CITY COUNCIL
CITY OF PALM SPRINGS, CALIFORNIA

MINUTES
WEDNESDAY, DECEMBER 1, 2010
Council Chamber

CALL TO ORDER: Mayor Pougnet called the meeting to order at 6:02 p.m.

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

INVOCATION: Rev. Kevin A. Johnson, Bloom in the Desert Ministries, led the Invocation.

ROLL CALL:

PRESENT:	Councilmember Weigel, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
ABSENT:	Councilmember Foat and Councilmember Mills.
ALSO PRESENT:	City Manager Ready, City Attorney Holland, City Clerk Thompson.

PRESENTATIONS:

Dr. Lothrop and Sharon Lock, City of Palm Springs Representative to the Coachella Valley Mosquito and Vector Control District, provided a report on the activities of the District.

Mayor Pougnet announced the upcoming events in the City of Palm Springs: Holiday Tree Lighting, Festival of Lights Parade and pre-parade events, Holiday Banner Contest, Young Americans Concerts Program, the Marine Band Concert, and the Palm Springs International Film Festival.

Councilmember Weigel announced the upcoming Palm Springs Lobster Festival.

REPORT OF CLOSED SESSION: City Attorney Holland reported that the meeting was called to order at 5:00 p.m., and the City Council recessed into Closed Session to discuss the Items on the posted Closed Session Agenda. No reportable actions were taken.

ACCEPTANCE OF THE AGENDA: Accept the Agenda as amended.

City Clerk Thompson stated that staff requests Item 4.A. be withdrawn from the Agenda.

Mayor Pro Tem Hutcheson requested Item 2.L. be removed from the Consent Calendar for separate discussion.

Mayor Pougnet requested Items 2.F. and 2.O. be removed from the Consent Calendar for separate discussion.

ACTION: Accept the Agenda as amended. **Motion Mayor Pro Tem Hutcheson, seconded by Councilmember Weigel and unanimously carried 3-0 on a roll call vote.**

AYES: Councilmember Weigel, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
NOES: None.
ABSENT: Councilmember Foat and Councilmember Mills.

1. PUBLIC HEARINGS:

1.A. APPEAL OF THE PLANNING COMMISSION DECISION DENYING A TYPE II CONDITIONAL USE PERMIT AND VARIANCE APPLICATION FOR THE CONSTRUCTION AND OPERATION OF A FORTY-SEVEN AND ONE-HALF FOOT HIGH WIRELESS COMMUNICATION MONOPOLE PROPOSED AT 2100 EAST RACQUET CLUB ROAD (APPLICANT/APPELLANT T-MOBILE WEST CORPORATION) (CASES 5.1246 CUP AND 6.523 VAR):

Craig Ewing, Director of Planning Services, provided background information as outlined in the staff report dated December 1, 2010.

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

JAMES ROGERS, Representing Applicant, commented on the points of the appeal and the concerns of the neighborhood including: visual issues, aviation safety issues, decreasing property values, and the design of the cell tower, stated the tower complies with all Federal Rules and Regulations, and commented on the points of concern to the Planning Commission including the proposed location, the cell services offered and coverage, the zoning code requirements, and structure height.

REV. DR. MICHAEL KEARNEY, commented on the selection process with the Center for Spiritual Living Palm Springs, stated that T-Mobile has addressed the issues, commented on the public process to the neighbors.

ROBERT WILSON, commented on the services of the Center for Spiritual Living and the programs offered to the Community, and stated the Center requires the rental of the small space to continue to maintain the property and provide community services.

PAUL HIETTER, commented on the services offered by the Center for Spiritual Living Palm Springs, and commented on the cash flow needs of the Center by the Cell Tower, commented on the visual impact and the outreach to the community.

GENE YOUNG, Palm Springs, spoke in opposition to the proposed cell tower, commented on the visual aspects and view, the proximity of the proposed tower to his residence, expressed concerns with the up-lighting, the zoning laws and property values.

MICHAEL TUCCI, stated the tower will obstruct the views of the surrounding areas, commented on his contact with the Center, noted this proposed tower was the closest to a residential area in the entire City of Palm Springs, adverse impacts to the surrounding properties, and requested the City Council deny the appeal.

GAIL GADDY, Palm Springs, commented on the proximity of the tower to his residence and the proposed lighting of the cell tower, and spoke in opposition to the proposed cell tower.

TOM HUFF, commented on the community meetings, the proximity of the tower to his residence, the design and height of the tower.

PETER DEMOPOULOS, commented on the proximity of the tower to his property, stated his opposition to the tower, commented on the adverse effects to property values, the obstruction of the mountain view, and cell phone reception in the area.

BILL CLEMENTS, stated he will have perfect view of the proposed tower, commented on property values and the condition of the neighborhood, the lighting of the tower, the impact to the surrounding community, and health impacts.

BARBARA EVES, Palm Springs, stated her support for the Planning Commission denial of the CUP, commented on the views and the proximity to the residential area.

FRED FABRICANT, commented on previous discussions limiting the height of buildings and other structures that affect the views of the mountains, spoke in opposition to the proposed cell tower.

ANDREW STARKE, requested the City Council uphold the unanimous decision of the Planning Commission to deny the proposed cell tower, commented on the zoning, on the lighting of the proposed cell tower, the height of the structure, stated this is a business decision of the Center.

VICKY STARKE, stated her opposition to the proposed cell tower, commented on the height of the structure, the lighting of the cell tower, the proximity to other homes to other cell towers in residential zones, and requested the City Council uphold the decision of the Planning Commission.

PAT STEWART, Palm Springs, stated she never received a letter from T-Mobile, commented on the lighting and the impact to the neighborhood, and requested the City Council deny the request from T-Mobile.

SAMUEL MILHAM, Indio, commented on the health impacts of cell towers, and requested the City Council deny the request.

DONALD BUCK, questioned the placement of the tower on the property, questioned is the property leased, can the tower be changed or increased in height, the shadow cast on his property, the lighting of the property.

MRS. BUCK, commented on the design of the structure, and requested the City Council uphold the decision of the Planning Commission, the effect on property values, and stated it should not be in the neighborhood.

WILLIE JAMES HOLLAND, SR., commented on the zoning for churches and residential zones, and questioned how the City Council can approve a tower for a single church.

JAMES ROGERS, Rebuttal, commented on the impact to the view, the claims of market value, the proximity to the residential area, stated there is no lighting on the tower.

No further speakers coming forward the public hearing was closed.

Mayor Pougnet requested staff address the location of the proposed tower on the site, the possibility of any future in height, the lighting on the pole.

Mayor Pro Tem Hutcheson stated his support to uphold the Planning Commission decision, and commented on the location and the opposition to the community and the proposed location.

Councilmember Weigel stated his support for the Planning Commission decision, and requested the staff address other sites in the immediate area and co-ability with sites on the same location.

ACTION: Adopt Resolution No. 22832, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DENYING T-MOBILE WEST CORPORATION'S APPEAL AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION TO DENY A CONDITIONAL USE PERMIT AND VARIANCE APPLICATION FOR THE CONSTRUCTION AND OPERATION OF A FORTY-SEVEN AND ONE-HALF FOOT HIGH WIRELESS COMMUNICATION MONOPOLE LOCATED AT 2100 EAST RACQUET CLUB ROAD (CASES. 5.1246 CUP AND 6.523 VAR)." **Motion Mayor Pro Tem Hutcheson, seconded by Councilmember Weigel and unanimously carried 3-0 on a roll call vote.**

AYES: Councilmember Weigel, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
NOES: None.
ABSENT: Councilmember Foat and Councilmember Mills.

The City Council recessed at 7:32 p.m.
The City Council reconvened at 7:34 p.m.

PUBLIC COMMENT:

JUSTIN LANNING, commented on the state of businesses on North Palm Canyon, and requested the City Council extend the Christmas Lights on North Palm Canyon past Vista Chino.

FRED FABRICANT, commented on the settlement with Pointe Center Financial toward the Palm Springs Country Club Golf Course.

ANDREW STARKE, commented on Item 2.J. and requested the City Council support the contract with Palm Springs Power for use of the Palm Springs Stadium.

BRETT KLEIN, commented on Item 2.F. and requested the City Council initiate a General Plan amendment for non motorized transportation programs.

WILLIE JAMES HOLLAND, SR., commented on his recent arrest and complaints with the Palm Springs Police Department.

JOHN TYMON, commented on a recent issue with City Staff and staff of Community Partnership.

ANDREW HOUSTON, commented on Item 2.F. and stated his support for a General Plan amendment incorporating non motorized transportation.

COUNCILMEMBER COMMENTS:

Mayor Pougnet requested staff address the holiday lights in the Downtown area.

Mayor Pro Tem Hutcheson stated the City Council Business Retention Subcommittee has been looking at the North Palm Canyon business area for improvements.

CITY MANAGER'S REPORT: None.

2. CONSENT CALENDAR:
ACTION: Approve Items 2.A., 2.B., 2.C., 2.D., 2.E., 2.G., 2.H., 2.I., 2.J., 2.K., 2.M., and 2.N. **Motion Councilmember Weigel, seconded by Mayor Pro Tem Hutcheson and unanimously carried 3-0 on a roll call vote.**

AYES: Councilmember Weigel, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
NOES: None.
ABSENT: Councilmember Foat and Councilmember Mills.

2.A. REPORT ON POSTING OF THE AGENDA:
ACTION: Receive and file Report on the Posting of the December 1, 2010, City Council Agenda. **Approved as part of the Consent Calendar.**

2.B. APPROVAL OF MINUTES:
ACTION: Approve the City Council Minutes of November 17, 2010. **Approved as part of the Consent Calendar.**

2.C. APPROVAL OF PAYROLL WARRANTS, CLAIMS AND DEMANDS:
ACTION: 1) Adopt Resolution No. 22833, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 10-30-10 BY WARRANTS NUMBERED 416199 THROUGH 416229 TOTALING $49,008.78, LIABILITY CHECKS NUMBERED 1045220 THROUGH 1045241 TOTALING $127,451.41, FIVE WIRE TRANSFERS FOR $49,313.81, AND THREE ELECTRONIC ACH DEBITS OF $1,011,653.98, IN THE AGGREGATE AMOUNT OF $1,237,427.98, DRAWN ON BANK OF AMERICA;" 2) Adopt Resolution No. 22834, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1045242 THROUGH 1045376 IN THE AGGREGATE AMOUNT OF $828,180.39, DRAWN ON BANK OF AMERICA;" and 3) Adopt Resolution No. 22835, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1045377 THROUGH 1045492 IN THE AGGREGATE AMOUNT OF $1,139,231.62, DRAWN ON BANK OF AMERICA." **Approved as part of the Consent Calendar.**

2.D. ACCEPT THE RESIGNATION OF BARBARA BEATY FROM THE HUMAN RIGHTS COMMISSION:
ACTION: 1) Accept with regret the resignation of Barbara Beaty from the Human Rights 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.**

2.E. AGREEMENT WITH EVERGREEN RECYCLING SOLUTIONS FOR TECHNICAL ASSISTANCE AND PROFESSIONAL SERVICES ON SOLID WASTE AND RECYCLING:
ACTION: 1) Approve an agreement with Evergreen Recycling Solutions for municipal solid waste management and recycling consulting services in an amount not to exceed $50,000 for one year with a one year extension;

and 2) Authorize the City Manager to execute all necessary documents. A5336. **Approved as part of the Consent Calendar.**

2.G. PLANS, SPECIFICATIONS AND ESTIMATE (PS&E) AND AUTHORIZATION TO BID FOR THE 2010-11 ANNUAL ASPHALT OVERLAY PROJECT (CP 10-08):
ACTION: Approve the plans, specifications, and working details for the 2010-11 Annual Overlay Project and authorize staff to advertise and solicit bids (CP 10-08). **Approved as part of the Consent Calendar.**

2.H. PLANS, SPECIFICATIONS AND ESTIMATE (PS&E) AND AUTHORIZATION TO BID FOR THE 2010-11 ANNUAL SLURRY SEAL PROJECT (CP 10-09):
ACTION: Approve the plans, specifications, and working details for the 2010-11 Annual Slurry Seal Project and authorize staff to advertise and solicit bids (CP 10-09). **Approved as part of the Consent Calendar.**

2.I. AMENDMENT NO. 2 TO AGREEMENT NO. A5572 WITH BARTLE WELLS ASSOCIATES FOR A WASTEWATER RATE STUDY:
ACTION: 1) Approve Amendment No. 2 to Agreement No. A5572 with Bartle Wells Associates, in the amount of $12,000 for a total revised contract amount of $50,000 for wastewater rate study services; and 2) Authorize the City Manager to execute all necessary documents. A5572. **Approved as part of the Consent Calendar.**

2.J. AGREEMENT WITH PALM SPRINGS POWER FOR USE OF THE PALM SPRINGS STADIUM:
ACTION: 1) Approve an agreement with the Palm Springs Power Baseball Team for a period of three (3) years with two (2) two-year extensions; and 2) Authorize the City Manager to execute all necessary documents. A5282. **Approved as part of the Consent Calendar.**

2.K. CONTINUATION OF THE RIDESHARE REIMBURSEMENT PROGRAM AND APPROVE THE COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS (CVAG) AB2766 MEMORANDUM OF UNDERSTANDING (MOU):
ACTION: 1) Authorize continuation of the Rideshare Program using Air Quality Management Funds; 2) Direct staff to propose using an alternative funding source, after all Air Quality Management Funds are used, for the program in future fiscal year budgets; 3) Approve the AB2766 MOU with CVAG allocating the AB2766 Motor Vehicle Registration Fee Assessments to CVAG for the Coachella Valley Regional PM10 Street Sweeping Program; and 4) Authorize the City Manager to execute all necessary documents. A4898. **Approved as part of the Consent Calendar.**

2.M. TREASURER'S INVESTMENT REPORT AS OF OCTOBER 31, 2010:
ACTION: Receive and File the Treasurer's Investment Report as of October 31, 2010. **Approved as part of the Consent Calendar.**

2.N. TRACT MAP 34165 AND SUBDIVISION IMPROVEMENT AGREEMENT WITH O & M, LLC FOR A 53 LOT RESIDENTIAL SUBDIVISION LOCATED AT THE SOUTHEAST CORNER OF AVENIDA CABALLEROS AND ALEJO ROAD:
ACTION: 1) Adopt Resolution No. 22836, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING TRACT MAP 34165 FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF AVENIDA CABALLEROS AND ALEJO ROAD, SECTION 14, TOWNSHIP 4 SOUTH, RANGE 4 EAST, AND APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT WITH O & M, LLC;" and 2) Authorize the City Manager to execute all necessary documents. A6042. **Approved as part of the Consent Calendar.**

EXCLUDED CONSENT CALENDAR:

2.F. INITIATION OF AN AMENDMENT TO THE CITY OF PALM SPRINGS GENERAL PLAN TO INCORPORATE THE NON MOTORIZED TRANSPORTATION PLAN:
Mayor Pougnet highlighted the goals of the plan with the City, CVAG, and surrounding cities.

ACTION: Initiate an amendment to the General Plan to incorporate the Non Motorized Transportation Plan. **Motion Mayor Pro Tem Hutcheson, seconded by Councilmember Weigel and unanimously carried 3-0 on a roll call vote.**

AYES: Councilmember Weigel, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
NOES: None.
ABSENT: Councilmember Foat and Councilmember Mills.

2.L. AMENDMENT NO. 3 TO AGREEMENT NO. A5300 WITH MERCHANTS LANDSCAPE SERVICES FOR ADDITIONAL LANDSCAPE MAINTENANCE IN THE AMOUNT OF $4,958.81 PER YEAR:
Mayor Pro Tem Hutcheson stated he received a complaint from the Warm Sands Neighborhood regarding the landscaping in the area, and requested the City Manager review the services provided to the Warm Sands area.

ACTION: 1) Approve Amendment No. 3 to Agreement No. A5300 in the amount of $4,957.81 per year, as well as authorize up to $5,000 per year for emergency (as needed) services for a total annual contract amount of up to $1,222,724.33: 2) Amend Section 1.8 of the Contract Services Agreement to allow the Contract Officer to increase the contract amount for added maintenance areas up to

$25,000 annually, going forward through the end of the contract; and 3) Authorize the City Manager to execute all necessary documents. A5300. **Motion Mayor Pro Tem Hutcheson, seconded by Councilmember Weigel and unanimously carried 3-0 on a roll call vote.**

AYES: Councilmember Weigel, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
NOES: None.
ABSENT: Councilmember Foat and Councilmember Mills.

2.O. OPPOSITION TO THE PROPOSED WHITEWATER LOCATION OF THE RIVERSIDE COUNTY REGIONAL DETENTION CENTER:
Mayor Pougnet highlighted the opposition to the jail, the potential financial effects to tourism, and the comments from the CVA.

ACTION: Adopt Resolution No. 22837, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, OPPOSING THE PROPOSED WHITEWATER LOCATION OF THE RIVERSIDE COUNTY REGIONAL DETENTION CENTER." **Motion Mayor Pougnet, seconded by Mayor Pro Tem Hutcheson and unanimously carried 3-0 on a roll call vote.**

AYES: Councilmember Weigel, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
NOES: None.
ABSENT: Councilmember Foat and Councilmember Mills.

3. LEGISLATIVE: None.

4. UNFINISHED BUSINESS:

4.A. AMENDMENTS TO THE COMPREHENSIVE FEE SCHEDULE INCREASING SWIM CENTER FEES:
Withdrawn from the Agenda at the request of staff.

4.B. MUSEUM MARKET PLAZA SPECIFIC PLAN UPDATE:
Tom Wilson, Assistant City Manager, provided an update on the Museum Market Plaza Specific Plan.

No action taken.

5. NEW BUSINESS:

5.A. REQUEST BY DOLLAR TREE, INC. FOR A RESOLUTION OF PUBLIC CONVENIENCE TO SELL BEER AND WINE FOR CONSUMPTION OFF PREMISES (TYPE 20 ALCOHOL LICENSE) AT THE EXISTING

DOLLAR TREE STORE LOCATED AT 1717 EAST VISTA CHINO ROAD:
Craig Ewing, Director of Planning Services, provided background information as outlined in the staff report dated December 1, 2010.

MOTION: Adopt Resolution "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER AND WINE FOR OFF SITE CONSUMPTION (TYPE 20 ALCOHOL LICENSE) AT A RETAIL STORE LOCATED AT 1717 EAST VISTA CHINO ROAD, ZONE C-S-C, SECTION 12/T4/R4." **Motion Councilmember Weigel, seconded by Mayor Pro Tem Hutcheson and failed 2-1 on a roll call vote.**

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

No action taken, will be placed on the December 15, 2010 Agenda.

5.B. APPOINT MEMBERS TO THE PALM SPRINGS BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD:
City Clerk Thompson provided background information as outlined in the staff report dated December 1, 2010.

ACTION: 1) Appoint Larry Abel, Area Precinct 1 Representative, to the Palm Springs Business Improvement District Advisory Board; 2) Appoint Larry Bitonti, Area Precinct 2 Representative, to the Palm Springs Business Improvement District Advisory Board; 3) Appoint Tracy Heller, Area Precinct 3 Representative, to the Palm Springs Business Improvement District Advisory Board; 4) Appoint Keith McCormick, Area Precinct 4 Representative, to the Palm Springs Business Improvement District Advisory Board; 5) Appoint Diego Heredia, At-Large Representative, to the Palm Springs Business Improvement District Advisory Board; and 6) Continue to solicit and accept applications to fill the remaining two At-Large Representatives. **Motion Mayor Pro Tem Hutcheson, seconded by Councilmember Weigel and unanimously carried 3-0 on a roll call vote.**

AYES: Councilmember Weigel, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
NOES: None.
ABSENT: Councilmember Foat and Councilmember Mills.

5.C. APPOINTMENT OF MAYOR PRO TEMPORE FOR THE TERM ENDING DECEMBER, 2011:
City Clerk Thompson provided background information as outlined in the staff report dated December 1, 2010.

Mayor Pougnet opened nominations for Mayor pro tempore.

Mayor Pro Tem Hutcheson nominated Councilmember Weigel for Mayor pro tempore.

Hearing no further nominations, Mayor Pougnet closed nominations.

ACTION: Appoint Councilmember Weigel as Mayor Pro Tempore for the term ending December, 2011. **Motion Mayor Pro Tem Hutcheson, seconded by Mayor Pougnet and unanimously carried 3-0 on a roll call vote.**

AYES:	Councilmember Weigel, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
NOES:	None.
ABSENT:	Councilmember Foat and Councilmember Mills.

COUNCILMEMBER COMMENTS, REQUESTS, AND REPORTS:

Mayor Pougnet requested the City Manager review and place on an upcoming agenda the policy on the discount resident card.

ADJOURNMENT: The City Council adjourned at 8:11 p.m. to an Adjourned Meeting with the Agua Caliente Band of Cahuilla Indians Tribal Council at 5:30 p.m., Wednesday, December 8, 2010, at the Spa Hotel and Resort, Grill Room, 100 North Indian Canyon Drive, Palm Springs.

APPROVED BY A MOTION OF THE PALM SPRINGS CITY COUNCIL THIS 15th DAY OF DECEMBER, 2010.

STEPHEN P. POUGNET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK