

**CITY COUNCIL
COMMUNITY REDEVELOPMENT AGENCY
HUMAN RIGHTS COMMISSION
CITY OF PALM SPRINGS, CALIFORNIA**



**MINUTES
WEDNESDAY, NOVEMBER 18, 2009
Council Chamber**

CALL TO ORDER: Mayor Pougnet called the meeting to order at 6:03 p.m.

PLEDGE OF ALLEGIANCE: Palm Springs Air Force ROTC Junior Color Guard, led the Pledge.

INVOCATION: Rabbi Sally Olins, Temple Isaiah, led the Invocation.

ROLL CALL:

PRESENT: Councilmember Foat, Councilmember Hutcheson, Councilmember Weigel, Mayor Pro Tem Mills, and Mayor Pougnet.

COMMISSION: Commissioners Beaty, Bolerjack, Kershaw, Klein, Packer, Ramirez, Vice-Chair Craig, and Chair Trussell.

ABSENT: None.

ALSO PRESENT: City Manager Ready, City Attorney Holland, City Clerk Thompson.

PRESENTATIONS:

Police Chief David Dominguez provided an update on community policing projects.

Mayor Pougnet provided an update on the recent activities and events in the City: Veterans Day Parade, Gay Pride Parade, Marine Birthday, the upcoming Rodeo and Gene Autry dedication.

Michele Mician provided an update on sustainability activities.

Mayor Pro Tem Mills provided an update on the Census 2010.

Mayor Pougnet announced the upcoming Festival of Lights Parade and Tree Lighting.

REPORT OF CLOSED SESSION: City Attorney Holland reported that at 4:30 p.m. the meeting was called to order and the City Council recessed into Closed Session to discuss Items contained on the posted Closed Session Agenda. No reportable actions were taken.

Item No. **2.B.**

ACCEPTANCE OF THE AGENDA:

Councilmember Hutcheson noted his abstention on Item 2.B., Minutes of October 28, 2009.

Councilmember Foat requested Item 2.H. be removed from the Consent Calendar for separate discussion.

ACTION: Accept the Agenda as amended. Motion Mayor Pro Tem Mills, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.

1. JOINT MEETING OF THE CITY COUNCIL AND THE HUMAN RIGHTS COMMISSION:

1.A. HUMAN RIGHTS COMMISSION REPORT ON RECENT ACCOMPLISHMENTS, DISCUSS GOALS AND UPCOMING PROJECTS:

Chair Trussell introduced the members of the Commission and the Commissioners provided information on current goals: information and educational materials distributed at community events, participation at VillageFest, participation in Black History Town Fair, Palm Springs Pride, Neighborhood Involvement Committee events, activities and educational programs of the Commission, participation with the Riverside County Community Action Partnership, Palm Springs High School participation in Human Rights activities, increasing media presence, sponsor a film each year dealing with a Human Rights issues, use of the City webpage as an educational forum, and participate in the complete count Census Committee.

JOHN TYMON, Palm Springs, stated the Commission has to provide more assistance to the elderly and the community.

PHYLLIS BURGESS, Palm Springs, provided an update on her presence at the Palm Springs Pride Parade.

The City Council and Commissioners discussed and/or commented on the following with respect to the activities of the Commission: the improvements, turn-around and success of the Commission, performing the Human Rights forum at least once per year, continuing the sponsorship of a Human Rights film, providing education or services of homeless veterans, the media exposure to the Commission, the increased activities and exposure of the Commission, providing education and activities to address how diverse communities interact and work together, and provide education and services to the over 65 population and elder abuse.

No action taken.

The Human Rights Commission adjourned at 7:01 p.m., and the City Council recessed. The City Council reconvened at 7:12 p.m.

PUBLIC COMMENT:

JOHN TYMON, Palm Springs, commented on the article in The Desert Sun pertaining to Richard Milanovich's comments with respect to John Tymon's candidacy.

VALERIE ZUGATES, Palm Springs, commented on Item 4.A., Museum Market Plaza, and requested the City Council support the Specific Plan.

MICHAEL GALLARDO, Palm Springs, commented on Item 4.A., Museum Market Plaza, and requested the City Council support the Specific Plan.

EMILY HEMPHILL, Representing Wessman Development, commented on Item 4.A., Museum Market Plaza, and requested the City Council adopt the alternative language as developed by staff by allowing the east-west corridor through Block K, and agreed that the Town and Country Center should remain intact until building permits are pulled for an acceptable development in the area, and requested the east-west access in a clear defined place.

STEVE ROSENBERG, Palm Springs, commented on Item 4.A., Museum Market Plaza, and requested the City Council approve the Specific Plan, and the creation of the requested east-west corridor.

