

MINUTES
JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY

Regular Meeting – August 3, 2010
7:00 P.M.
CITY COUNCIL CHAMBERS

Mayor Pendergrass opened the meeting at 7:00 p.m.

The invocation was led by Reverend Carl Kelleher.

The Pledge of Allegiance was led by Police Chief Michael Klein.

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

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/City Clerk
Charles Pooler, Associate Planner

AGENDA ITEM 4, COMMUNICATIONS

A. Written

City Administrator Steve Matarazzo explained to the Council that items 9A and 9B need to be reversed in their agenda packet.

B. Oral

7:03p p.m. Floor Opened for Public Comment
There were no comments from public.

7:03 p.m. Floor Closed to Public Comment

AGENDA ITEM 5, CONSENT CALENDAR

- A. There was no discussion of Sand City Council Meeting Minutes July 20, 2010
- B. There was no discussion of City RESOLUTION Proclaiming September 26-October 2, 2010 as Sea Otter Awareness Week
- C. There was no discussion of City RESOLUTION Supporting the November 2010 Proposition 20, the Voters FIRST Act for Congress

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

The Mayor showed the City Council and the audience, the Monterey Peninsula Chamber of Commerce membership plaque, which the City received today.

AGENDA ITEM 7, PUBLIC HEARINGS

A. The City Attorney stated that as it was reported at the last council meeting and first reading of the ordinance, this is an amendment to the current Municipal Code. This is the second reading of this ordinance. Until recently, local governments assumed that the foregoing provision of the California Constitution applied with equal force to the payment of taxes imposed by local government; it is commonly referred to as the "pay first litigate later" rule. However, in a recent case involving the City of Anaheim's attempt to collect transient occupancy taxes from Priceline, the Court of Appeals held that Article XIII § 32 does not apply to taxes imposed by local government and, therefore local regulation is required. The City Attorney recommended adoption of the ordinance to establish a "pay first litigate later" rule regarding taxes and fees imposed by the City of Sand City.

7:05 P.M. The floor was opened to Public Comment.

There were no public comments.

7:05 P.M. The floor was closed to Public Comment.

Motion to approve the Second Reading of the **ORDINANCE** adding Section 3.00.010 to Title 3 of the Sand City Municipal Code requiring persons challenging the payment of Taxes, Fees, Fines and other Payments to the City to make such payments prior to commencing any actions to recover such payments, was made by Council Member Carbone, seconded by Council Member Hubler. **Roll Call Vote Taken.** AYES: Council Members Blackwelder, Carbone, Hubler, Kruper and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

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

B. Associate Planner Charles Pooler presented an application for a coastal development permit submitted by Greg McMorrow and Jackie Affonso, representing Brannon's Rental & Sales Incorporated, for authorization to establish a distribution center for home medical equipment storage and deliveries within an existing building at 1 John Street, Unit B, in Sand City. The building is 1-story at 100-feet wide and 60-feet deep with a 20-foot front setback for parking.

There will be an accessory office with two employees at this site. Patients may visit the site by scheduled appointment only. Inventory to be stored will include hospital beds, wheelchairs, walkers, oxygen concentrators, and the like. There will be one company van for delivery of clients. The subject property provides eleven (11) on-site parking spaces along the frontage of all three of the commercial units of this building. The applicant's use requires three (3) . The proposed use described by the applicant, is not anticipated to generate impacts upon surrounding properties. Based on the information provided by the applicant, staff recommends approval of a coastal development permit, for the applicant.

7:10 P.M. The floor was opened to Public Comment.

Greg McMorrow, (Applicant): stated that he has been in business since 1969. The relocation is part of the expansion plant that they began 3 years ago. He feels this location will serve the community better. Mr. McMorrow replied in response to the Mayor's inquiry, that he was in agreement with the conditions of the permit.

7:12 P.M. The floor was closed to Public Comment.

Motion to approve City **RESOLUTION** Approving Coastal Development Permit 10-03 allowing Brannon's Rentals & Sales Incorporated to use an existing commercial unit at 1 John Street for the Storage and Distribution of Home Medical Equipment was made by Council Member Carbone, seconded by Council Member Hubler. AYES: Council Members Carbone, Hubler, Kruper, and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: Council Member Blackwelder. Motion Carried.

{Council Member Blackwelder returned to the dais}

C. Associate Planner Pooler presented an application for a conditional use permit, submitted by John Ley, of John Ley's Tree Service, to utilize an existing fenced storage yard fronting Fir Avenue for the storage of vehicles, equipment, and green waste. The applicant is aware that this property is targeted as a part of the South of Tioga Redevelopment area, and that their use of the site is temporary, pending redevelopment.

The subject property was part of the former Monterey Fish Company operation, but was last utilized by Harbor Concrete Services for vehicle and material storage. The site is 50-feet wide and 90-feet deep, with no development other than a dilapidated chain-link fence that was removed with only the support poles standing. The applicant stated that he will repair this fence for his use. Items stored will include three trucks, two chippers, two stump grinders, and a wood splitter. A 4x3 portable shed will be used to store fuel and oil for the chain saws and trimmer equipment. The applicant's submitted site plan shows employee parking provided on-site within the fence at the front in addition to vehicle and equipment storage within the yard at the rear and sides. Staff recommends that new fencing be installed with vinyl slats or other effective screening.

The applicant will be storing lubricating oil and fuel for the tree trimming equipment. Staff finds this level of maintenance acceptable, so long as the amount of oil and fuel, and the method of storage, is in accordance with the regulations of the Monterey County Health Department and the City's contracted Fire Department. Workers will arrive on-site between 7:30 a.m. to 8:00 a.m. Monday through Friday, and occasionally on Saturdays. Staff recommends that on-site activity, cease at 6:00 p.m. Monday through Saturday. Staff is recommending a one (1) year time limit, with the possibility of ninety (90) day time extensions. Staff recommends approval of a conditional use permit for a term of one (1) year, unless extended by the City Council in 90-day increments.

7:17 P.M. The floor was open for Public Comment.

John Ley, (applicant): Explained to the Council that the brush chipper is

used at the job location, and will not be used at this site. He may split some wood for personal use or for friends, but this would be a very limited amount. They do not store green waste. There was some additional language added to condition number sixteen (16). The Mayor asked if John Ley was in agreement with the conditions of his permit, and he answered yes.

7:21 P.M. The floor was closed to Public Comment.

Motion to approve City **RESOLUTION** as amended, Approving Conditional Use Permit 508 for John Ley's Tree Service allowing Vehicle, Equipment and Green Waste Storage on Assessor Parcel Number 011-123-017 as an interim use until the South of Tioga Redevelopment Project is ready to proceed was made by Council Member Carbone, seconded by Council Member Kruper. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

D. Associate Planner Pooler informed the Council that they had approved Coastal Development Permit 09-03 for Peter Aliotti's window tinting business at 460 Orange Avenue on October 6, 2009. Prior to the Council's approval of the CDP, Mr. Aliotti was operating the site without a use permit, leaving trash containers out, and parking a boat on the adjacent property. These issues were addressed; however, due to concerns of long term conformance with the permit, the Council established a 6-month probationary period. The approval required the permit to return to the City Council for a formal review during a public hearing to decide whether to allow this use to continue, based upon permit compliance.

The applicant operates a showroom and workshop for window tinting and gazing, with office and storage. The applicant mostly performs "out-call" services. Vehicles are not to be accepted at this site for services, per permit conditions. The mobile aspect of the operation are through the applicant's company van; with services performed at car dealerships or a customer's home or work. Customer access to the site is by "appointment only".

Staff feels Mr. Aliotti is making a good faith effort to comply with his permits. Complaints have not been received since the beginning of this year. Therefore, staff supports allowing Peninsula Tint to remain at this location, and the use permit be extended. Staff recommends approval.

7:30 P.M. The floor was Opened to Public Comment

Peter Aliotti, (applicant): Reported to the Council that his boat was moved permanently. If there have been any problems or concerns he wants to know about them so he can address them. When asked by the Mayor if he agreed with all the conditions of his permit, he responded yes, he was in agreement with all the conditions of his permit.

7:32 P.M. The floor was Closed to Public Comment.

The City Attorney advised that the word "indefinite" be taken out of the resolution.

Motion to approve City **RESOLUTION** as amended, Authorizing the continuation of

Coastal Development Permit 09-03 for Peninsula Tint at 460 Orange Avenue was made by Council Member Kruper, seconded by Council Member Hubler. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper, and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

City Administrator Steve Matarazzo introduced the first reading of the proposed rezoning of a portion of the property located at 321 Shasta Avenue. In February, 2010 the City Council adopted the 2009-2014 Housing Element Update as required by State law. There were new housing requirements mandated by State law that were included in the City's new Housing Element. One of those requirements was a program requiring rezoning to Public Facilities (PF). Also required is a zoning text amendment to allow homeless shelters within the PF zone as a principal permitted use, not requiring a use permit. There are two City-owned properties that would be capable of accommodating a small homeless shelter based on the rezoning proposed and the zoning text amendment proposed. One location would be adjacent to the desalination facility parking lot, where the corporation yard is presently proposed, and the other location would be at the parking lot behind City Hall. For a homeless shelter to be accommodated for either site, the City Council, as property owner, would either propose the use, or consent as the property owner to allow the use on these properties. There are three proposed zoning changes that are part of this City-initiated application. The zoning amendment proposal also includes a definition of "homeless shelter" to be added to the definitions section of the zoning requirements.

7:38 P.M. The Floor was opened to Public Comment.

There were no comments from the public.

7:38 P.M. The floor was closed to Public Comment.

Motion was made to approve the FIRST READING: of the **ORDINANCE** Amending the Sand City Municipal Code Title 18 to include: 1) a definition of "homeless shelter" and 2) amendment of the official Sand City Zoning Map to change the non-coastal MU-P Zoning for that segment of property at 321 Shasta Avenue, APN: 011-243-006 to non coastal Public Facility (PF), and 3) amending PF Zoning District regulations to allow homeless shelters as a permitted use was made by Council Member Carbone, seconded by Council Member Kruper. Roll Call Vote was Taken. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

AGENDA ITEM 8, OLD BUSINESS

City Engineer Richard Simonitch reported on the progress of the desalination plant. The plant was running well through the weekend. The number 5 well needs additional testing. California American Water, the City Administrator and City Engineer will be meeting tomorrow regarding the additional testing needed. The good news is that the sand issue has gone away. The Department of Public Health (DPH) wants an explanation as to why sand is not an issue. The City Engineer is strongly in favor of a meeting with the Department of Public Health to understand exactly what it is that they need.

He also spoke about the storm water management and advised the City Council that Council Member Carbone attended the last meeting in his absence. Council Member Carbone relayed to the Council that the next storm water management meeting is mandatory and will include some training.

City Administrator Steve Matarazzo commented that he had spoken with Rob MacLean
August 3, 2010 City Council Minutes

regarding the California Public Utility Commission reviewing the rate case, and the fact that they were reviewing the 30-year desalination revised lease like it was the previous 15-year application.

The Chief of Police reported that he is working with California Consulting looking for grant money to help with the police department's wish list which includes new patrol cars, emergency beach vehicle and a new police department.

AGENDA ITEM ,9. NEW BUSINESS

- A. The Chief of Police stated that Sand City has assumed the processing responsibility of all parking citations issued in the City in an effort to save money. In the past, the City contracted with an agency known as E-Tech in San Jose. That service cost the City approximately \$500.00 per month. By assuming this responsibility in-house, we not only save the monthly service fee, but we also receive the income from a portion of all parking citations issued in our City. Now that we have assumed that responsibility, we must bring our review and hearing process in compliance with State law. We will still need to work on establishing rules and regulations in regards to parking enforcement, code enforcement and graffiti abatement. The resolution before the Council tonight adopts procedures for conducting administrative hearings, and authorizes the City Administrator to enter into a service agreement with the City of Monterey to provide administrative hearing services to the City of Sand City.

Motion to approve City **RESOLUTION** Adopting Procedures for the conduct of Administrative Hearing to review Parking Citations and Authorizing the City Administrator to enter into a Service Agreement with the City of Monterey to provide Administrative Hearing Services to the City of Sand City was made by Council Member Blackwelder, seconded by Council Member Kruper. Roll Call Vote was Taken. AYES: Council Members Blackwelder, Carbone, Hubler, Kruper and Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion Carried.

- B. Mayor Pendergrass gave the Council a summary of what has been taking place in regards to the Peninsula Mayors' attempt to gain seats on the governance structure of the WPA (Water Purchase Agreement). The Mayor wanted the Council to understand the background and why he participated the way that he did. He provided the principal points that the Mayors are trying to achieve and the actual current WPA; the proposal from Marina Coast Water District (MCWD) that the Mayors have considered as a compromise for being on the governance panels; and a graph of the proposed arrangement that is acceptable to all the cities except Monterey. He asked the Council for consensus on the direction he took, and the Council agreed with his participation.

- C. There were no responses needed at this time for upcoming meetings or events.

AGENDA ITEM 10, CLOSED SESSION

8:08 pm

- A. The City Council /Agency Board to adjourned to Closed Session to confer with Legal Counsel regarding pending litigation in accordance with Section 54956.9(c) of the

Ralph M. Brown Act,

- 1) CalAm v. Seaside
- 2) State Water Resources Control Board Order WR 2009-0060
- 3) Monterey Peninsula Water Management v. State Water Resources Control Board (No. M102101)
- 4) CalAm v. State Water Resources Control Board
- 5) Security National Guaranty, Inc. v. California Coastal Commission

8:20 PM

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

5) Security National Guaranty, Inc. v. California Coastal Commission
City Attorney reported on this item only, and no action was taken.

AGENDA ITEM 11, ADJOURNMENT

Motion to adjourn the City Council meeting was made by Council Member Blackwelder, seconded by Council Member Kruper to the next regularly scheduled Council meeting on August 17th, 2010 at 7:00 p.m. There was unanimous consensus of the Council to adjourn the meeting at 8:21 p.m.

Linda K. Scholink, City Clerk