

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

Regular Meeting – December 18, 2018
5:30 P.M.
CITY COUNCIL CHAMBERS

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

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

Staff: Fred Meurer, Interim City Administrator
Vibeke Norgaard, City Attorney
Leon Gomez, City Engineer
Brian Ferrante, Police Chief
Charles Pooler, City Planner
Connie Horca, Deputy City Clerk

AGENDA ITEM 4, ANNOUNCEMENTS BY MAYOR AND CITY ADMINISTRATOR

Mayor Carbone announced that her monthly report will be presented at a future Council meeting. Interim City Administrator Meurer reported that he has been with Sand City for a month and has observed the diverse community that makes up Sand City. At the end of his tenure, he will provide recommendations and report of his observations. A letter was mailed to residents of the City to announce the vacant City Council seat. Responses will be accepted through December 27, 2018 with interviews held at a special meeting on January 8, 2019, and an appointment made at the January 15, 2019 City Council meeting. Even though the field of qualified candidates for City Administrator is rather thin, two executive recruitment firms will be submitting their proposals to Staff.

Mr. Meurer reflected on the past and reported on several events that took place during the Vietnam War and major events that took place during that era such as the assassinations of both Martin Luther King Jr. and John F. Kennedy. Those veterans who served in the armed services during that era came home unrecognized and were not acknowledged for their service to the country. Mr. Leon Panetta created an organization to acknowledge those men and women

who served our country. Mr. Meurer and Council member Carbone presented Vice Mayor Blackwelder with a pin for his service in the Marines during the Vietnam War and thanked him for his service to the United States of America. The Mayor personally thanked Mr. Blackwelder for his service and also those in the audience who served the Country.

AGENDA ITEM 5, PUBLIC COMMENT

5:43 P.M. Floor opened for Public Comment

There were no comments from the Public.

5:43 P.M. Floor closed to Public Comment.

Deputy City Clerk Horca commented that handouts for agenda item 8A included letters from the applicants and Mr. Bunyl.

AGENDA ITEM 6, CONSENT CALENDAR

- A. There was no discussion of Sand City Council Meeting Minutes, December 4, 2018.
- B. There was no discussion of Public Works Monthly Report, November 2018.
- C. There was no discussion of Police Department Monthly Report, November 2018
- D. There was no discussion of City **RESOLUTION** Appointing a Director and Alternate Director to the Monterey Peninsula Regional Water Authority (MPRWA) for a Two Year Term Commencing on January 2019.

Motion to approve the consent calendar items was made by Council Member Hawthorne, seconded by Council Member Blackwelder. AYES: Council Members Blackwelder, Carbone, 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, PUBLIC HEARING

{A straw draw was conducted and Council Member Sofer stepped down from the dais due to a possible conflict of interest by residing within 500' of the subject property}

A. Consideration of City RESOLUTION Revoking Coastal Development Permit 13-03 and Conditional Use Permit 560 for Gym Use at 1807 Contra Costa Street

Mr. Meurer reported that the item before the Council is a conflict that needs to be resolved. Mr. Pooler will provide the history. The objective is to find a way for the residents to live in their apartment with a business downstairs which has proved to be helpful and making changes to people's lives. Several options may be presented for Council consideration.

City Planner Charles Pooler reported that on March 19, 2013, the City Council approved a combined Coastal Development Permit and Conditional Use Permit for Seth Munsey of Iron Republic, to establish and operate a fitness studio based around a weight-training implement called a Kettlebell and performing a fitness exercise style called "Primal Move". When Iron Republic closed in 2017, Staff was approached by Camp Transformation to continue the physical training facility at the property, and based on information submitted to Staff it would be similar to the previous use on the site. There were no complaints from the previous operation. Camp Transformation has acquired a use permit to relocate to 325 Elder Avenue pending conditions and interior modifications that are needed before they can occupy the space. Mr. Pooler identified several issues that had been resolved such as running in the streets; however, Staff had received complaints regarding noise/vibration, excessive parking, loud noise from music and/or yelling, and more recently blocking the stairway access to the upper level. Residents on the upper level have been impacted according to their complaints. He explained violations of conditions in the permit such as the hours of operation which is 7:00 a.m. to 10:00 a.m., and 4:00 p.m. to 7:00 p.m., Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturday. Class schedules exceeded the allowable hours of operation specified by the permit. Other violations included the use of dumbbells, and acoustical music and/or noise impacting adjacent units.

It is Staff's conclusion that the scope and scale of Camp Transformation's operation is too obtrusive for the Contra Costa Street location due to residential units being on the upper level, the inadequacy of wall/floor thickness and noise insulation, and the lack of sufficient on-site parking. The building Camp Transformation is relocating to at 325 Elder Avenue is different in that there are no residential units within the building, the building's exterior walls are concrete-tilt walls that should contain noise and vibrations, sufficient sound barriers are required between units, and there is a sufficient off street parking. Staff recommends approval to revoke the permit at

1807 Contra Costa for Camp Transformation with time to vacate the site, and that all exercise activities cease immediately.

Mr. Meurer requested that the Council consider giving the applicants adequate time to make their case and not limit them to three minutes. City Attorney Norgaard further suggested that the permittee's also be allowed to answer questions as needed.

6:24 P.M. Floor opened for Public Comment.

The applicant Michael Conover commented that he is hopeful to have a building permit by the end of January. The architects estimate that plans should be available for submittal by the end of the week. The remodel at the 325 Elder Avenue looks like a 30 day construction process and can be accomplished within that time.

The applicant Leslie Conover submitted photos to the Council of where clients are advised not to park and commented that it took several months for the landlord to assign parking spaces. There are seven vehicles to the residential units alone and noise impacts are often generated by landscapers in the early mornings. She expressed her personal thoughts and solutions to mitigate the problems and issues that have been brought to her attention. Since opening day over 850 people have come to the gym. She understands the guidelines of the CUP and had made announcements regarding classes that were no longer being offered which would significantly decrease their revenue. Cancellation of the 5:00 a.m. class would reduce their revenue by 40%. Mrs. Conover requested that the Council consider not revoking their permit as they are working on relocating to their new building as soon as it is ready for move in.

Mr. Conover commented that in January they were thinking of requesting an amendment and were told by Staff that it was not recommended due to complaints being received. It would be beneficial if classes could be held during the day around 3:00 p.m. – 4:00 p.m. in lieu of classes that could not be held early in the morning. Mrs. Conover further mentioned that they are taking precautions for the trash that was reportedly being generated. Mr. Conover presented the history of how they acquired the use of the building and the permit that was issued to the previous owner. He requested that the Council not close them down, but rather allow them time to relocate to their new building.

In response to Council Member Hawthorne's inquiry regarding whether the Conover's can conduct their classes during the middle of the day when residents are at their jobs and whether this option would work for them, Mrs. Conover replied that they can make it work between the hours of 7:00 a.m. to 7:00 p.m.

Sand City residents Courtney and Darren Mah commented that they have lived in Sand City for 10 years and occupy a unit upstairs. This is the first time they have had to live with the noise impacts and have tried to make changes in their lives. They do not want the business permit revoked, but would like to them to operate within the parameters of their permit and not cause disruption to their lives. Their concerns were expressed prior to the business commencing. The noise has diminished over the months, but they still come home to the sound of 'bass', have had to close their windows from the sound of instructors directing students too loudly, and the use of equipment and speakers that are mounted on the ceilings. The 5:00 a.m. class has woken them up and the evening class has not allowed them any peace. There have been moments of 'down-time', but the last straw was coming home to the door blocked with equipment which has impacted the ability to come and go from their home.

At the request of Mr. Pooler, Mrs. Mah clarified what she meant by the 'down-time' they had occasionally experienced. Mr. Mah expressed his desire to be able to come home after a long day of work and have some measure of peace and quiet as well as the ability to not be awakened too early in the morning. There is also the parking issue. They would both like the ability to co-exist until Camp Transformation can relocate to their new building.

There was Council discussion regarding the parking issue at the location and the suggestion that the owner place signage indicating that it is 'residential parking only', the possibility of working around the operating hours of the permit to provide classes in between hours, and the equipment that appeared outside.

Sand City resident Bambi Barker who lives at one of the units above the use commented that she spoke with the owners of Camp Transformation regarding the noise level, and that it has been reduced to a tolerable volume. She does not want their license revoked and would like the applicants to continue to do business. In response to Mayor Carbone's question whether classes during the day would impact her; Ms. Barker replied that there have been times when she could feel vibrations on the floor. Since her conversation with Ms. Conover, the vibrations have lessened. She added that she arrives home from work at approximately 3:30-4:00 p.m.

Mr. Seth Munsay the previous occupant of 1807 Contra Costa who operated the former Iron Republic provided a background of his business operation and commented that the hours he requested on the conditional use permit were the hours he was available to conduct business at the location. He remarked on what constitutes an acoustical nuisance, and

expressed that revoking the applicant's permit would not only pose a difficulty to the owners but also loss income to their staff.

Sand City resident Tom Batcha commented on the parking issue and that vehicles have been blocking portions of Bay Avenue as well as the noise being generated when the roll up doors are open.

Sand City resident Ben Brandt commented that he is the neighbor across the street from Camp Transformation. He offered the dirt lot adjacent to his home as additional parking for the Camp's clients.

Mr. Conover suggested and encouraged the Council to consider decibel levels for conditional use permits and that a guideline be created to address the issue of noise.

7:14 P.M. The Mayor adjourned the meeting for a break at the suggestion of the City Administrator.

7:21 P.M. The Mayor reconvened the meeting.

Applicant Leslie Conover commented that every member is provided a handout of the rules. It is their desire to continue to make everyone happy and to have a profitable business. They will do the best they can to ensure that the volume control buttons are not to be touched by the trainers as well as offering exercises that do not include the use of weights. She requested that the Council consider a 6:00 a.m. class and is willing to cancel the 5:00 a.m. and 7:00 p.m. classes. She will be personally teaching the other classes to minimize the noise level. Mr. Conover further requested that if they can keep the noise level down, can they have the ability to operate during the day because cancelling classes would impact their members. Having a class at 10:00 a.m. or 1:00 p.m. would allow their clients a chance to come to class.

Mr. Munsay addressed the hours of his original permit and commented that the permit application asked when he as the applicant, would like to operate and engage in business.

7:29 P.M. Floor closed to Public Comment.

Council Member Hawthorne addressed the issue of parking by requesting that the property owners provide signage indicating that parking spaces are for 'residents only'. Should someone be in the spot, the owner can call the City to have them towed away. He also suggested that Camp Transformation paint a line to indicate that nothing should be placed beyond the 'line' to ensure that the entrance will not be blocked for tenant accessibility. The applicant can operate at certain times with no music and

when music is provided it should be kept at an acceptable level. The owner and residents should communicate weekly with each other to talk about how things are going. Finally the owners need to communicate to their members about where to park and set a definitive time when they will be relocating to the other building, such as April 1st, so their neighbors know what to expect. Hopefully these suggestions would be agreeable to both parties.

Mayor Carbone added that the Council has heard from Staff, residents and business owners. There seems to be a consensus that both the residents and business owners do not want the permit to be revoked. The Mayor further addressed the operating hours and classes. Mr. Pooler spoke to the permit hours and mentioned that it is not unreasonable for the applicant to request classes during the middle of the day as those are standard business hours. Based on the intent and author of the permit, it would be reasonable to allow Camp Transformation to hold classes during the middle of the day. One option the Council may pursue is to allow Camp Transformation to conduct business and continue this hearing to a future Council meeting to decide whether the applicants are adhering to the comments and concerns addressed tonight.

Mr. Meurer recommended that this item be continued to the January 15th meeting. Between now and the next meeting, the business should be allowed to operate without being in conflict with the peace and quiet the residents expect. The Council has heard comments on how noise and parking can be mitigated. By the next meeting, several questions regarding how much longer Camp Transformation will be operating at the location may be answered. Council Member Hawthorne agreed that it would give the business owners time to incorporate the suggested changes. It would also make the next meeting painless if the residents and business owners continue to work together, and come back with a solution for the Council to consider.

Motion to continue the Sand City **Resolution** revoking Coastal Development Permit 13-03 and Conditional Use Permit 560 for Gym Use at 1807 Contra Costa Street was made by Council Member Hawthorne, seconded by Council Member Blackwelder. AYES: Council Members Blackwelder, Carbone, Hawthorne. ABSTAIN: Council Member Sofer. None. NOES: None. ABSENT: None. Motion carried.

{Council Member Sofer returned to the dais}

{Council Member Carbone stepped down from the dais due to a possible conflict of interest by residing within 500' of the subject property}

Vice-Mayor Blackwelder presided over the meeting.

B. Consideration of City RESOLUTION to Approve Conditional Use Permit 630 (Inclusive of Site Plan and Design Review) for the Development of a Single Family Home at Park Avenue (APN 011-131-019)

City Planner Pooler commented that an application was submitted by Wayne Wood Construction regarding development of a 2-story single family residential dwelling on a 3,750 square foot vacant property fronting Park Avenue. The zoning code requires a minimum of 2 parking spaces with one space covered. The project provides sufficient parking and exceeds the requirements of the City's zoning codes. As a condition of approval, Staff recommends the driveways consist of either stamped/colored concreted or decorative pavers. The overall project design is modern/contemporary and does incorporated elements of the 'seaside' architectural influences with the open deck, entrance brought forward, recessed garage, and the integration of horizontal board siding. The gutters and roof trim will consist of aluminum fascia and recommends further treatment to enhance the entry. As a condition of approval, Staff recommends that this be subject to final Design Review Committee (DRC) approval. The design proposes a primary shed roof at a ½ slope over the north half while a flat roof is on the south half. The frontage consists of an existing concrete sidewalk, curb and gutter, and that a curb-cut will be necessary for driveway access. Staff discussed the roof design and potential impacts upon ocean views of the homes behind the project. Water will need to be allocated from Sand City's Water Entitlement and the structure will need .144 acre feet without the landscape plans. Staff recommends that the existing lots be merged into a single lot and parcel. The City engineer would determine the best methodology to achieve that goal. Development and use of the subject property is not considered an impact to sensitive habitat. Staff recommends approval inclusive of site and architecture with the recommended terms/conditions proposed.

8:03 P.M. Floor opened for Public Comment.

Sand City resident Kate Tolles who lives on 1879 Park Avenue on the property located behind the proposed development expressed that she would like to preserve as much of the view available as possible as well as the value of her property. She mentioned the roof and would like to follow Staff's recommendations that it will not be something reflective. She requested the placement of story poles to visually see the space the house will be occupying, if any trees are planted that it not grow beyond the fence lines, and that construction times be limited from 8:00 a.m. to 5:00 p.m.

The architect Sam Pitnick commented on the design strategies and the proposed roof line. He expressed that it can be changed to a metal standing seam roof to accommodate the request of the neighbors. There are no final landscaping plans but the applicant would like to incorporate ground cover

with no large trees.

Mr. Pooler added that landscape plans will be reviewed by the planning department and does not have to be brought before the DRC for approval. Drought tolerant plants were discussed.

Mr. Pitnick addressed a few design specifications of the project including the windows, elevation levels, and exterior materials.

The applicant Wayne Wood commented that he would like the Tolles to assist him in picking out the color for the roof since they will be looking at it from their home.

8:13 P.M. Floor closed to Public Comment.

Motion to approve the Sand City **Resolution** approving Conditional Use Permit 630 (Inclusive of Site Plan and Design Review) for the Development of a Single Family Home at Park Avenue (APN 011-131-019) was made by Council Member Sofer seconded by Council Member Hawthorne. AYES: Council Members Blackwelder, Hawthorne, Sofer. ABSTAIN: Council Member Carbone. NOES: None. ABSENT: None. Motion carried.

{Council Member Carbone returned to the dais}

{A straw draw was conducted and Council Member Sofer stepped down from the dais due to a possible conflict of interest by residing within 500' of the subject property}

C. Consideration of City RESOLUTION Approving Conditional Use Permit 631 for Dana Gove Authorizing a Closed-Door, Long-Term Care Pharmacy at 495 Elder Avenue

City Planner Charles Pooler presented an application submitted by Dana Gove to establish and operate a long term care pharmacy servicing the needs of Monterey County assisted living facilities, residential homes, etc at 495 Elder Avenue. The property has a two level multi-unit commercial building which facilitates offices and other light manufacturing and service commercial uses. The applicant will purchase pharmaceuticals from licensed wholesalers and will fill prescriptions for delivery. There will be two or three employees at the site at any one time and no front counter public service provided at the location. On-site activities closely resemble a wholesale/warehouse distribution operation. The Sand City Municipal Code prohibits the storage, cultivation, sale and/or distribution of cannabis/marijuana products. Staff recommends the permit specify that the proposed use shall not conduct those activities prohibited by SCMC Chapter 18.69. The applicant did not specify hours of operation and the City has limited commercial activities in the West

End District to occur between 7:00 a.m. to 6:00 p.m. on weekdays and 10:00 a.m. to 5:00 p.m. on Saturdays with exceptions to office activities. Due to the benign nature of the proposed use, office activities beyond those hours should be allowed. Deliveries should be limited to the aforementioned hours. The property provides 18 parking spaces and the proposed use requires 2 parking spaces which meets the zoning code requirements. There has never been parking issues at the location. Staff recommends approval of the attached use permit.

8:25 P.M. Floor opened for Public Comment.

The applicant Dana Gove commented that she has been conducting her pharmaceutical services for the past 12 years and delivers to people who cannot get their medication. There will be pharmaceutical technicians that fill the prescriptions. In response to Chief Ferrante's question regarding the security of her building, Ms. Gove explained that the windows will have bars, that all medications will be contained in locked cabinets, and that she has never experienced a break in. She will not be preparing IV bags and addressed the ability to dispose of contaminated materials through a company called Stericycle. Mr. Pooler explained that the applicant does need to dispose of contaminated materials as required by County, State and Federal regulations.

The Mayor asked the applicant if she was in agreement with the conditions of the use permit. Ms. Gove responded that she was in agreement with permit conditions.

8:27 P.M. Floor closed to Public Comment.

Motion to approve the Sand City **Resolution** approving Conditional Use Permit 631 for Dana Gove Authorizing a Closed-Door, Long-Term Care Pharmacy at 495 Elder Avenue was made by Council Member Blackwelder, seconded by Council Member Hawthorne. AYES: Council Members Blackwelder, Carbone, Hawthorne. ABSTAIN: Council Member Sofer. NOES: None. ABSENT: None. Motion carried.

{Council Member Sofer returned to the dais}

AGENDA ITEM 9, OLD BUSINESS

- A. Engineering and Public Works Department Summary Report including the Sand City Water Supply Project, Storm Water Management Program, City Projects: West Bay St. Coastal Access Repair Project, Carroll Property Parking, TAMC Parcel Landscaping Project, Calabrese Park Improvement Project, Private 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 14.3 acre feet through December 15, 2015. The City Engineer provided an update to the Interim City Administrator regarding the Phase 1 New Wells Project. The next steps are to schedule a meeting with Intera and/or Cal-Am. In response to Council member Blackwelder's question regarding the exorbitant cost estimate provided to the City by P.G.&E. for undergrounding of utilities, the estimate includes evaluation of the meters along both Contra Costa & Catalina, conversion of the meter to the new trench underground line, and relocation of existing facility of poles into the trenches. The estimate assumes phone and cable will join in the trench and share those costs.

Mr. Gomez reported that there were a few concerns on the status with the preliminary grading and construction site BMP's for the Monterey Bay Shores project. Email correspondence was sent regarding the status of the project. The preliminary rough grading ceased and is expected to resume in 2019. Mr. Ghandour will be contacting Staff for the filing of the annual report. A meeting for the South of Tioga project will be held for the processing and review of the project. The Seaside Sewer Main project submittals were reviewed last week and an encroachment permit was issued. The project has a 30 day construction window, which started the end of November. Due to the timeline of approving submittals, the City of Seaside is not willing to extend the construction period. The contractor is expected to complete the project by mid-January. Mr. Gomez reported on the requirements of sound impacts related to the sewer main project. Staff provided TAMC and their consultant with a review of their rehabilitation and maintenance strategies for Sand City regarding the Pavement Management Program. Staff has reviewed the documents, provided comments and should be hearing back from TAMC sometime in January.

AGENDA ITEM 10, NEW BUSINESS

A. Consideration of Successor Agency RESOLUTION Approving an Administrative Budget for Fiscal Year July 2019 through June 2020

Successor Agency Chair Carbone reported that an Administrative Budget is provided with a resolution for approval on page 160. There were no comments from the Council.

8:45 P.M. Floor opened for Public Comment.

There were no comments from the Public.

8:45 P.M. Floor closed to Public Comment.

Motion to approve the Successor Agency **Resolution** approving an Administrative Budget for Fiscal Year July 2019 through June 2020 was made by Agency Member Hawthorne, seconded by Agency Member Blackwelder. AYES: Agency Members Blackwelder, Carbone, Hawthorne, Sofer. ABSTAIN: None. NOES: None. ABSENT: None. Motion carried.

B. Consideration of Successor Agency RESOLUTION Approving the Recognized Obligation Payment Schedule (ROPS) for July 2019 through June 2020 (ROPS 19-20A and ROPS 19-20B)

Successor Agency Chair Carbone pointed out a typographical error on page 164 indicating that the ROPS should be reflected to depict the year 19-20B and not 18-19B. There were no further comments from the Council.

8:47 P.M. Floor opened for Public Comment.

There were no comments from the Public.

8:47 P.M. Floor closed to Public Comment.

Motion to approve the Successor Agency **Resolution** approving the Recognized Obligation Payment Schedule (ROPS) for July 2019 through June 2020 (ROPS 19-20A and ROPS 19-20B) was made by Agency Member Hawthorne, seconded by Agency Member Sofer. AYES: Agency Members Blackwelder, Carbone, Hawthorne, Sofer. ABSTAIN: None. NOES: None. ABSENT: None. Motion carried.

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

Council Member Hawthorne commented that he is hopeful that the City will receive responses from interested applicants for the vacant Council seat.

The Mayor commented that Monterey Fire Department will be looking for volunteers to wrap gifts for distribution to less advantaged children. The Mayor invited the Council to assist in wrapping gifts at Monterey High School gymnasium. The Fire Department will be distributing wrapped gifts on Saturday to Sand City residents.

D. Upcoming Meetings/Events

Interim City Administrator Meurer reported that a series of Public Listening Sessions will be held by the Monterey Peninsula Water Management District on Measure J regarding how they will be approaching the feasibility study. While the Measure was advertised indicating that it will not cost anything, it has been found out that the study will now cost \$300,000-\$800,000 dollars and may not become public due to property negotiations. Comments will be taken regarding what the feasibility study actually entails.

AGENDA ITEM 11, ADJOURNMENT

Motion to adjourn the City Council meeting was made by Council Member Hawthorne, seconded by Council Member Sofer to the next regularly scheduled Council meeting on Tuesday, January 15, 2019 at 5:30 p.m. There was consensus of the Council to adjourn the meeting at 9:03 p.m.

Connie Horca, Deputy City Clerk