant, Private Development Projects including the South of Tioga Project, and Grant, Community Development, and Planning Department updates by the City Administrator/City Planner**

City Engineer Leon Gomez reported that the desalination plant production for the month of March was 2.3 acre feet, and is reportedly very low due to high salinity at the intake wells. According to the operations manager Mr. James, the salinity levels did come down towards the end of the month due to the repair of the well starter units and ultra-violet treatment system. Cal-Am is currently working to replace or repair their ultraviolet (UV) system. They anticipate having the plant operable by the end of the week.

As mentioned earlier the City's coastal development permit for the new project was approved and granted by the Coastal Commission at the April 10th meeting last week in Salinas. Staff attended the Integrated Regional Water Management Group meeting. Review comments were provided by Staff and the technical assistance (TA) team reported that the City's project has become the 2nd or 3rd ranked Stormwater improvement project. As result of last week's meeting the IRWMP group will be submitting the City's project, along with 2 other projects for grant funds to the Department of Water Resources (DWR). The issue that Staff is trying to clarify is whether utilizing DWR grant funds will jeopardize utilizing Proposition 1 grant funds because they are both State of California funding sources. Staff will report the determination on that at a future meeting. Review comments to the 30% improvement plans for the West End project along Contra Costa and Catalina Streets were provided to the technical assistance team, and is pending a follow up call.

The review matrix for the South of Tioga Phase 1 off-site improvements were roughly 140-150 comments. There were a fair amount of comments that the applicant will have to address. Earlier this week Mr. Gomez met with Mr. Pooler to review the fees for the Phase 1 processes based on the City's currently adopted fee schedule. As noted in the approved vesting tentative map for the project that fee is estimated to be \$140,000 to \$150,000 initially. The intent is to recover costs that the City may incur should it exceed the difference and additional fees to be covered as part of the development agreement.

The City is looking at a non-competitive grant for the Calabrese Park improvements that would include another restroom, a series of retaining walls, additional play areas, new tables, barbecue pits, new walkways into the park curb, additional curb and sidewalk improvements throughout most of the block as well as play structures and equipment. Staff is hopeful to obtain this grant. The next step is to incorporate the various conceptual improvements that have been discussed. Staff is hopeful that this will go forth at a future meeting.

Mr. Gomez also reported that the hazardous materials were removed last week.

AGENDA ITEM 11, NEW BUSINESS

{Council member Cruz stepped down from the dais due to a possible conflict within residing within 500 'of the subject property}

Mr. Adam Lundgren from Meyers, Nave joined the meeting via conference call.

A. Discussion and Council Direction regarding Development Agreement with DBO Development LLC regarding the South of Tioga Project

City Attorney Vibeke Norgaard reported that Staff is working on a draft development agreement (DA) with DBO, a requirement of the VTM approved for the the South of Tioga (SOT) project. A few issues will require Council direction. Staff has drafted the legal terms of the agreement, and has presented it to DBO Development. DBO submitted a skeletal outline of their draft development agreement also which required a lot of revisions. The proposed development agreement would maintain terms during construction through the end of the project and fill in the gaps that have not been sufficiently covered in the vesting tentative map (VTM). According to the VTM, public improvements have to be accepted by the City prior to the issuance of a building permit. Staff would like to find some way to ensure that those improvements are not damaged before their return to the City. A few ways the City can do this would be to extend the obligations that DBO has to keep bonds in place until the very end of that development agreement term, which may possibly be 5 or 6 years plus additional time for other reasons. Another option could be to include a provision that requires any subsequent developers to provide some kind of bond for that portion of the improvements. The first option presented would avoid a situation in which the City would have to track down each developer and figure out who performed which job.

Council Member Hawthorne inquired whether it would be advantageous to have separate developers construct parts of the project, and to have them bonded in the event of the death of the original developer to ensure that their part of the project is completed.

Mr. Lundgren explained the favored approach would have the benefit of being easier to enforce, monitor, and to maintain. It would provide the advantage of having lower total financing and transaction costs, because under the map act this would normally be obtained through a bond or secured with a letter of credit. Both of which have annual transactions and upfront costs. The downside as explained by the City Attorney is that the total warranty period that the City would be securing through the negotiation of the DA would be longer than the initial warranty period. This can be negotiated as a deal point in the DA and allows the City to stay with the master developer.

There was discussion regarding individual developers, the difficulty of tracking them down, and locking them into this additional security. If this can be negotiated with the developer that they keep the bonds in place through the completion of the project, it would be more straightforward, easier to track and deal with than having multiple individual builders providing additional security.

Following Council discussion, the Mayor confirmed that there was consensus of the Council to approve the first option as indicated in the memo.

City Attorney Norgaard reported on the habitat conservation area and requested Council feedback. As part of the mitigation plan, DBO is required to set aside approximately 0.9 acres as a conservation area and to obtain incidental take permits for construction in the SOT area. Due to the presence of certain species -- the gilia, Monterey spine flower and the Smiths blue butterfly some of that species and habitat could be destroyed with the project, so DBO is required to mitigate by providing a conservation easement. The underlying land is owned by DBO, and then will likely be owned by the owners of the properties who develop the R1 and R2 parcels. They will own the underlying land but the conservation easement will be over that land and the habitat has to be monitored in perpetuity.