COUNCILMEMBER COMMENTS: None.

CITY MANAGER'S REPORT: City Manager Ready provided an update on Code Enforcement activities.

2. CONSENT CALENDAR:

ACTION: Approve Items 2.A., 2.B., 2.C., 2.D., 2.E., 2.F., 2.G., 2.I., and 2.J. Motion Councilmember Hutcheson, seconded by Councilmember Foat and unanimously carried on a roll call vote.

2.A. REPORT ON POSTING OF THE AGENDA:

ACTION: Receive and file Report on the Posting of the November 18, 2009, City Council Agenda. **Approved as part of the Consent Calendar.**

2.B. APPROVAL OF MINUTES:

ACTION: Approve the City Council Minutes of October 28, 2009, and November 4, 2009. **Approved as part of the Consent Calendar, noting**

the abstention of Councilmember Hutcheson on the October 28, 2009 Minutes.

- 2.C. APPROVAL OF PAYROLL WARRANTS, CLAIMS AND DEMANDS:**
ACTION: 1) Adopt Resolution No. 22621, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 10-17-09 BY WARRANTS NUMBERED 415113 THROUGH 415149 TOTALING \$75,490.35, LIABILITY CHECKS NUMBERED 1038543 THROUGH 1038564 TOTALING \$142,871.26, FIVE WIRE TRANSFERS FOR \$99,985.25, AND THREE ELECTRONIC ACH DEBITS OF \$1,111,031.33, IN THE AGGREGATE AMOUNT OF \$1,429,378.19, DRAWN ON BANK OF AMERICA;" 2) Adopt Resolution No. 22622, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1038565 THROUGH 1038669 IN THE AGGREGATE AMOUNT OF \$1,310,203.42, DRAWN ON BANK OF AMERICA;" 3) Adopt Resolution No. 22623, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 10-31-09 BY WARRANTS NUMBERED 415150 THROUGH 415185 TOTALING \$58,470.87, LIABILITY CHECKS NUMBERED 1038670 THROUGH 1038691 TOTALING \$141,617.31, FIVE WIRE TRANSFERS FOR \$52,450.68, AND THREE ELECTRONIC ACH DEBITS OF \$1,120,578.96, IN THE AGGREGATE AMOUNT OF \$1,373,117.82, DRAWN ON BANK OF AMERICA;" and 4) Adopt Resolution No. 22624, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1038692 THROUGH 1038836 IN THE AGGREGATE AMOUNT OF \$1,311,867.12, DRAWN ON BANK OF AMERICA."
Approved as part of the Consent Calendar.
- 2.D. STAFF AUTHORIZED AGREEMENTS FOR OCTOBER 1 THROUGH OCTOBER 31, 2009:**
ACTION: Receive and file Staff Authorized Agreements covering the period October 1 through October 31, 2009. **Approved as part of the Consent Calendar.**
- 2.E. AGREEMENT WITH THE STATE OF CALIFORNIA, DEPARTMENT OF CORRECTIONS, FOR USE OF THE PALM SPRINGS POLICE DEPARTMENT'S FIREARM RANGE:**
ACTION: 1) Approve a facilities use agreement with the State of California, Department of Corrections, to use the Palm Springs Police Department's Firearm Range, in the amount of \$6,000, for a two-year period, through June 30, 2011; and 2) Authorize the City Manager to

execute the Agreement. A5335. **Approved as part of the Consent Calendar.**

2.F. REAFFIRM THE CITY'S INVESTMENT POLICY GOVERNING THE INVESTMENT OF CITY FUNDS:

ACTION: Reaffirm the City's Investment Policy governing the investment of City funds, as adopted by Resolution No. 21946, dated June 20, 2007. **Approved as part of the Consent Calendar.**

2.G. ACCEPT THE RESIGNATION OF SALLY MC MANUS FROM THE VILLAGEFEST BOARD:

ACTION: 1) Accept with regret the resignation of Sally McManus; 2) Direct the City Clerk to post a Notice of Vacancy for the unexpired term ending June 30, 2011. **Approved as part of the Consent Calendar.**

2.I. COMMUNITY REDEVELOPMENT AGENCY AWARD OF A CONTRACT FOR DESIGN AND CONSTRUCTION OF THE PALM CANYON THEATRE FIRE SPRINKLER INSTALLATION PROJECT:

ACTION: 1) Approve a contract services Agreement with Shasta Fire Protection, in the amount of \$44,000, for Schedules A and B of the Palm Canyon Theater Fire Sprinkler System; and 2) Authorize the Executive Director to execute the Agreement. A5916. **Approved as part of the Consent Calendar.**

2.J. COMMUNITY REDEVELOPMENT AGENCY LEASE AGREEMENT WITH THE AGUA CALIENTE BAND OF CAHUILLA INDIANS FOR USE OF THE AGENCY-OWNED VISITOR CENTER LOCATED AT 2901 NORTH PALM CANYON DRIVE FOR THE PURPOSE OF PROMOTING TOURISM:

ACTION: 1) Approve a Lease Agreement with the Agua Caliente Band of Cahuilla Indians for non-exclusive use of the Agency owned Visitor Center at 2901 North Palm Canyon Drive for the purpose of promoting tourism; and 2) Authorize the Executive Director to execute the Lease Agreement. A5917. **Approved as part of the Consent Calendar.**

EXCLUDED CONSENT CALENDAR:

2.H. CONGRATULATORY LETTER FROM FIRST LADY MICHELLE OBAMA TO THE CITIZENS OF PALM SPRINGS FOR THE "PRESERVE AMERICA COMMUNITY" DESIGNATION:

Councilmember Foat read the letter from First Lady Obama to the City of Palm Springs and commented on the City's preservation efforts.

ACTION: Receive and file letter from First Lady Michelle Obama congratulating the City for being a "Preserve America Community." **Motion Councilmember**

Foat, seconded by Mayor Pro Tem Mills and unanimously carried on a roll call vote.

3. **LEGISLATIVE:** None.

4. **UNFINISHED BUSINESS:**

4.A. PROPOSED SPECIFIC PLAN (GENERAL PLAN AND ZONING TEXT AMENDMENTS) FOR MUSEUM MARKET PLAZA (CASE 5.1204) TO ALLOW UP TO 955 HIGH-DENSITY RESIDENTIAL UNITS, UP TO 400,000 SQUARE FEET OF COMMERCIAL RETAIL AND OFFICE SPACE, AND UP TO 620 HOTEL ROOMS LOCATED AT THE NORTHWEST CORNER OF N. PALM CANYON DRIVE AND TAHQUITZ CANYON WAY, AND OTHER NEARBY PROPERTIES:

Thomas Wilson, Assistant City Manager, provided background information as outlined in the staff report dated November 18, 2009.

Councilmember Foat requested the City Council consider a motion for amendment language on Page A-31 of the CEQA Findings and Statement of Facts, regarding Subsection A of Finding Section F to substitute A.1 be amended to read "No permit for the demolition or substantial alteration of any portion of the Town and Country Center will be issued until (a) all discretionary entitlements consistent with the Specific Plan have been approved for the renovation or redevelopment of the existing Desert Fashion Plaza; (b) building permits in furtherance of such renovation or redevelopment have been issued; and (c) substantial work consistent with such building permits have commenced on the existing Desert Fashion Plaza."

Councilmember Weigel stated he does not have a problem with the amended language, but requested the City Attorney comment if substituted language is already contained in the proposed Ordinance.

Councilmember Hutcheson noted similar provisions on Pages 142 and 143 in the Staff Report in the Phasing Section of the Plan are consistent with the suggested substitute language.

Mayor Pro Tem Mills requested information on the substitute verbiage, including the determination of substantial work, and questioned what would qualify as substantial work toward the Specific Plan and/or the Renovation Plan.

ACTION: Amend language on Page A-31 of the CEQA Findings and Statement of Facts, regarding Subsection A of Finding Section F to substitute and amend A.1 to read "No permit for the demolition or substantial alteration of any portion of the Town and Country Center will

be issued until (a) all discretionary entitlements consistent with the Specific Plan have been approved for the renovation or redevelopment of the existing Desert Fashion Plaza; (b) building permits in furtherance of such renovation or redevelopment have been issued; and (c) substantial work consistent with such building permits have commenced on the existing Desert Fashion Plaza." **Motion Councilmember Foat, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

Councilmember Foat noted a correction on Page A-42 that should be revised from Palm Springs "Air" Museum to Palm Springs "Art" Museum.

Councilmember Mills requested the 60-foot height limit be increased to a 64-foot height limit for the residential multifamily units, requested a change in pedestrian circulation to read "The need to improve pedestrian circulation between Block A in front of Hyatt Hotel and the Block North of Amado," note a correction to Footnote No. 24 on Page III-22 of the Specific Plan, should be corrected to read III-E.4, requested modifications to Land Use Regulations, Ground Floor Use Limitations, (Page III-23 and III-24 of the Specific Plan) to provide that the first floor permitted use is retail, and office space and related uses are allowed only by CUP, requested balconies and terraces be allowed into the Right-of-Way by six feet, deleting the Prohibited Building Materials section, amending the sections for walls and fences, incorporate all the boldfaced alternate language, requested the City Attorney comment on and ensure the City is not providing final approval of the Renovation Plan by the adoption of the Specific Plan.

Councilmember Hutcheson requested staff address if Apparel stores are included as a permitted use (Page III-14 of the Specific Plan), as they are included under Clothing and Apparel (Page III-15 of the Specific Plan).

Mayor Pougnet commented on the height requirements, and the setting the stage with the discussion and the adoption of the Downtown Design Guidelines.

By consensus of the City Council determined the height limitation should not be changed to 64-feet, and shall remain at 60-feet.

Councilmember Weigel requested the alternative language be included in the Specific Plan in reference to the proposed Museum Way.

Councilmember Foat requested the City Council annotate and footnote specific references to the City Attorney's addition of language on Page A-32 of Exhibit A the CEQA Findings and Statement of Facts, and stated her objections to the creation of a "Magic Street" through Block K, requested

staff address if the street would be one-way or a two-way street and if other streets could facilitate the request with other properties the Developer owns.

Councilmember Weigel stated that Andreas Road is not a City street, but is owned by the Tribe, requested staff clarify the parking requirements (Page III-28 of the Specific Plan), noted the word paradigm is spelled incorrectly throughout the document, requested staff address open space in front of the Art Museum and if the Plan allows for the expansion of the Art Museum, the consistency of angled parking on Indian Canyon Drive, requested staff address what additional CEQA review would be required after approval of the EIR, and requested staff address when the determination is made with respect to special districts and fees.

Mayor Pro Tem Mills stated his agreement to footnote the studies as requested by Councilmember Foat, commented on the proposed east-west link, and referenced the proposed link was recommended by a citizens group and studies done in the 1990's, and stated the current plan is the right place and alternative to add the east-west link, which will be congruent with the Art Museum and the Tribe projects, and stated his support for the Specific Plan.

Councilmember Foat requested staff provide a progress report on the "pre-application" of the existing center submitted on February 17, 2009, commented on the City Council and Developer actions toward the development of this property since 2006, and stated her support of the Plan.

Councilmember Hutcheson provided a summary of the City Council actions by adopting the Specific Plan, and stated the City Council has clearly provided what the Developer has requested, and requested the Developer to proceed.

Councilmember Weigel stated he is happy with the City Council actions toward this plan and comments tonight, and has demonstrated to the community the City and Council support for the revitalization of the Downtown area, and stated this has been a long process, hoped for a unanimous vote, and "ditto" his support for the Plan.

Mayor Pougnet commented on all of the projects, programs, and improvements the City has previously made or continues to fund in the Downtown area, stated his support for the proposed Museum Way, requested the City and the Developer work aggressively and quickly, and requested an update be placed on the City Council agenda each month.

ACTION: 1) Adopt Resolution No. 22625, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CERTIFYING AN ENVIRONMENTAL IMPACT REPORT (SCH NO. 2008061084) FOR THE MUSEUM MARKET PLAZA SPECIFIC PLAN, INCLUDING AMENDMENTS TO THE 2007 PALM SPRINGS GENERAL PLAN, ADOPTED BY RESOLUTION NO. 22077, AND THE PALM SPRINGS ZONING CODE, MAKING CERTAIN FINDINGS RELATING TO ENVIRONMENTAL EFFECTS IDENTIFIED IN THE FINAL ENVIRONMENTAL IMPACT REPORT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM," as amended as follows:

A. Amend language on Page A-31 of the CEQA Findings and Statement of Facts, regarding Subsection A of Finding Section F to substitute and amend A.1 to read "No permit for the demolition or substantial alteration of any portion of the Town and Country Center will be issued until (a) all discretionary entitlements consistent with the Specific Plan have been approved for the renovation or redevelopment of the existing Desert Fashion Plaza; (b) building permits in furtherance of such renovation or redevelopment have been issued; and (c) substantial work consistent with such building permits have commenced on the existing Desert Fashion Plaza."

B. Correct Page A-42 from Palm Springs "Air" Museum to Palm Springs "Art" Museum.

C. Height Level to remain at 60-feet.

D. Amend language throughout the documents relating to Infrastructure (Page 6 of the Staff Report and several references in the Specific Plan) to read, "The need to improve pedestrian circulation between Block A in front of the Hyatt Hotel and the Block North of Amado."

E. Correct Footnote No. 24 on Page III-22 of the Specific Plan, to read "III-E.4."

F. Modify the Land Use Regulations, Ground Floor Use Limitations, (Page III-23 and III-24 of the Specific Plan) to provide that the first floor permitted use is retail, and office space and related uses are allowed only by CUP, on the North-South of Palm Canyon both sides of the street and the new East-West corridor both sides of the street.

G. Amend Projections Into the Right-of-Way (Page III-26 of the Specific Plan) to include that balconies and terraces shall be allowed into the Right-of-Way up to six feet, and make corresponding changes throughout the documents.

H. Delete Subsection E.7 of the Specific Plan titled "Prohibited Building Materials" (Page III-26).

I. Amend the second sentence of Subsection E.8 of the Specific Plan (Page III-26) to read, "Walls shall be constructed with masonry with a decorative finish to be complementary with the architecture," delete the sentence "No other material shall be permitted," and in the following sentence the word "block" shall be changed to "masonry."

J. Incorporate all the boldfaced alternate language into the Specific Plan.

H. Annotate and footnote the Land Use and Planning Section of Exhibit A the CEQA Findings and Statement of Facts (and other references throughout the documents) to cite the original documents and basis for the following statements, "The Town and Country Center presents significant economic challenges for re-use in that it does not meet the general market requirements for retail buildings and it is not effectively integrated into the rest of downtown. In addition, the Town and Country likely contains significant hazardous materials that will require remediation as part of any renovation or re-use plan. Lastly, it is not anticipated that rental rates will be sufficient to cover the costs of renovation."

2) Waive reading the full text of the Ordinance and introduce by title only; and 3) Introduce for first reading Ordinance No. 1764, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING THE MUSEUM MARKET PLAZA SPECIFIC PLAN, INCLUDING AMENDMENTS TO THE 2007 PALM SPRINGS GENERAL PLAN, ADOPTED BY RESOLUTION NO. 22077;" and 3) Direct the City Clerk to place an update of the Museum Market Plaza Specific Plan and Development Progress Report on the first City Council agenda of every month. **Motion Councilmember Weigel, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

4.B. AMENDMENT NO. 2 TO SUBLEASE AGREEMENT NO. A4475 WITH PLAZA RACQUET CLUB EXTENDING THE TERM UP TO TWO YEARS, IN AN AMOUNT NOT TO EXCEED \$22,502 ANNUALLY, FOR THE PALM SPRINGS TENNIS CENTER:

City Manager Ready provided background information as outlined in the staff report dated November 18, 2009.

Councilmember Hutcheson requested the City Manager address the previous amount of costs being requested of the lessee and the significant decrease.

ACTION: 1) Approve Amendment No. 2 to Sublease Agreement No. A4475 with Kurt and Ana Haggstrom (dba Plaza Racquet Club) for the Palm Springs Tennis Center, extending the term up to two years, including a City tennis recreation program, in an amount not to exceed \$22,502 per year, subject to a forthcoming lease extension with the Palm Springs Unified School District; and 2) Authorize the City Manager to execute all necessary documents. A4475. **Motion Mayor Pro Tem Mills, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

5. NEW BUSINESS:

5.A. APPROVING THE SUBMITTAL OF AN APPLICATION TO THE STATE OF CALIFORNIA, BUSINESS, TRANSPORTATION AND HOUSING AGENCY, FOR AN INNOVATION HUB (IHUB) DESIGNATION IN THE CITY OF PALM SPRINGS AND WESTERN COACHELLA VALLEY:

City Manager Ready provided background information as outlined in the staff report dated November 18, 2009.

ACTION: Authorize the City Manager to execute and submit the iHub Application to the State of California, Business, Transportation and Housing Agency. **Motion Councilmember Weigel, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

COUNCILMEMBER COMMENTS, REQUESTS, AND REPORTS:

Councilmember Hutcheson requested the City Manager bring forward recommendations to fund street repairs.

Mayor Pro Tem Mills requested the City Engineer review the Cal Trans designation of Exit 111 at Interstate 10 which has been changed to Exit 112.

Councilmember Weigel requested the City Manager return to the City Council for further discussion the preliminary smoking ordinance.

Mayor Pougnet requested the City Manager review issues at the skate park, requested the City Engineer review and address issues on Vista Chino and at Raymond Cree School.

ADJOURNMENT: The City Council adjourned at 9:30 p.m. to a Regular Meeting, Wednesday, December 2, 2009, at 6:00 P.M. Council Chamber, City Hall, preceded by a Closed Session at 4:30 P.M., Small Conference Room, City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

**APPROVED BY A MOTION OF THE PALM SPRINGS CITY COUNCIL THIS
2ND DAY OF DECEMBER, 2009.**

STEPHEN P. POUCKET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK