

**CITY COUNCIL
AND AS SUCCESSOR AGENCY TO THE PALM SPRINGS COMMUNITY REDEVELOPMENT AGENCY
AND AS THE PALM SPRINGS FINANCING AUTHORITY**

CITY OF PALM SPRINGS, CALIFORNIA

**MINUTES
WEDNESDAY, FEBRUARY 1, 2017
City Hall, Council Chamber
3200 E. Tahquitz Canyon Way, Palm Springs, CA 92262**

CLOSED SESSION

CALL TO ORDER (Council Chamber):

Mayor Moon called the meeting to order at 5:04 p.m.

All Councilmembers were present.

Douglas Holland, City Attorney, requested the City Council consider adding two items. The information was received after the posting of the agenda.

EXISTING LITIGATION, G.C. 54956.9(a)

Julie K. Nelson v. City of Palm Springs, State of California, Caltrans, et al
Case No. PSC1401755, Riverside Superior Court, Palm Springs Division

CONFERENCE WITH REAL PROPERTY NEGOTIATOR, G.C. 54956.8

Property Address/Description: APN 666-140-024, 63775 Dillon Road
Agency: City of Palm Springs
City Negotiator: David H. Ready, City Manager or Designee
Negotiating Parties: Riverside County Economic Development Agency
Under Negotiation: Price and Terms of Payment (Acquisition)

ACTION:

- 1) Find information regarding the existing litigation and real property negotiations was received after the posting of the Agenda and there is an immediate need to hear and/or take action.
- 2) Add to the Closed Session Agenda two (2) items pursuant to Cal. Gov. Code. Section 54956.9(e)(3) the following item:

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Julie K. Nelson v. City of Palm Springs, State of California, Caltrans, et al
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By a unanimous vote (5-0-0) the City Council approved the following:

- 1) Find information regarding the existing litigation and real property negotiations was received after the posting of the Agenda and there is an immediate need to hear and/or take action.
- 2) Add to the Closed Session Agenda two (2) items pursuant to Cal. Gov. Code. Section 54956.9(e)(3) the following item:

EXISTING LITIGATION, G.C. 54956.9(a)

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PUBLIC COMMENT (Council Chamber): None.

RECESS TO CLOSED SESSION (Small Conference Room):

See February 1, 2017, Closed Session Agenda, attached as Exhibit A.

At 5:06 p.m. the Mayor, City Council, City Manager, and City Attorney recessed to Closed Session.

At 5:35 p.m. David Ready, City Manager, stated he has a conflict of interest and will not participate with respect to the property negotiations at APN 513-460-033 (Right-of-Way) with 4348 Lockwood Avenue, LLC and exited the Small Conference Room.

REGULAR MEETING

CALL TO ORDER:

Mayor Moon called the meeting to order at 6:09 p.m.

PLEDGE OF ALLEGIANCE:

Girl Scout Troop 579 presented the colors and led the flag salute.

ROLL CALL:

PRESENT: Councilmember Kors, Councilmember Mills, Councilmember Roberts,
Mayor Pro Tem Foat, and Mayor Moon

ABSENT: None

ALSO PRESENT: City Manager Ready, City Attorney Holland, Interim City Clerk Hart

PRESENTATIONS: None.

CITY MANAGER'S REPORT:

David Ready, City Manager, reported many City staff members will be out of the office the week of February 6-9, 2017, to attend Emergency Operations/Management Center training with key staff members of the Agua Caliente Band of Cahuilla Indians.

REPORT OF CLOSED SESSION:

Douglas Holland, City Attorney, reported the judge, in a personal injury matter, Julie Nelson v. City of Palm Springs, granted a non-suit, the judge found the plaintiff failed to establish liability. No reportable action was taken.

ACCEPTANCE OF THE AGENDA:

Councilmember Mills stated he will abstain from Item 1C for a business related conflict of interest.

Councilmember Roberts requested Item 1C be pulled for separate discussion.

ACTION:

Accept the agenda as posted, noting the abstention of Councilmember Mills on Item 1C due to a business related conflict of interest, and removing Item 1C from the Consent Calendar for discussion.

