



CITY COUNCIL STAFF REPORT

DATE: March 25, 2009 Consent Calendar

SUBJECT: A REQUEST BY WALTER REED OF THE AIDS ASSISTANCE PROGRAM TO TEMPORARILY SUSPEND THE NOISE ORDINANCE ON APRIL 25, 2009, FOR A GALA EVENT LOCATED AT 301 NORTH BELARDO ROAD (O'DONNELL GOLF COURSE).

FROM: David H. Ready, City Manager

BY: Director of Planning Services

SUMMARY

The applicant is requesting that the City Council adopt a Resolution temporarily waiving Chapter 11.08.040, *Noise Ordinance*, and Chapter 11.74, *Noise Nuisance Ordinance*. The request is to facilitate a fundraising event, which will include a concert and fireworks show, on April 25, 2009 from 6 P.M. to 11:00 P.M. at the O'Donnell Golf Resort located at 301 North Belardo Road.

RECOMMENDATION:

Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, SUSPENDING THE NOISE ORDINANCE (CHAPTER 11.74.00) AND NOISE NUISANCE ORDINANCE (CHAPTER 11.08.040) FOR A FUNDRAISING EVENT ON APRIL 25, 2009, FROM 9:30 P.M. TO 11:00 P.M. LOCATED AT 301 NORTH BELARDO ROAD (O'DONNELL GOLF COURSE)."

BACKGROUND:

AIDS Assistance Program (AAP) is hosting a fundraising event on April 25, 2009, from 6 P.M. to 11 P.M. This event is known as the "Evening under the Stars" and will be the Program's sixteenth annual fundraising event. The applicant indicated that similar events in the past have been attended by more than 1,000 guests.

ITEM NO. 2.14.

DISCUSSION:

Chapter 6.12 of the Palm Springs Municipal Code (PSMC) allows the temporary suspension of regulatory ordinances. Chapter 6.12.020 of the PSMC states, "*The ordinance codified in this chapter is adopted for the purpose of encouraging and promoting special events of benefit to the community and its visitor-oriented economy.*"

The request is to suspend the Noise Ordinance between the hours of 9:30 P.M. and 11:00 P.M. to facilitate a concert and firework show. The concert is anticipated to be from 9:30 P.M. to 10:45 P.M. with the firework show commencing immediately afterwards and lasting approximately three minutes. In the past the concert and firework show has ended by 10:00 P.M.; however, this year the event is proposed to end at 11:00 P.M. which necessitates the noise ordinance waiver.

The applicant states that this event will not have significant impact to the noise ordinance and that only moderate noise levels will be generated by the event.

REQUIRED FINDINGS:

Pursuant to Chapter 6.12 of the Municipal Code, the following findings are required for the temporary suspension of regulatory ordinances:

1. *The city council finds that certain special events may be useful and beneficial to the visitor-oriented economy of the city by attracting large numbers of visitors, by generating favorable publicity, and by enhancing a marketable image for the city.*

The proposed event will be beneficial to the visitor-oriented economy as it has the capability of attracting more than 1,000 guests. The event will generate favorable publicity and enhance the marketable image for the city because the funds generated by its success assist low-income men, women and children living with HIV/AIDS in the Coachella Valley.

2. *The city council finds that certain regulatory ordinances which are deemed generally desirable and necessary may, nonetheless, impede the conduct of such special events; and that the operation of such regulatory ordinances should be suspended during limited periods of time, in designated locations, to facilitate certain special events.*

The regulatory prohibitions imposed by the Noise and Noise Nuisance Ordinances would impede the conduct of the event as follows:

Noise Ordinance:

- Chapter 11.74: The maximum allowable A-weighted decibels for an event in a commercial area before 10:00 PM are 55 decibels and after 10:00 PM are 50 decibels. The fireworks display and most outdoor concerts are likely to exceed this threshold.

Noise Nuisance Ordinance:

- Chapter 11.08.040 prohibits unreasonably loud noise. It is likely that the event will exceed that provision during the concert and firework show.

The application of these ordinances on this temporary event would be unnecessarily burdensome when procedure has been followed to prevent and mitigate nuisance to the public health, safety and welfare.

3. *The city council finds that the public interest in the holding of such special events and the benefits to be derived therefrom outweigh the temporary public inconvenience entailed in the suspension of such regulatory ordinances, and that the public welfare and interest will be served by such suspensions.*


The event will raise funds for a non-profit organization that assists over 500 persons afflicted and living with AIDS/HIV with an annual income of \$18,400.00 or less. The temporary ordinance suspensions will only be for an hour and a half. Therefore, the benefit to be derived from the event will outweigh the public inconvenience that the temporary suspension entails.