DBO has already submitted a few documents and have applied for an incidental take permit with the US Fish and Wildlife and also the California Department of Fish and Wildlife because one of the plants is a State protected species. What has been presented in some of the documents from DBO is that the City wants to take it over to manage the conservation easement. Council has not actually been presented with this issue. There is a question as to who will actually own the easement on the land? This could be the City or a third party agency such as the Native Plant Society. The second issue is who will actually provide the ongoing maintenance of the habitat, and ensure that invasive species such as ice plants are

removed and reports are filed. The third question is how will that on-going maintenance be funded? What has been established is that DBO will be in charge of the habitat area for the first 5 years so that if the City were to take it over, the City would only do so if the area is already successfully restored. This habitat management/ownership is an issue that can be clarified in the development agreement.

Council Member Blackwelder commented that this is DBO's project and the City does not have staffing capacity to manage the habitat. Fish and Wildlife should make the determination on who should manage it and it should be funded through the Community Facilities District (CFD).

There was Council discussion regarding the financial aspect of the habitat area which included an endowment fund provided by DBO. Their analysis provided that 4% interest of \$73,000 would actually be enough for the monitoring activities; however, should the calculations change, the City would be responsible for paying the difference. There was further discussion on whether the City wants to own and be responsible for the the conservation easement as this would be a liability, and also a discussion of work that needs to be performed by DBO prior to demolition.

Mr. Lundgren commented that if there is Council consensus on the first issue, the developer could have it turned over to a conservation trust. There is at least one agency that owns and manages conserved areas. That non-profit group would have its own standards and responsibilities for accepting ownership of the property, and taking on the management responsibilities. They would provide their own opinions regarding the issue of funding, and whether they prefer an endowment or some other funding source.

Council Member Hawthorne commented that it would be a good idea to have a conservation group maintain the habitat area and assume the responsibility of keeping animals and flora maintained so the City does not have to worry about it. The environmental group would set their own rules and hire their own biologist.

There was further discussion regarding EIR requirements, the City providing demolition and other necessary permits, and notice of completion.

Interim City Administrator Meurer added that if the City could find a group that is willing to take responsibility for the area that would be great; however, most groups are limited in funding. The City is not in the habitat business. The habitat is an exclusionary area and not a park, and would need funds allocated for its on-going management.

Mr. Lundgren emphasized that in prior conversations perhaps the developer may be requesting some things and taking certain steps that may not have been completely thought through in terms of their potential impacts and risks. The City is focusing on trying to get a viable schedule and order of proceedings, and to ensure that the work involved in the permitting process is logical and orderly.

City Attorney Norgaard clarified and noted earlier discussions indicated that the Council finds that they do not want to be in the business of managing or even owning the conservation area as mentioned, and would like DBO to find a third party to take both ownership and monitoring in perpetuity forever.

The Council was in agreement with the City Attorneys clarification regarding the habitat conservation area.

City Attorney Norgaard provided a report on the progress of both the Lang and Gomez properties. One of the remaining parcels is the lift station, which is owned by the Successor Agency to the former Redevelopment Agency. Currently, the Long Range Property Management Plan requires that it should be offered to DBO as part of the plan to redevelop South of Tioga at its fair market value. The Director of Administrative Services is looking at updating the existing appraisal.

City Engineer Gomez added that the Seaside Sanitation District currently has plans to construct a new sewer main up to Tioga Avenue and once installed, the existing residences connected to that sewer main will render the lift station parcel obsolete. Based on his conversation with the City of Seaside, that project is probably somewhere in the vicinity of an 80% design, and they reportedly have an aggressive schedule for construction.

City Attorney Norgaard spoke to portions of the road that will be abandoned and referred to the map contained in the memo. The vesting tentative map has the entire area going to the project. When a right of way is legally abandoned half of it goes to the property owners on one side of the road, and half of it goes to the other side of the road. Discussion regarding the Council's direction in moving forward with possible condemnation should be deliberated under Closed Session. These land acquisition issues will be covered in the DA by requiring that it would need to be amended to include the acquired properties.

Mr. Lundgren commented that the question about possibly breaking up the project to avoid the issue of property ownership is an interesting one for the Council to consider. From a practical legal standpoint, State law

prohibits the City from entering into a development agreement with anyone who does not have legal title or an equitable interest in all of the property that is depicted on the map. He thanked the Council for the opportunity to provide his legal opinions.

6:45 P.M. Floor opened for Public Comment.

There was no comment from the Public.

6:45 P.M. Floor closed to Public Comment.

The Mayor asked the Council if they were in agreement with the issues presented tonight and the direction taken. There was consensus of the Council to move forward.

{Council Member Cruz returned to the dais}

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

Council Member Sofer reported that she took a ride along with the Police Chief on Friday and it proved to be very informative and useful. She encouraged other members of the Council to schedule a ride along so they know what the police officers do on a daily basis. Council Member Cruz expressed her interest to Police Chief Ferrante.

Council Member Hawthorne commented that the City barbeque is several weeks away and would like to know if beer or wine can be served. City Attorney Norgaard advised that the municipal code allows for alcoholic beverages at a specific City event if City Council decides to allow it and must be set by resolution. This item can be agendaized if the Council would like to do so.

C. Upcoming Meetings/Events

The City Clerk mentioned that Post No Bills will have a mixer on Thursday, April 19th from 5-8 p.m. There were no RSVP's from the Council.

AGENDA ITEM 12, ADJOURNMENT

Motion to adjourn the City Council meeting was made by Council Member Sofer seconded by Council Member Hawthorne to the next regularly scheduled Council meeting on Tuesday, May 7, 2019 at 5:30 p.m. There was consensus of the Council to adjourn the meeting at 6:55 p.m.

Connie Horca

Connie Horca, Deputy City Clerk