Motion by Mayor Pro Tem Foat, seconded by Councilmember Mills, and unanimously carried (5-0-0) on a roll call vote.

PUBLIC TESTIMONY: (Non-Public Hearing Agenda Items ONLY)

HENRY HAMPTON, spoke in support of 5A.

MARK TEMPLE, Palm Springs, requested approval for a one-year extension of time for TTM 33282, Item 5B.

PATRICK WEISS, Palm Springs, spoke opposing 5A.

HAROLD MATZNER, spoke in support of 5A.

Mayor Moon invited Chief Reyes to speak of the crime rate in the City of Palm Springs. Chief Reyes provided a brief report with respect to crimes in Palm Springs.

1. CONSENT CALENDAR:

ACTION: Approve Items 1A, 1B, and 1D.
Motion Councilmember Kors, seconded by Councilmember Roberts and unanimously (5-0-0) carried on a roll call vote.

1.A. APPROVAL OF MINUTES:

ACTION: Approve the City Council Minutes of January 18, 2017.
Approved as part of the Consent Calendar.

1.B. SECOND READING AND ADOPTION OF ORDINANCE NOS. 1913 AND 1914, AUTHORIZING THE LEVY OF SPECIAL TAXES IN A COMMUNITY FACILITIES DISTRICT, INCLUDING CERTAIN ANNEXATION TERRITORIES:

ACTION:

- 1) Waive the reading of the ordinance text in its entirety and adopt Ordinance No. 1913, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AUTHORIZING THE LEVY OF SPECIAL TAXES IN A COMMUNITY FACILITIES DISTRICT, INCLUDING CERTAIN ANNEXATION TERRITORY IDENTIFIED AS ANNEXATION NO. 14, ICON, TRACT MAP NO. 36725, INTO COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SAFETY SERVICES)."
- 2) Waive the reading of the ordinance text in its entirety and adopt Ordinance No. 1914, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AUTHORIZING THE LEVY OF SPECIAL TAXES IN A COMMUNITY FACILITIES DISTRICT, INCLUDING CERTAIN ANNEXATION TERRITORY IDENTIFIED AS ANNEXATION NO. 15, SUNIA, TRACT MAP NO. 37143, INTO COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SAFETY SERVICES)."

Approved as part of the Consent Calendar.

1.D. APPROVAL OF A PRELIMINARY ENGINEERING AGREEMENT WITH SOUTHERN CALIFORNIA EDISON FOR PAYMENT IN THE AMOUNT OF \$75,000 FOR ENGINEERING SERVICES ASSOCIATED WITH THE RELOCATION OF UTILITY FACILITIES FOR THE RAMON ROAD BRIDGE WIDENING OVER THE WHITEWATER RIVER, CP 08-25, FEDERAL-AID PROJECT NO. BHLS-5282 (040):

ACTION:

- 1) Approve Preliminary Engineering Agreement with Southern California Edison in the amount of \$75,000 to prepare preliminary design plans for the relocation of a 66kV Overhead (OH) transmission power line along Landau Boulevard at Ramon Road, EA 08-925238, Federal Aid Project No. BHLS-5282(040). A6947. (SCE Preliminary Engineering Agreement No. 1).
- 2) Authorize the City Manager to execute all necessary documents.

Approved as part of the Consent Calendar.

EXCLUDED CONSENT CALENDAR:

1.C. ACCEPTANCE OF PUBLIC IMPROVEMENTS AND AUTHORIZATION TO RELEASE SUBDIVISION IMPROVEMENT SECURITIES FOR THE "LINEA" DEVELOPMENT, TRACT MAP 36723:

Councilmember Mills previously declared a conflict of interest and exited the Council Chamber.

Councilmember Kors requested the names of the individuals of the LLC.

Councilmember Roberts requested additional information with release of securities.

ACTION: Adopt Resolution No. 24163, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AUTHORIZING ACCEPTANCE OF THE SUBDIVISION IMPROVEMENTS ASSOCIATED WITH TRACT MAP 36723 AND AUTHORIZING RELEASE OF SECURITIES REQUIRED BY THE SUBDIVISION IMPROVEMENT AGREEMENT WITH ALTA VERDE HOMES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR PROPERTY LOCATED AT 1000 BOGERT TRAIL, IN SECTION 35, TOWNSHIP 4 SOUTH, RANGE 4 EAST."

Motion by Councilmember Roberts, seconded by Councilmember Kors, and carried by a majority (4-0-1) on a roll call vote.

AYES: Councilmembers Kors, Roberts, Mayor Pro Tem Foat , and Mayor Moon

NOES: None

ABSENT: Councilmember Mills

2. PUBLIC HEARINGS:

2.A. APPEAL BY SUMMIT LAND PARTNERS, LLC, OF THE PLANNING COMMISSION ACTION TO DENY A PLANNED DEVELOPMENT DISTRICT APPLICATION, VESTING TENTATIVE TRACT MAP APPLICATION, AND A MAJOR ARCHITECTURAL APPLICATION FOR THE DEVELOPMENT OF A 90-LOT SINGLE-FAMILY SUBDIVISION ON A 13.28 ACRE PARCEL AT THE SOUTHWEST CORNER OF EAST PALM CANYON DRIVE AND MATTHEW DRIVE, ZONE R-3 (CASE NO. 5.1384-PD 381/VTTM 36969/MAJ 3.3902):

Flinn Fagg, Director of Planning Services, provided background information as provided in the staff report.

ACTION:

- 1) Table the public hearing with no public testimony at this time.
- 2) Continue the Public Hearing to March 1, 2017.
- 3) Direct the City Clerk to post a Notice of Continued Public Hearing pursuant to law.

Motion Councilmember Mills, seconded by Councilmember Kors, and unanimously carried (5-0-0) on a roll call vote.

3. **LEGISLATIVE: None.**

4. **UNFINISHED BUSINESS: None.**

5. **NEW BUSINESS:**

5.A. **ACCEPT A \$256,800 DONATION FROM HAROLD MATZNER TOWARD THE PURCHASE OF A BALLISTIC ENGINEERED ARMORED RESPONSE (B.E.A.R.) TACTICAL SWAT VEHICLE FROM LENCO ARMORED VEHICLES, INC. FOR THE PALM SPRINGS POLICE DEPARTMENT AND APPROVE CITY MATCHING FUNDS TO ACQUIRE THE VEHICLE:**

David Ready, City Manager, provided background information as outlined in the staff report.

Mayor Pro Tem Foat requested clarification for funding.

Mayor Pro Tem Foat requested additional information with respect to the other tactical vehicles in the valley.

Councilmember Kors requested clarification on the competitive bidding process.

Councilmember Mills requested clarification relating to this particular vehicle, will it be staying in Palm Springs.

ACTION:

- 1) Accept a \$256,800 donation from Harold Matzner toward the purchase of a Lenco B.E.A.R. Tactical Vehicle.
- 2) Authorize the matching funds of \$256,800, for a total expenditure of \$513,600 - to purchase a new Lenco B.E.A.R. tactical vehicle utilizing Cooperative Contract GS-07F-169DA from Lenco Armored Vehicles, Inc.
- 3) Adopt Resolution No. 24164, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2016-17 FOR THE PURCHASE OF A BALLISTIC ENGINEERED ARMORED RESPONSE (B.E.A.R.) TACTICAL SWAT VEHICLE."

4) Authorize the City Manager to execute all necessary documents.
Motion by Councilmember Mills, seconded by Councilmember Roberts, and unanimously carried (5-0-0) on a roll call vote.

Councilmember Roberts stated his support for this item, the ability to provide our police officers with additional safety; additionally, he stated this is one of the best and most important expenditures approved by this City Council.

5.B. CASA VERONA, LLC, REQUEST FOR A ONE-YEAR EXTENSION OF TIME FOR TENTATIVE TRACT MAP 33282, A PREVIOUSLY APPROVED SUBDIVISION OF A 6.1 ACRE PARCEL OF 25 SINGLE-FAMILY RESIDENTIAL LOTS LOCATED ALONG THE NORTH SIDE OF E. VERONA ROAD AND WEST OF WHITEWATER RIVER (CASE 5.1035 / TTM 33282):

Flinn Fagg, Director of Planning Services, provided background information as outlined in the staff report.