CONCLUSION:

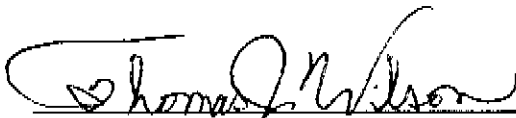
While the request is for suspension of the noise ordinances, all other City codes and regulations will remain in effect. If the City Council believes the suspension is appropriate, they may consider the adoption of the attached Draft Resolution to temporarily suspend the Noise Nuisance and Noise Ordinances for the event.

FISCAL IMPACT:

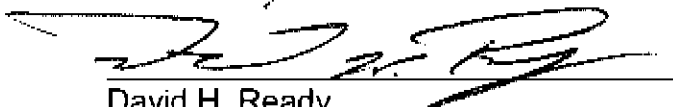
There will be no fiscal impact.



Craig A. Ewing, AICP
Director of Planning Services



Thomas J. Wilson
Assistant City Manager



David H. Ready
City Manager

Attachments:

1. Draft Resolution
2. Letter of Request (AAP – Walter Reed)
3. Letter of Request Addendum (Byway Entertainment – Richard Byford)
4. AAP Information Letter (Mark Anton)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, SUSPENDING THE NOISE ORDINANCE (CHAPTER 11.74.00) AND NOISE NUISANCE ORDINANCE (CHAPTER 11.08.040) FOR A FUNDRAISING EVENT ON APRIL 25, 2009, FROM 9:30 P.M. TO 11:00 P.M. LOCATED AT 301 NORTH BELARDO ROAD (O'DONNELL GOLF COURSE).

WHEREAS, The AIDS Assistance Program ("applicant") has requested the waiver of Chapters 11.74 and 11.08.040 of the Palm Springs Municipal Code for a fundraising event on April 25, 2009 from 9:30 P.M. to 11:00 P.M. located at 301 North Belardo Road (O'Donnell Golf Course); and

WHEREAS, a hearing was held by the City Council on March 25, 2009 to review the resolution; and

WHEREAS, the City Council has carefully reviewed and considered all of the evidence presented in connection with the waiver of the ordinances, including but not limited to the staff report; and

WHEREAS, the City Council has reviewed and considered the project in light of the findings for the temporary suspension of regulatory ordinances, pursuant to Chapter 6.12 of the Municipal Code, and has determined that the request is in conformance with said findings, as follows:

1. *The city council finds that certain special events may be useful and beneficial to the visitor-oriented economy of the city by attracting large numbers of visitors, by generating favorable publicity, and by enhancing a marketable image for the city.*

The proposed event will be beneficial to the visitor-oriented economy as it has the capability of attracting more than 1,000 guests. The event will generate favorable publicity and enhance the marketable image for the city because the funds generated by its success assist low-income men, women and children living with HIV/AIDS in the Coachella Valley.

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The application of these ordinances on this temporary event would be unnecessarily burdensome when procedure has been followed to prevent and mitigate nuisance to the public health, safety and welfare.

3. *The city council finds that the public interest in the holding of such special events and the benefits to be derived therefrom outweigh the temporary public inconvenience entailed in the suspension of such regulatory ordinances, and that the public welfare and interest will be served by such suspensions.*

The event will raise funds for a non-profit organization that assists over 500 persons afflicted and living with AIDS/HIV with an annual income of \$18,400.00 or less. The temporary ordinance suspensions will only be for an hour and a half. Therefore, the benefit to be derived from the event will outweigh the public inconvenience that the temporary suspension entails.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That the event and the waiver of the ordinances is exempt from CEQA pursuant to Section 15323 of the CEQA Guidelines.

SECTION 2. That the following ordinances are hereby temporarily suspended for the special event designated in Section 1 above: Noise Ordinance and Nuisance Ordinance.

SECTION 3. That the regulatory ordinances designated in Section 2 shall remain in full force and effect except on April 25, 2009, between 9:30 P.M. and 11:00 P.M. (1.5 hours) for the fundraising event located on O'Donnell Golf Course at 301 North Belardo Road.

ADOPTED THIS 25th day of March, 2009.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

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

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California



Byway Events & Entertainment, Inc.
PO Box 1583
Palm Springs, CA 92263

(800) 404-7647 (760) 320-9054
FAX (760) 327-4584

Email: richard@bywayentertainment.com
www.bywayentertainment.com

March 14th, 2009

TO: The City Council
The City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92262

Attn: David Newell

REF: Evening under The Stars, The O'Donnell Golf Course, Palm Springs
Saturday, April 25th, 2009

This letter is an addendum to a letter written to the City Council
by Walter Reed, Executive Director of The AIDS Assistance
Programme.

Dear David,

The Evening Under The Stars is an annual gala to raise money for the
Palm Springs AIDS Assistance Program and is held every year on the
O'Donnell Golf Course in Palm Springs.

The schedule and timing of the event has been the same for many years.
However, this year the event will run slightly longer.

Proposed Timeline - 2009:

1. The roads around the golf course are closed by the city from
5:00 - 11:00 pm (Special Event Committee has diagrams etc)
2. Gates open to the public at 6:00 pm
3. 6:00 - 7:30 pm - cocktail reception and silent auction
4. 7:30 - 9:15 pm Dinner, awards and live auction

5. 9:30 - 11:00 pm Mary Wilson of the Supremes show with dancing
This will end with a three minute firework display
somewhere between 10:45 - 11:00 pm

We have done shows at O'Donnell Golf Course for over 9 years and to my knowledge have never received a complaint of any kind. The AIDS Assistance Program does send out fliers to all the Community Associations concerning this event.

As producer of the event and long time resident and business owner I thought it would be correct for us to bring our timing to the attention of the City Council and ask for a 1 hr extension for the city sound ordinance.

Thank you - see you at the Council meeting on March 25th



Richard Byford
Byway Entertainment.



March 16, 2009

Mr. David Newell, City of Palm Springs, CA

RE: REQUEST FOR EXTENSION/SUSPENSION OF NOISE ORDINANCE OF ONE HOUR ON 4/25/2009 FOR ANNUAL "EVENING UNDER THE STARS" EVENT @ THE O'DONNELL GOLF COURSE.

Dear Mr. Newell,

My name is Mark Anton, President of AIDS Assistance Program in Palm Springs. Our organization has been in continual service since 1991 serving persons afflicted and living with AIDS/HIV living on an annual income of \$18,400.00 or less. Our clients range from a 4 year old child to an 83 year old woman.

Some basic facts about our organization are as follows:

1. We currently serve 530 clients by supplying them with food vouchers in the form of a discreet "debit card" which is used at Stater Brothers and is valid for the purchase of food only. The cards are not valid for alcohol or tobacco products.
2. Our organization returns approximately .85 cents of each dollar raised directly back to our clients, much higher than the national average of less than 50%.
3. We currently have a waiting list an additional 30 people (on top of the 530).
4. We have hosted 15 previous "Evening Under the Stars" events, most of them at the O'Donnell Golf Course and all without incident involving Police or emergencies, nor any public complaints that we are aware of.
5. Our event has professional security and valet parking.
6. All our operating expenses are arrived solely from private donations, events such as "Evening Under the Stars" and grants. We receive no Federal funds whatsoever. We are a grass roots organization with 2 room office sited in the Las Hadas office condominiums @ 1276 N. Palm Canyon that was purchased for under \$40,000.00. We have only 2 paid employees, 7 community volunteer Board members and over 25 dedicated volunteers. Our operating expenses are extremely minimal and "no frills" with the interest of clients being 1st and foremost.
7. This one event normally grosses over 1/3rd of our yearly operating budget of over \$1.2 Million dollars.

We realize there are many reasons that the noise ordinance exists and realize that The City Council must balance the pros and cons of all events that take place in the city such as The White Party, Motorcycle Weekend, Dinah Shore Weekend etc. We feel that our organization offers to the City of Palm Springs a needed and very important service to the community and respectfully request that you please honor our request for a one hour extension of the noise ordinance for this important fundraising event.

Thank you in advance,

Yours truly,

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February 17, 2009



City Council
City of Palm Springs
3200 Tahquitz Canyon
Palm Springs, CA 92262

Dear Council Members,

The AIDS Assistance Program would like to request a variance from the 10 pm noise cessation policy to 11pm for our "2009 Evening Under the Stars.

'Evening Under the Stars' is the AIDS Assistance Program's cornerstone black tie gala fundraiser that yearly generates a major portion of the operating budget for our Food Voucher Program for low-income men, women and children living with HIV/AIDS in the Coachella Valley." This is the premier outdoor charitable event for the Palm Springs area and has been called "The Jewel of the Desert's fundraising Season". Last year's event featuring Pink Martini was attended by more than 1000 guests from as far away as Manchester England.

Although this is a charitable event, it is known for the quality of the evening from the location, at the foot of the San Jacinto Mountains on the fairways of the exclusive O'Donnell Golf Resort, to the dinner menu and concert that follows. This year's entertainment will feature Mary Wilson of the Supremes along with some special surprises. Mary's concert will run for 30 to 40 minutes longer than it has in the past, which will mean ending closer to 11 pm this year.

Like last year, our celebrations will begin the Friday night preceding the concert with a VIP party hosted again this year by **Jackie Lee and Jim Houston** of Palm Springs at their personal residence.

Our Evening Under the Stars event itself begins at 6 pm with a hosted cocktail reception and silent auction, followed by a sumptuous seated dinner, live auction and Mary's show.

Please let me know if we can provide any further information and thank you for your consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter Reed", is written over a white background.

Walter Reed
Executive Director