

**CITY COUNCIL
CITY OF PALM SPRINGS, CALIFORNIA**



MINUTES
WEDNESDAY, FEBRUARY 2, 2011
Council Chamber

CALL TO ORDER: Mayor Pougnet called the meeting to order at 6:13 p.m.

PLEDGE OF ALLEGIANCE: Boy Scout Troop 262, led the Pledge.

INVOCATION: Rev. Duane Cox, Retired Religious Science Minister, led the Invocation.

ROLL CALL:

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

ABSENT: None.

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

PRESENTATIONS:

Mayor Pougnet and the City Council proclaimed February, 2011, as Black History Month in the City of Palm Springs.

Fire Chief Ventura provided an update on the recent evacuation of the property located at 140 Via Lola, and the placement of residents.

Mayor Pougnet announced the upcoming Community Visioning Workshops, the 2011 State of the City Address, the grand opening of Grind, and the upcoming Art Show.

Mayor Pro Tem Weigel announced the grand opening of Rio Azul and the ribbon cutting event.

Councilmember Foat announced adoption of cats at the Palm Springs Animal Shelter, the Swank Interiors' fundraiser for the Animal Shelter in the amount of \$4,000, and the presentation of a \$5,000 check from Jensen's for the Palm Springs Lobster Fest contribution to the Animal Shelter

Tom Nolan, Executive Director, Palm Springs International Airport, announced the new air service of West Jet between Toronto, Canada and the City of Palm Springs, and provided an update on the New Control Tower.

Mary Jo Ginther, Palm Springs Bureau of Tourism, announced the upcoming Downtown Palm Springs "App" service and availability.

REPORT OF CLOSED SESSION:

The meeting was called to order at 4:30 p.m., and City Attorney Holland requested the City Council consider adding one item to the Closed Session Agenda pursuant to Cal. Gov. Code Section 54956.8 Conference with property negotiator, and stated the City received information on February 1, 2011, after the posting of the agenda, and there is an immediate need to hear and/or take action on the item.

ACTION: 1) Find the Item came to the attention of the City after the posting of the Agenda and there is an immediate need to hear/and or take action on the Item; and 2) Add to the Closed Session Agenda pursuant to G.C. Section 54956.8 Conference with Real Property Negotiator for the Community Redevelopment Agency, David Ready, Community Redevelopment Agency Executive Director, Prairie Schooner Parcel, Andreas Road, APN's 508-055-007, 508-055-008, 508-055-009, Price and Terms of Payment for the sale, Negotiating with Rich Meaney, Nexus Development Corporation. **Motion Mayor Pro Tem Weigel, seconded by Councilmember Foat and unanimously carried (4-0) noting the absence of Councilmember Mills.**

City Attorney Holland reported the City Council recessed into Closed Session to discuss items on the Closed Session Agenda, and reportable actions were taken.

ACCEPTANCE OF THE AGENDA:

City Attorney Holland requested the City Council add a New Business Item to the Agenda titled "APPROVE AN ESTOPPEL CERTIFICATE FOR HH PALM SPRINGS LLC. FOR THE PROPERTY SUBLET BY THE CITY OF PALM SPRINGS LOCATED AT 888 EAST TAHQUITZ CANYON WAY," and stated information regarding this Item was brought to the attention of the City after the posting of the Agenda.

ACTION: 1) Make the finding that the Item came to the attention of the City after the posting of the Agenda and there is an immediate need to hear and/or take action on the Item; and 2) Add to the Agenda as Item 5.C. the Item titled "APPROVE AN ESTOPPEL CERTIFICATE FOR HH PALM SPRINGS LLC. FOR THE PROPERTY SUBLET BY THE CITY OF PALM SPRINGS LOCATED AT 888 EAST TAHQUITZ CANYON WAY." **Motion Councilmember Mills, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

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

Councilmember Hutcheson requested Item 2.I. be removed from the Consent Calendar for separate discussion.

Councilmember Mills noted his abstention on Item 2.B. the Minutes of January 18, 2011, noted his business related abstention on Item 2.G. Tract Maps 33561 and 33933,

and requested Item 2.E. be removed from the Consent Calendar for separate discussion.