ACTION: Direct staff to revise the resolution to approve the request for a one year extension and present the revised resolution to the City Council for adoption at a future City Council meeting.

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

5.C. AWARD A CONSTRUCTION CONTRACT TO TRI-STAR CONTRACTING II, INC. IN THE AMOUNT OF \$558,994.20 FOR THE DEMUTH PARK ADA ACCESS IMPROVEMENTS, CP 15-15:

Marcus Fuller, Assistant City Manager/City Engineer, provided background information as outlined in the staff report.

Councilmember Kors asked the City Attorney for clarification with respect to rejecting the lowest bidder as being not a responsible bidder.

Councilmember Mills requested additional information relating to the freestanding bumpers, and the existing restrooms.

ACTION:

- 1) Reject the lowest bid received from Aghapy Group, Inc., on the basis that Aghapy Group, Inc., is not a responsible bidder.
- 2) Award a construction contract to Tri-Star Contracting II, Inc., in the amount of \$521,098.30 for the Demuth Park ADA Access Improvements, CP 15-15. A6948.
- 3) Approve Change Order No. 1 in the amount of \$29,091.30 replacing the proposed decomposed granite walkways with Portland cement

concrete walkways for an increased total contract amount of \$550,189.60.

- 4) Delegate authority to the City Manager to approve and execute construction contract change orders up to the cumulative amount of \$50,000.
- 5) Authorize the City Manager to execute all necessary documents.

Motion Councilmember Roberts, seconded by Mayor Pro Tem Foat, and unanimously carried (5-0-0) on a roll call vote.

5.D. FISCAL YEAR 2016-17 ALLOCATED POSITIONS AND COMPENSATION PLAN AMENDMENT NO. 2 ADDING ONE (1) GRANT AND DONATION OFFICER:

David Ready, City Manager, provided background information as provided in the staff report.

ACTION:

- 1) Approve the position Fund Development Director, salary set at EX2, 59.
- 2) Adopt Resolution No. 24165, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING AMENDMENT NO. 2 TO THE ALLOCATED POSITIONS AND COMPENSATION PLAN FOR FISCAL YEAR 2016-17, ADOPTED BY RESOLUTION NO. 24033."
- 3) Authorize the City Manager to execute all necessary documents.

Motion Councilmember Roberts, seconded by Councilmember Kors, and unanimously carried (5-0-0) on a roll call vote.

5.E. DESIGNATION OF A DELEGATE REPRESENTATIVE AND ALTERNATE REPRESENTATIVE FOR THE 2017 SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG) GENERAL ASSEMBLY ON MAY 4, 2017:

ACTION: Appoint Mayor Moon as the Delegate Representative and appoint Councilmember Mills as the Alternate Delegate Representative for the 2017 SCAG General Assembly in Palm Desert, California, on May 4, 2017.

Motion by Mayor Pro Tem Foat, seconded by Councilmember Mills, and unanimously carried (5-0-0) on a roll call vote.

5.F. APPOINTMENTS TO THE SUSTAINABILITY COMMISSION FOR THE UNEXPIRED TERMS ENDING JUNE 30, 2017, JUNE 30, 2018, AND JUNE 30, 2019:

Kathleen Hart, Interim City Clerk, presented the background information as provided in the staff report.

Councilmember Kors commented on the many qualified candidates.

ACTION: Appoint Greg Gauthier and Lauri Kibby to the unexpired terms ending June 30, 2017, Michael Wangler to the unexpired term ending June 30, 2018, and John Goins to the unexpired term ending June 30, 2019.

Motion Councilmember Kors, seconded by Councilmember Roberts and unanimously carried on a roll call vote.

David Ready, City Manager, stated he has a conflict of interest and will not be participating with respect to Item 5G and exited the Council Chamber.

5.G. APPOINT TWO (2) MEMBERS OF THE CITY COUNCIL TO THE OSWIT CANYON AD HOC SUBCOMMITTEE WITH THE SUNSET DATE OF DECEMBER 31, 2017:

Marcus Fuller, Assistant City Manager/City Engineer, provided background information as outlined in the staff report.

ACTION: Appoint Councilmember Kors and Mayor Pro Tem Foat of the City Council to the Oswit Canyon ad hoc Subcommittee with the sunset date of December 31, 2017.

Motion Councilmember Mills, seconded by Councilmember Roberts, and unanimously carried (5-0-0) on a roll call vote.

PUBLIC COMMENT: (Non-Agenda Items)

HENRY HAMPTON, Palm Springs, commented on fatal car accidents.

PHYLLIS CLAIRE BURGESS, Palm Springs, thanked the City Council for their efforts and requested modification to the conduct of City Council meetings.

COUNCILMEMBER COMMENTS, REQUESTS, REPORTS, AND UPCOMING AGENDA DEVELOPMENT:

Councilmember Kors reported 1) he and Councilmember Mills have been working on the sign ordinance and the ad hoc Subcommittee will be meeting with the stakeholders, and the proposed ordinance will be on the City Council agenda for action in the near future; 2) announced the next Homelessness Task Force meeting and invited the public to attend; 3) requested placing on the agenda in March a broad based and proactive non-discrimination ordinance; further noting the importance of having an ordinance in place to support current practices.

Mayor Pro Tem Foat stated her support of the comments made by Councilmember Kors and thanked him for his work.

ADJOURNMENT: At 7:58 p.m. the City Council adjourned to the next Regular Meeting on Wednesday, February 15, 2017, 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.

Respectfully submitted,



KATHLEEN D. HART, MMC
Interim City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, California, hereby certify that the February 1, 2017, MINUTES were approved by the City Council of the City of Palm Springs at a regular meeting held on the March 1, 2017, by the following vote:

AYES: Councilmembers Kors, Mills, Roberts, Mayor Pro Tem Foat, and Mayor Moon
NOES: None
ABSENT: None
ABSTAIN: None
RECUSAL: None



KATHLEEN D. HART, MMC
Interim City Clerk

Exhibit A

CITY COUNCIL
AND AS SUCCESSOR AGENCY TO THE
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF THE PALM SPRINGS
CITY OF PALM SPRINGS, CALIFORNIA



CLOSED SESSION AGENDA
Wednesday, February 1, 2017 – 4:30 p.m.
City Hall, Small Conference Room
3200 East Tahquitz Canyon Way, Palm Springs

CONFERENCE WITH LEGAL COUNSEL. The City Council finds, based on advice from the City Attorney, that discussion in open session of the following described matter(s) will prejudice the position of the City in existing and anticipated litigation.

EXISTING LITIGATION **G.C. 54956.9(a)**

Amy Marschak v. City of Palm Springs; Erik Larson et al
Case 5:17-CV-00055, United States Court, Central District of California

Dennis A. Cunningham and Andrea C. Cunningham individually, and in their capacities as Trustees of the Cunningham Family Trust Dated 12/14/2000 v. City of Palm Springs et. al.
Case No. PSC1606147, Riverside Superior Court, Palm Springs Division

EXPOSURE TO LITIGATION **G.C. 54956.9(b)**

4 Case(s).

INITIATION OF LITIGATION **G.C. 54956.9(c)**

3 Case(s).

CONFERENCE WITH REAL PROPERTY NEGOTIATOR **G.C. 54956.8**

Property Address/Description: APN 669-330-029
Agency: City of Palm Springs
City Negotiator: David H. Ready, City Manager or Designee
Negotiating Parties: Desert Community College District
Under Negotiation: Price and Terms of Payment

Property Address/Description: APN 513-460-033 (Right-of-Way)
Agency: City of Palm Springs
City Negotiator: Marcus L. Fuller, Assistant City Manager or Designee
Negotiating Parties: 4348 Lockwood Avenue, LLC
Under Negotiation: Price and Terms of Payment (Easement)

