

# MINUTES

## JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY

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Regular Meeting – November 4, 2008  
CITY COUNCIL CHAMBERS  
7:00 P.M.

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Mayor Pendergrass opened the meeting at 7:02 p.m.

The Pledge of Allegiance was led by Police Chief Klein

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

Staff: Steve Matarazzo, City Administrator/Community Development Director  
Jim Heisinger, City Attorney  
Richard Simonitch, City Engineer  
Michael Klein, Police Chief  
Linda Scholink, Director of Administrative Services  
Charles Pooler, Associate Planner

### AGENDA ITEM 4, COMMUNICATIONS

- A. Distributed to the Council this evening was an invitation from the Board of Supervisors and Arts Council for Monterey County to the Third Annual Juried Exhibit of Fine Art being held on November 6, 2008.
- B. Oral Communications- the Mayor expressed his appreciation of the new art in the Council Chambers, and he recognized Council Member Mary Ann Carbone's birthday.

7:04 P.M. Floor Opened for Public Comment

There were no comments from the public

7:04 P.M. Floor Closed to Public Comment

### 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 October 21, 2008 Sand City Council Meeting Minutes.
- B. There was no discussion of the City **RESOLUTION** Approving a 90-Day Time

Extension of Conditional Use Permit 481 allowing Monterey Bay Plumbing to continue their contractor operation as an interim use at 856 Tioga Avenue.

- C. There was no discussion of the City **RESOLUTION** Honoring the Association of Monterey Bay Area Governments (AMBAG) on its 40<sup>th</sup> Anniversary.
- D. There was no discussion of the City/Redevelopment Agency Financial Report, September 2008.
- E. There was no discussion of the City RESOLUTION Authorizing a Rate Increase for Waste Management effective January 1, 2009.
- F. There was no discussion of the City/Redevelopment Agency Treasury Report, September 2008.
- G. There was no discussion of the following City Donations/Contributions.
  - 1) Request by Arts Habitat - \$500
  - 2) Request by Seaside High School Yearbook Program - \$340

Motion to approve the Consent Calendar was made by Council Member Blackwelder, seconded by Council Member Hubler. AYES: Council Members Blackwelder, Carbone, Hubler Morris and 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 HEARINGS**

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

- A Associate Planner Pooler presented for consideration the application submitted by John Chappell for conditional use permit approval to establish an artist gallery for both private and public art exhibit and to establish his own art manufacturing workspace within an approximate 1,010 square foot commercial unit on the ground level at 679 Redwood Avenue. The applicant also wants to build a roof structure over the fenced yard along the entire side of the building; which requires site plan and architectural review. The framing for the new structure was built without permits, but ceased when it was "red-tagged". The applicant is now seeking approvals to proceed and complete this project. The applicant intends to utilize the front half of the 1,010 square foot unit for his art manufacturing. The applicant will utilize stone, steel, and cement in his creations. Equipment includes a welder, handheld grinders, power chop saw, and air compressor. The applicant also wants to set up a gallery for exhibits at the rear half of the unit. The applicant also wants the fenced yard area for occasional display setups. The property provides eleven (11) on-site parking spaces along the Redwood

Avenue frontage. Hours of operation will not be on a regular schedule, and clients will be on a "by appointment only" arrangement. The existing fence and roof addition appear to be encroaching into the public right-of-way of about 6 inches. Setback requirements for the Mixed-Use zoning district are discretionary upon site plan approval by the City Council and Design Review Committee. The Building Department commented that combustible construction material is not allowed on the property line and must be setback a minimum of five feet (5') per the California Building Code; therefore, the structure as it stands must be demolished or modified. The applicant could still proceed with a shed roof over the yard, if it were constructed of non-combustible materials. Staff does recommend approval of a site plan permit at this time so that the applicant will have some idea of how he can redesign the project. Staff supports the artist workshop and gallery. Staff also supports site plan approval to allow roof coverage over the side yard area; however, a redesign of the structure is necessary to comply with building code requirements; and still requires Design Review Committee approval. A redesign would include removing the existing structure and replacing it with a code compliant design.

Staff recommends the City Council approve the resolution, which takes the following actions.

1. Approval of a Conditional Use Permit to establish and operate an artist workshop and gallery and,
2. Approval of a Site Plan Permit, with a 2-year time limit, generally allowing a roof structure over the side yard subject to:
  - a) Final Design Review Committee (DRC), review and approval, and
  - b) Building Department plan check review, and issuance of a Building Permit.

7:17 P.M. The Floor was opened for Public Comment

**John Chappell, (Applicant):** Stated that he realized he had started construction without the Council's blessings, but he feels that the structure has been built well. He would like to take the trees out. He is not sure who is responsible for the fence. He feels that he is an asset to the City because he is manufacturing art, developing art, showing art, and may be providing some educational program. If he was required to set back 5 feet, he would just tear everything down. He has cleaned up the site from the time he took it over.

The Mayor asked if the applicant was in agreement with the conditions of the permit, and he responded yes he was.

**Todd Kruper, (Resident):** He thanked the Council for their service to the community and a special thanks to Council Member Morris for his years of service to the citizens of Sand City. In regard to John Chappell's application, he feels the City Council needs to encourage and support the artists in the community.

7:25 P.M. The Floor was closed to Public Comment

Council Member Morris asked staff when the project is in violation of the Building Code, does the City have any options for approving the structure. Associate Planner Pooler responded that there are no other options.

Motion to approve City **RESOLUTION** Approving Conditional Use Permit 492 and Site Plan Permit 08-02 for John Chappell at 679 Redwood Avenue, Unit A was made by Council Member Morris, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler Morris and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Hubler. Motion Carried.

*{Council Member Hubler returned to the dais}*

## **AGENDA ITEM 8, OLD BUSINESS**

City Engineer, Richard Simonitch reported that he attended a couple of meetings last week, one of which was with Cal-Am. They discussed the operation of the desalination plant and turning over the facility to Cal-Am in late December or early January for testing and operations. Another meeting was held with the Department of Public Health regarding their concern with the operation of the plant. The roof is going on the building, and it is becoming an attractive building. He is satisfied with the success to this point, and we have overcome setbacks. He told the Council that one of the four wells will not be used in the foreseeable future, so we will have three feed wells, which should save the City about \$50,000.

City Administrator, Steve Matarazzo reported that the beach access plans should be on the agenda next month; and that Ed Ghandour's Eco Resort project will be a presentation on the next agenda.

The Mayor encouraged the City Engineer to keep the Council updated on the proposed street work. The City Engineer responded that the bids for the street work should come before the City Council in about 4 months, due to a PG & E delay.

## **AGENDA ITEM 9, NEW BUSINESS**

- A. The City Administrator recommended approval of the contract with Willdan Financial Services to determine a reasonable cost for providing a water use permit fee from the Sand City water supply project. Willdan Financial Services has been recommended as a leading consultant in the field of real estate market analysis. Willdan will perform an analysis on a number of development types consistent with Sand City to determine a reasonable fee for the "partial water right". The analysis will estimate all of the costs leading up to completing a 'development project' compared with the ultimate value (or price) of the development product. It will also establish a reasonable profit margin. The cost for the contract being considered will not exceed \$19,200.

Motion to approve **RESOLUTION** of the City Council of Sand City approving a contract with Willdan in an amount not to exceed \$19,200 to perform financial analysis was made by Council Member Blackwelder, seconded by Council Member

Carbone. AYES: Council Members Blackwelder, Carbone, Hubler Morris and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- B. The City Administrator presented the background on GASB 45. In the fiscal year 2009-2010, the City of Sand City will have to comply with GASB 45 requirements. There are two contracts before the Council. The first contract is with Bartel Associates for actuarial services related to Government Accounting Standards Board Statement 45 (GASB 45) at a cost not to exceed \$15,000. To comply with the GASB 45 requirements the City will need to have an actuarial study completed. The City has contracted with John Bartell in the past for actuarial studies for different PERs retirement programs that were available. As stated in their letter, they have completed over 170 GASB 45 studies since 2004. The City currently pays the Other Post Employment Benefits on a pay-as-you-go basis. Beginning in the next fiscal year these obligations will need to be shown in the City's financial statements as a financial liability.

The second contract is with Liebert Cassidy Whitmore. This contract will be for consulting, representational, and legal services pertaining to evaluating the City's retiree health care benefits; including an opinion regarding the City's ability to modify its current program. This contract is estimated to cost \$3,000-\$4,000. The benefit of doing these two contracts simultaneously is that Bartel may be able to help with future OPEB costs if we are able to give him direction of what the future benefits may be.

The City Attorney complemented staff on their forward thinking and anticipating the future costs to the City. By approving these two contracts staff will be better informed to address the Council with the different benefit plans available to future employees.

Motion to approve City **RESOLUTION** Authorizing Contract Service with Bartel Associates for a cost not to exceed \$15,000 and a Contract with Liebert, Cassidy, Whitmore at a cost not to exceed \$4,000 for Actuarial and Legal Services, respectively, as related to the City's Compliance with GASB45 was made by Council Member Blackwelder, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler Morris and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- C. The City Engineer reported to the Council on the additional contingency amount of \$301,000 needed for the MGE contract. The original contract with MGE Underground was awarded in the amount of \$1,508,359.00, and an additional contingency amount of \$150,836.00. On September 16, 2008 the City Council approved another \$350,000 increase in the contract contingency. With the approval of this additional contingency of \$301,000, the total contingencies to date would be \$801,836.00, under the MGE Underground, Inc. contract. There are an additional three change orders that include:

Change Order 6 – Costs associated with the water truck and delivery of water for Directional Drilling operations-\$4,064.87.

Change Order 7 – provide installation of a 6-inch water line to provide fire sprinkler

service – \$19,385.27

Change Order 8 – provides for the upgrade to the feed water delivery system from a simple start-stop continuous flow system to a sophisticated variable-frequency drive system- \$ 277,380

Motion to approve City **RESOLUTION** Authorizing an increase of the contingency amount for the Sand City Water Supply Project Wells and Pipelines Project from \$500,836 to \$801,836 was made by Council Member Hubler, seconded by Council Member Blackwelder. AYES: Council Members Blackwelder, Carbone, Hubler Morris and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

The Mayor stated that it was very important for staff to keep on top of the desalination project's cash management.

The City Attorney determined that if there was a cash flow concern, Housing funds could be used for a short period of time as a short term loan.

D. Upcoming Meetings/Events

The City Clerk brought to the Council's attention upcoming meetings/events and collected responses.

**AGENDA ITEM 10, CLOSED SESSION**

**8:27 P.M.** City Council/Agency Board adjourned to Closed Session

A.

- 1) To confer with Legal Counsel regarding existing Litigation in accordance with Section 54956.9 of the Ralph M. Brown Act, the Center for Biological Diversity v. Dirk Kempthorne.et.al.

*{Agency Board Members Blackwelder and Hubler stepped down from the dais due to a possible conflict of interest by residing within 500; of the subject area}*

- 2) To confer with real property negotiator in accordance with Section §54956.8 of the Ralph M. Brown Act regarding real property negotiator, Steve Matarazzo, Executive Director regarding the acquisition of specific properties located at 525, 537, and 539 Ortiz Avenue, and 512 Redwood Avenue (APN 011-196-004, 013, 019, & 020) Carroll Property

**8:44 P.M.** The City Council/Agency Board readjourned 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

- A1) City Attorney updated the Council
- A2) The Redevelopment Director/ Property Negotiator was given direction to continue forward with negotiations

**AGENDA ITEM 11, ADJOURNMENT**

Motion to adjourn the City Council meeting was made by Council Member Carbone, seconded by Council Member Pendergrass to the next regularly scheduled Council meeting on November 18, 2008, 7:00 p.m. There was unanimous consensus of the Council to adjourn the meeting at 8:46 p.m.

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Linda K. Scholink, City Clerk