ACTION: Approve the Agenda as amended. **Motion Councilmember Hutcheson, seconded by Councilmember Mills and unanimously carried on a roll call vote.**

1. PUBLIC HEARINGS:

Councilmember Hutcheson stated he was a member of the Board of Directors for the Applicant in Item 1.A., would not participate in the discussion or the vote, and left Council Chamber.

Councilmember Mills stated he has a business related conflict of interest with respect to Item 1.A., would not participate in the discussion or the vote and left Council Chamber.

1.A. DESERT SUN CENTER, LLC APPLICATION FOR A TYPE II CONDITIONAL USE PERMIT FOR THE OPERATION OF A FOOD BANK AND DISTRIBUTION FACILITY TO THE ECONOMICALLY DISADVANTAGED/DISABLED SENIOR CITIZENS AT 610 SOUTH BELARDO ROAD (CASE 5.1255):

Craig Ewing, Director of Planning Services, provided background information as outlined in the Staff Report dated February 2, 2011.

Mayor Pougnet opened the public hearing, and the following speakers addressed the City Council.

RANDY LOWE, Applicant, commented on the programs provided by the Center, and requested the City Council approve the Conditional Use Permit for the distribution of groceries.

DAVID KIMBALL, Applicant, commented on the operation of the grocery distribution program, and the rules and regulations to qualify for the regulations, and requested the City Council approve the Conditional Use Permit.

No further speakers coming forward, the public hearing was closed.

Councilmember Foat commented on the meeting between the Rainbow Center and the Neighborhood Organization.

Mayor Pro Tem Weigel stated the program is very worthwhile, and requested staff clarify Condition No. 3 regarding staff approval of minor deviations, and requested the City Council consider a condition to prohibit meals being consumed as part of the program.

ACTION: Adopt Resolution No. 22862, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A TYPE II CONDITIONAL USE PERMIT FOR GOLDEN RAINBOW CENTER TO ALLOW THE OPERATION OF A FOOD BANK AND FOOD DISTRIBUTION FACILITY TO ECONOMICALLY DISADVANTAGED/DISABLED SENIOR CITIZENS AT 610 SOUTH BELARDO ROAD (CASE NO. 5.1255 CUP)," adding a Condition of Approval to read "*No meals may be consumed on the premises applicable to the Food Distribution Program.*" **Motion Councilmember Foat, seconded by Mayor Pougnet and unanimously carried 3-0 on a roll call vote.**

AYES: Councilmember Foat, Mayor Pro Tem Weigel, and Mayor Pougnet.

NOES: None.

ABSENT: Councilmember Hutcheson and Councilmember Mills.

Councilmember Hutcheson and Councilmember Mills returned to the dais.

PUBLIC COMMENT:

JEFF HOCKER, Palm Springs, announced the upcoming USA World Cup 2011 events in Palm Springs and the Coachella Valley.

RICK PANTELE, requested the City Council consider providing a medical cannabis license to CAPS.

ROBERT ANZOVINO, commented on a constitutional amendment, and his false arrest by the Palm Springs Police Department.

RICHARD NOBLE, commented on adding gender identity to the 1964 Civil Rights Act, and the recent events in Warm Sands.

KURT BARRIE, stated there are new complaints regarding police activities in the Warm Sands.

KEVIN BOND, commented on recent Police Department activities in the Warm Sands area and the Police Department actions toward a crime committed against him.

DAVID POWERS, Palm Springs, commented on Police Department activities in the Warm Sands area.

COUNCILMEMBER COMMENTS:

Councilmember Hutcheson requested the City Manager review concerns with staff at Raymond Cree School and vendors outside the school and the preparation of an Ordinance.

Councilmember Foat commented on the medical cannabis facility that remains closed, and requested the City Council and/or staff consider placing this matter on an upcoming agenda.

Mayor Pougnet commented on the recent MainStreet meeting that addressed Desert Fashion Plaza.

CITY MANAGER'S REPORT: None.

2. CONSENT CALENDAR:

ACTION: Approve Items 2.A., 2.B., 2.C., 2.D., 2.F., 2.G., 2.H., 2.J., 2.K., 2.L., and 2.N. **Motion Councilmember Foat, seconded by Mayor Pro Tem Weigel 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 February 2, 2011, City Council Agenda. **Approved as part of the Consent Calendar.**

2.B. APPROVAL OF MINUTES:

ACTION: 1) Approve the City Council/Community Redevelopment Agency Special Meeting Minutes of January 18, 2011; and 2) Approve the City Council/Community Redevelopment Agency Regular Meeting Minutes of January 19, 2011. **Approved as part of the Consent Calendar, noting the abstention of Councilmember Mills on the Minutes of January 18, 2011.**

2.C. APPROVAL OF PAYROLL WARRANTS, CLAIMS AND DEMANDS:

ACTION: 1) Adopt Resolution No. 22863, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1046490 THROUGH 1046685 IN THE AGGREGATE AMOUNT OF \$1,566,331.80, DRAWN ON BANK OF AMERICA;" 2) Adopt Resolution No. 22864, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 01-08-11 BY WARRANTS NUMBERED 416341 THROUGH 416437 TOTALING \$47,200.01, LIABILITY CHECKS NUMBERED 1046686 THROUGH 1046707 TOTALING \$125,255.09, FIVE WIRE TRANSFERS FOR \$58,626.48, AND THREE ELECTRONIC ACH DEBITS OF \$1,103,408.51, IN THE AGGREGATE AMOUNT OF \$1,334,490.09, DRAWN ON BANK OF AMERICA;" and 3) Adopt Resolution No. 22865, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1046708 THROUGH 1046820 IN THE AGGREGATE AMOUNT OF \$710,232.92, DRAWN ON BANK OF AMERICA." **Approved as part of the Consent Calendar.**

2.D. STAFF AUTHORIZED AGREEMENTS FOR OCTOBER, NOVEMBER, AND DECEMBER 2010:

ACTION: Receive and file Staff Authorized Agreements covering the period October 1, 2010, through December 31, 2010. **Approved as part of the Consent Calendar.**

2.F. AGREEMENT WITH PALM SPRINGS PIRANHAS SWIM TEAM TO USE THE SWIM CENTER:

ACTION: 1) Approve an agreement with the Palm Springs Piranhas Swim Team for a period of five (5) years with two (2) one-year extensions; and 2) Authorize the City Manager to execute all necessary documents. A6060. **Approved as part of the Consent Calendar.**

2.G. APPROVAL OF TIME EXTENSIONS OF SUBDIVISION IMPROVEMENT AGREEMENTS FOR VARIOUS PROJECTS:

ACTION: Adopt Resolution No. 22867, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AUTHORIZING TIME EXTENSIONS OF VARIOUS SUBDIVISION IMPROVEMENT AGREEMENTS."

- A4743. Tract Map 27680 "Las Palmas Heights"
- A4955. Tract Map 30050 "Alta"
- A5100. Tract Map 31263, "The Towers"
- A5915. Parcel Map 31968, "The Springs"
- A5105. Tract Map 32160 "Enclave"
- A5131. Tract Map 30046 "Monte Sereno"
- A5086. Tract Map 32233-1 "Escena"
- A5087. Tract Map 32233-2 "Escena"
- A5088. Tract Map 32233-3 "Escena"
- A5089. Tract Map 32233-4 "Escena"
- A5276. Tract Map 32675 "Alexander Country Club Estates"
- A5246. Tract Map 33561 "Palermo"
- A5516. Tract Map 33162 "Pedregal"
- A5080. Tract Map 30058 "Four Seasons II"
- A5393. Tract Map 31848-1 "Avalon"
- A5426. Tract Map 32732 "Oceo"
- A5324. Tract Map 33933 "Murano"
- A5496. Tract Map 34933 "Cocotero"
- A4814. Tract Map 28966 "Preserve Estates"
- A5155. Tract Map 31514 "Luminaire"
- A5439. Tract Map 31525 "Four Seasons III"
- A5872. Tract Map 35999 "Prescott Place"
- A5436. Tract Map 33161 "Vista San Jacinto"
- A5291. Tract Map 33542 "Tangerine"

Approved as part of the Consent Calendar, noting the abstention of Councilmember Mills on Maps No. 33561 and 33933.

2.H. MILLS ACT AGREEMENT WITH MARK HILBERT FOR THE DEBRABANT HOUSE, A HISTORIC SITE, LOCATED AT 982 AVENIDA PALMAS:

ACTION: 1) Approve a Mills Act Agreement with Mark Hilbert for property located at 982 Avenida Palmas; and 2) Authorize the City Manager to execute all necessary documents. A6061. **Approved as part of the Consent Calendar.**

2.J. MODIFICATIONS TO THE SWIM CENTER FEES AND AMENDMENTS TO THE COMPREHENSIVE FEE SCHEDULE:

ACTION: Adopt Resolution No. 22868, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, INCREASING THE SWIM CENTER FEES AND AMENDING THE COMPREHENSIVE FEE SCHEDULE ADOPTED BY RESOLUTION NO. 21578." **Approved as part of the Consent Calendar.**

2.K. ACCEPT THE RESIGNATION OF KERRY HENDRIX FROM THE SUSTAINABILITY COMMISSION:

ACTION: 1) Accept with regret the resignation of Kerry Hendrix from the Sustainability Commission; and 2) Direct the City Clerk to post a Notice of Vacancy for the unexpired term ending June 30, 2013. **Approved as part of the Consent Calendar.**

2.L. AMEND THE FISCAL YEAR 2010-11 BUDGET FOR INCREASED UNEMPLOYMENT INSURANCE PREMIUMS:

ACTION: Adopt Resolution No. 22869, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2010-11." **Approved as part of the Consent Calendar.**

2.N. ACCEPT THE RESIGNATION OF WILLIAM P. SCOTT FROM THE PLANNING COMMISSION:

ACTION: 1) Accept with regret the resignation of William P. Scott from the Planning Commission; and 2) Direct the City Clerk to post a Notice of Vacancy for the unexpired term ending June 30, 2012. **Approved as part of the Consent Calendar.**

EXCLUDED CONSENT CALENDAR:

2.E. AMEND REGULATIONS FOR RESIDENT DISCOUNT CARDS:

Councilmember Mills requested staff address proof of residence requirements and suggested the City Council consider adding a lease or a utility bill to the list of documents.

ACTION: Adopt Resolution No. 22866, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING

REGULATIONS FOR RESIDENT DISCOUNT CARDS ADOPTED BY RESOLUTION NO. 19146," amended by adding a No. 4 to Section 2 of the Resolution to read "*Lease, Utility Bill or other documents demonstrating bona fide residency in the City of Palm Springs.*" **Motion Councilmember Foat, seconded by Mayor Pro Tem Weigel and unanimously carried on a roll call vote.**

- 2.I. **CHANGE ORDER NO. 1 TO AGREEMENT NO. A6030 WITH G & M CONSTRUCTION FOR THE INSTALLATION OF LANDSCAPING AND LIGHTING FOR THE SCULPTURE "RED ECHO" LOCATED AT THE NORTHEAST CORNER OF GENE AUTRY TRAIL AND RAMON ROAD IN THE AMOUNT OF \$2,982:**

Councilmember Hutcheson commented on the funding, and indicated funding for public art is not the City's general fund.

ACTION: 1) Approve Change Order No. 1 to Agreement No. A6030 with G & M Construction in the amount of \$2,982 for a revised contract amount of \$27,482.52 for the installation of landscaping and lighting for the sculpture "Red Echo" at the northeast corner of Gene Autry Trail and Ramon Road; and 2) Authorize the City Manager to execute all necessary documents. A6030. **Motion Councilmember Hutcheson, seconded by Councilmember Foat and unanimously carried on a roll call vote.**

- 2.M. **OPPOSITION TO GOVERNOR BROWN'S PROPOSAL TO ABOLISH REDEVELOPMENT AGENCIES IN THE STATE OF CALIFORNIA:**

ACTION: Adopt Resolution No. 22870, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, IN OPPOSITION TO GOVERNOR BROWN'S PROPOSAL TO ABOLISH REDEVELOPMENT AGENCIES IN THE STATE OF CALIFORNIA." **Motion Councilmember Foat, seconded by Councilmember Mills and unanimously carried on a roll call vote.**

3. **LEGISLATIVE:** None.

4. **UNFINISHED BUSINESS:**

4.A. **SECOND QUARTER FISCAL YEAR 2010-11 BUDGET UPDATE:**

Jeff Kiehl, Director of Finance, provided a Power Point presentation on the Second Quarter Fiscal Year 2010-11 Revenue and Expenditures.

No action taken.

5. **NEW BUSINESS:**

Councilmember Foat stated one of her tenants may apply for a grant and may have a conflict of interest, would not participate in the discussion or the vote, and left Council Chamber.

5.A. GREEN FACADE IMPROVEMENT PROGRAM (GFIP) GUIDELINES AND WAIVER OF FEES ASSOCIATED WITH MINOR ARCHITECTURAL APPLICATION, SIGN PERMITS, AND HISTORIC SITE PRESERVATION BOARD REVIEW FOR GFIP PARTICIPANTS:

Michele Mician, Sustainability Manager, provided background information as outlined in the staff report dated February 2, 2011.

Mayor Pougnet requested staff address the funds committee to the current facade improvement program.

Councilmember Mills stated he is in support of the program City Wide, and requested the City Council consider the addition of shades, window tinting, and overhangs.

ACTION: 1) Adopt Resolution No. 22871, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING THE GREEN FACADE IMPROVEMENT PROGRAM;" and 2) Adopt Resolution No. 22872, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, WAIVING FEES ASSOCIATED WITH MINOR ARCHITECTURAL APPLICATION, SIGN PERMITS, AND HISTORIC SITE PRESERVATION BOARD (HSPB) REVIEW FOR BUSINESSES OR PROPERTY OWNERS PARTICIPATING IN THE GREEN FACADE IMPROVEMENT PROGRAM." **Motion Mayor Pro Tem Weigel, seconded by Councilmember Hutcheson and unanimously carried (4-0) on a roll call vote.**

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

NOES: None.

ABSENT: Councilmember Foat.

Councilmember Foat returned by the dais.

5.B. AWARD OF CONTRACT FOR THE 2010-11 ANNUAL ASPHALT OVERLAY PROJECT TO HARDY & HARPER, INC. IN THE AMOUNT OF \$1,345,000 (CP 10-08):

David Barakian, City Engineer, provided background information as outlined in the staff report dated February 2, 2011.

ACTION: 1) Approve an agreement with Hardy & Harper, Inc., for the 2010-11 Annual Overlay Project in the amount of \$1,345,000 (CP 10-08); and 2) Authorize the City Manager to execute all necessary documents. A6062. **Motion Mayor Pro Tem Weigel, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

5.C. ITEM ADDED TO THE AGENDA TO APPROVE AN ESTOPPEL CERTIFICATE FOR HH PALM SPRINGS LLC. FOR THE PROPERTY SUBLET BY THE CITY OF PALM SPRINGS LOCATED AT 888 EAST TAHQUITZ CANYON WAY:

City Attorney Holland provided background information on the lease and the requirement under the sublease to issue an Estoppel Certificate if requested.

ACTION: 1) Approve the issuance of an Estoppel Certificate; and 2) Authorize the City Manager to execute the Estoppel Certificate. A2738. A5690. **Motion Councilmember Foat, seconded by Councilmember Mills and unanimously carried on a roll call vote.**

COUNCILMEMBER COMMENTS, REQUESTS, AND REPORTS:

Councilmember Hutcheson requested the City Manager review the palm tree trimming policy around the Swimming Pool.

Councilmember Foat requested the City Manager review dog park maintenance, and requested staff review the small hotel renovation program.

ADJOURNMENT: The City Council adjourned at 8:07 p.m. to an adjourned meeting for a Closed Session on Wednesday February 9, 2011, 4:30 P.M., prior to the Community Visioning Session, Palm Springs Convention Center, Primrose Room, 277 North Avenida Caballeros, Palm Springs.

The next regular meeting of the City Council will be held on Wednesday, February 16, 2011, at 6:00 P.M. Council Chamber, City Hall, preceded by Closed Session, Small Conference Room, City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

APPROVED BY A MOTION OF THE PALM SPRINGS CITY COUNCIL THIS 16th DAY OF FEBRUARY, 2011.

STEPHEN P. POUQUET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK