CITY COUNCIL
CITY OF PALM SPRINGS, CALIFORNIA

MEETING MINUTES
WEDNESDAY, OCTOBER 19, 2011
CITY 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: Rev. Dr. Amanda Burr, United Methodist Church of Palm Springs, 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 the week of October 17, 2011, as Week of the Soroptimist in the City of Palm Springs.

Mayor Pougnet and the City Council proclaimed the week of October 15, 2011, as White Cane Safety Week in the City of Palm Springs.

Mayor Pougnet announced the award winning Desert AIDS Project *AIDS is Not Over* Public Service Announcement.

Michele Mician, Sustainability Manager, provided an update on the upcoming Sustainability Celebration in the City of Palm Springs.

Councilmember Foat announced the Grand Opening of the new Palm Springs Animal Shelter, and the moving of the animals to the new shelter.

Mayor Pougnet announced the upcoming parades in the City of Palm Springs: PSHS Homecoming Parade, Pride Parade, Veterans Day Parade, and the Festival of Lights Holiday Parade.

Mayor Pougnet announced the 2011 ATHENA Honorees, and provided an update on the Measure "J" website PSMeasureJ.com.

REPORT OF CLOSED SESSION:

The meeting was called to order at 4:30 p.m., and the City Attorney requested the City Council add one item to the Closed Session Agenda pursuant to Cal. G.C. Section 54956.9(a) Conference with Legal Counsel pertaining to existing litigation, titled *Wind Energy Partnership et al. v. Nextera Energy Resources, City of Palm Springs, et al.,* Case No. INC 1108424, Riverside Superior Court, Indio Division.

ACTION: 1) Find the Item was brought 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 one item of Existing Litigation, pursuant to Cal. G.C. Section 54956.9(a), Conference with Legal Counsel, *Wind Energy Partnership et al. v. Nextera Energy Resources, City of Palm Springs, et al.,* Case No. INC 1108424, Riverside Superior Court, Indio Division. **Motion Councilmember Hutcheson, seconded by Councilmember and unanimously carried (5-0).**

City Attorney Holland reported that the City Council recessed into Closed Session to discuss items on the Closed Session Agenda, no reportable actions were taken.

ACCEPTANCE OF THE AGENDA:

Councilmember Hutcheson noted his property related abstention on Consent Calendar Item 2.J.

Councilmember Mills noted his business related abstention on Consent Calendar Item 2.J., and Consent Calendar Item 2.C. Warrant No. 1051301.

ACTION: Accept the Agenda as amended. **Motion Councilmember Foat, seconded by Mayor Pro Tem Weigel and unanimously carried (5-0).**

1. PUBLIC MEETINGS AND PUBLIC HEARINGS:

1.A. UPDATE FROM COLLEGE OF THE DESERT ON THE WEST VALLEY CAMPUS:

Dr. Edwin Deas, College of the Desert, provided an update on the activities of the College of the Desert West Valley Campus.

Councilmember Mills requested College of the Desert Design Team to address the entry point design, and suggested the Design Team work the water retention basins into the overall design.

Councilmember Foat stated the initial conceptual designs are very eye appealing to the community.

ACTION: Receive and file update. **Motion Councilmember Hutcheson, seconded by Mayor Pro Tem Weigel and unanimously carried (5-0).**

1.B. UPDATE FROM THE PALM SPRINGS BUREAU OF TOURISM:
Jamie Canfield, Bureau of Tourism, provided an update on the activities and programs of the Bureau of Tourism.

ACTION: Receive and file update. **Motion Councilmember Mills, seconded by Councilmember Foat and unanimously carried (5-0).**

1.C. NOBLE & COMPANY REQUESTING A CHANGE OF ZONE FROM E-I (ENERGY-INDUSTRIAL) TO M-2 (MANUFACTURING) FOR AN APPROXIMATE 30-ACRE PARCEL NORTH OF 19TH AVENUE AND EAST OF HALLECK AVENUE AND APPROVAL OF TENTATIVE PARCEL MAP 35681 TO SUBDIVIDE THE 30-ACRE PARCEL INTO SIX PARCELS (TPM 35681):
Craig Ewing, Director of Planning Services, provided background information as outlined in the staff report dated October 19, 2011.

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

FRED NOBLE, requested the City Council approve the zone change.

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

ACTION: 1) Waive reading of the full text of the Ordinance and introduce by title only and introduce on first reading Ordinance No. 1800, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A CHANGE OF ZONE FROM E-I (ENERGY-INDUSTRIAL) TO M-2 (MANUFACTURING) FOR A 30-ACRE PARCEL (APN 666-320-007, 666-320-009, and 666-320-013);" and 2) Adopt Resolution No. 23033, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP 35681 TO SUBDIVIDE 30 ACRES INTO SIX PARCELS IN SECTION 15 (APN 666-320-007, 666-320-009, AND 666-320-013), (CASE 5.1209CZ TPM 35681)." **Motion Councilmember Foat, seconded by Mayor Pro Tem Weigel and unanimously carried (5-0).**

1.D. NEXUS DEVELOPMENT (O & M LLC) REQUEST TO MODIFY FINAL TRACT MAP 34165 DELETING CONDITIONS 7A, 7B, AND 7C RELATING TO THE INSTALLATION OF A LANDSCAPE TRAFFIC MEDIAN ON AVENIDA CABALLEROS (TM 34165):
Craig Ewing, Director of Planning Services, provided background information as outlined in the staff report dated October 19, 2011.

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

RICH MEANEY, requested the City Council support the request.

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

Councilmember Mills stated the General Plan and the Tribal General Plan require the installation of the median, commented on the proposed realignment of the entrance, the benefit to traffic calming with the proposed median island, and stated the median as currently conditioned should remain.

Councilmember Foat stated her support of median islands, commented on the status of medians due to the lack of development in certain areas, and stated this location would not further enhance the street and the general area.

Councilmember Hutcheson stated his support of allowing the amendment to remove the median.

Councilmember Mills commented on the overall median installation as required by the General Plan, requested staff address if a General Plan Amendment was needed to eliminate the median, commented on the traffic issues that may be created by the elimination of the median, and stated the City will have to install the median with public funds at a later date.

Mayor Pro Tem Weigel stated he agrees that the City will eventually have to pay for the installation of a median at a future date, if further development warrants a median at the location, as other developments have already been approved without the requirement to install a median.

Councilmember Foat commented on other medians, but stated she is not in support of the median at this location.

Councilmember Mills recommended the City request the developer provide a bond to provide for future funding for the median island, if such median island is necessary in the future.

Mayor Pougnet stated the installation of the median at this location would not be positive for the location or the street, and stated all medians should be reviewed on an individual basis.

ACTION: Direct staff to prepare an appropriate resolution for the November 16, 2011, City Council meeting to approve a modification to Tract Map 34165 to delete conditions 7A, 7B and 7C. **Motion Councilmember Hutcheson, seconded by Councilmember Foat and carried (4-1) on a roll call vote.**

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

PUBLIC COMMENT:

DON COOK, Palm Springs, thanked the City Council for the new animal shelter, and commented on Measure "J" at the November 8, 2011, General Municipal Election.

BILL FERRA, Palm Springs, commented on the upcoming November 8, 2011, General Municipal Election pertaining to the support of the PSPOA.

DR. JOHN GRANET, Palm Springs, California Council of the Blind, commented on the lack of transportation services for the blind community in the Coachella Valley.

LINDA SAMULSKI, Desert Hot Springs, California Council of the Blind, commented on the lack of transportation services for the blind community in the Coachella Valley, and the lack of audio traffic signals.

RENO FONTANA, Palm Springs, thanked the City Council for the construction of the new animal shelter, commented on Measure "J" at the November 8, 2011, General Municipal Election, and requested the City Council consider amending the Event House Ordinance.

ROBERT LEWIS, Palm Springs, commented on the neighborhood request for the installation of traffic calming on Bogert Road.

MICHELE MAHONEY, Palm Springs, commented on Measure "J" at the November 8, 2011, General Municipal Election.

JOY MEREDITH, Palm Springs, commented on Measure "J" at the November 8, 2011, General Municipal Election, the food court at VillageFest, and noted the activities in the Downtown and Uptown areas of Palm Springs.

NEJAT KOHAN, commented on Measure "J" at the November 8, 2011, General Municipal Election, and provided an update on the Spanish Inn and requested the City Council consider approval of an agreement to support the Spanish Inn.

MICHAEL LORD, Palm Springs, commented on Measure "J" at the November 8, 2011, General Municipal Election.

PHYLLIS BURGESS, Palm Springs, commented on Measure "J" at the November 8, 2011, General Municipal Election.

BOB THOMAS, Palm Springs, commented on Measure "J" at the November 8, 2011, General Municipal Election.

JOHN TYMON, Palm Springs, commented on the granting of the public right-of-way to Zin Restaurant, and commented on the Chamber of Commerce Candidates Forum.

MICHAEL HANLEY, Palm Springs, commented on Item 4.A., and stated his support of the reduction of in-lieu parking fees.

CHARLES SACHS, Palm Springs, commented on the City finances, and on Measure "J" at the November 8, 2011, General Municipal Election.

ROBERT GARNER, Rancho Mirage, commented on the Senior Solar Rooftop Initiative, and on medical cannabis.

BOB RICHMOND, Palm Springs, commented on Measure "J" at the November 8, 2011, General Municipal Election, and the oversight committee.

SCOTT PALERMO, Palm Springs, commented on Measure "J" at the November 8, 2011, General Municipal Election.

BOB HELBLING, Palm Springs, commented on Measure "J" at the November 8, 2011, General Municipal Election.

COUNCILMEMBER COMMENTS:

Councilmember Foat commented on the press comments made today regarding the City proposed oversight committee.

Councilmember Mills commented on the newspaper publication mischaracterization of the purpose of Measure "J."

Mayor Pougnet commented on the City's educational campaign for Measure "J," and the City Council funding of the Economic Incentive Plan to provide for re-investment in the community.

CITY MANAGER'S REPORT:

City Manager Ready announced the California Downtown Association has presented an award for the City's Downtown Banner Program.

The City Council recessed at 8:32 p.m.

The City Council reconvened at 8:40 p.m.

2. CONSENT CALENDAR:

ACTION: Approve Items 2.A., 2.B., 2.C., 2.D., 2.E., 2.F., 2.G., 2.H., 2.I., 2.J., 2.K., 2.L., 2.M. and 2.N. **Motion Councilmember Hutcheson, seconded by Councilmember Foat and unanimously carried (5-0).**

2.A. REPORT ON THE POSTING OF THE AGENDA:

ACTION: Receive and file Report on the Posting of the October 19, 2011, City Council Agenda. **Approved as part of the Consent Calendar.**

2.B. APPROVAL OF MINUTES:

ACTION: Approve the City Council Minutes of October 5, 2011. **Approved as part of the Consent Calendar.**

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

ACTION: 1) Adopt Resolution No. 23034, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1051225 THROUGH 1051358 IN THE AGGREGATE AMOUNT OF $707,127.36, DRAWN ON BANK OF AMERICA; " 2) Adopt Resolution No. 23035, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 9-17-11 BY WARRANTS NUMBERED 416975 THROUGH 417006 TOTALING $48,080.55, LIABILITY CHECKS NUMBERED 1051359 THROUGH 1051383 TOTALING $127,594.45, FIVE WIRE TRANSFERS FOR $48,015.68, AND THREE ELECTRONIC ACH DEBITS OF $982,906.56, IN THE AGGREGATE AMOUNT OF $1,206,597.24, DRAWN ON BANK OF AMERICA;" 3) Adopt Resolution No. 23036, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1051384 THROUGH 1051536 IN THE AGGREGATE AMOUNT OF $879,383.24, DRAWN ON BANK OF AMERICA;" 4) Adopt Resolution No. 23037, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1051537 THROUGH 1051679 IN THE AGGREGATE AMOUNT OF $1,655,024.12, DRAWN ON BANK OF AMERICA;" 5) Adopt Resolution No. 23038, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 10-01-11 BY WARRANTS NUMBERED 417007 THROUGH 417029 TOTALING $36,283.48, LIABILITY CHECKS NUMBERED 1051680 THROUGH 1051704 TOTALING $126,648.18, FIVE WIRE TRANSFERS FOR $47,533.11, AND THREE ELECTRONIC ACH DEBITS OF $1,020,020.01, IN THE

AGGREGATE AMOUNT OF $1,230,484.78, DRAWN ON BANK OF AMERICA;" and 6) Adopt Resolution No. 23039, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1051705 THROUGH 1051836 IN THE AGGREGATE AMOUNT OF $1,034,031.36, DRAWN ON BANK OF AMERICA." **Approved as part of the Consent Calendar, noting the abstention of Councilmember Mills on Warrant No. 1051301.**

2.D. STAFF AUTHORIZED AGREEMENTS AND PURCHASE ORDERS FOR THE MONTH OF SEPTEMBER 2011:
ACTION: Receive and file the report of Staff Authorized Agreements and Purchase Orders for the period of September 2011. **Approved as part of the Consent Calendar.**

2.E. SECOND READING AND ADOPTION OF PROPOSED ORDINANCE NO. 1796, RELATING TO THE ESTABLISHMENT OF THE MEASURE "J" OVERSIGHT COMMISSION:
ACTION: Waive further reading and adopt Ordinance No. 1796, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 2.59 TO THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE ESTABLISHMENT OF THE MEASURE "J" OVERSIGHT COMMISSION." **Approved as part of the Consent Calendar.**

2.F. SECOND READING AND ADOPTION OF PROPOSED ORDINANCE NO. 1799, ESTABLISHING ZONING CODE SECTION 93.23.00 CONDITIONS FOR SPECIFIC USES AND CONSOLIDATING VARIOUS SUBSECTIONS:
ACTION: Waive further reading and adopt Ordinance No. 1799, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ESTABLISHING ZONING CODE SECTION 93.23.00 CONDITIONS FOR SPECIFIC USES AND CONSOLIDATING VARIOUS SUBSECTIONS OF THE PALM SPRINGS ZONING CODE RELATING TO CONDITIONS FOR SPECIFIC USES INTO SECTION 93.23.00." **Approved as part of the Consent Calendar.**

2.G. INDIAN CANYON DRIVE WIDENING PROJECT (TRAMVIEW ROAD TO UNION PACIFIC RAILROAD) (CP 01-25):
ACTION: Authorize the City Manager to approve cumulative change orders with Griffith Company, of up to 10% of the construction contract amount of $2,865,821.50 (Agreement No. A6108) for the Indian Canyon Drive Widening (Tramview Road to UPRR) Federal Project No. STPLN-5282(023) (CP 01-25). A6108. **Approved as part of the Consent Calendar.**

2.H. CITY OF PALM SPRINGS SANITARY SEWER SYSTEM MANAGEMENT PLAN BIENNIAL PROGRAM AUDIT:
ACTION: Receive and file the 2011 Sewer System Management Plan ("SSMP") Program Audit. **Approved as part of the Consent Calendar.**

2.I. AMENDMENT NO. 1 TO AGREEMENT NO. A4898 WITH CVAG REGARDING AB2766 MOTOR VEHICLE REGISTRATION FEE ASSESSMENTS:
ACTION: 1) Approve Amendment No. 1 to Agreement No. A4898 with CVAG with respect to the AB2766 Motor Vehicle Registration Fee Assessments; and 2) Authorize the City Manager to execute all necessary documents. A4898. **Approved as part of the Consent Calendar.**

2.J. ENCROACHMENT LICENSE WITH THE DESERT HEALTHCARE DISTRICT FOR UNDERGROUND ELECTRIC LINES AND FIBER OPTIC COMMUNICATIONS ON MEL AVENUE:
ACTION: 1) Approve an Encroachment License with the Desert Healthcare District for operation and maintenance of private underground electric lines and fiber optic communication lines located in Mel Avenue; and 2) Authorize the City Manager to execute all necessary documents. A6163. **Approved as part of the Consent Calendar, noted the property related abstention of Councilmember Hutcheson and the business related abstention of Councilmember Mills.**

2.K. AMENDMENT NO. 3 TO REIMBURSEMENT AGREEMENT NO. A4394 WITH CVAG FOR THE INDIAN CANYON DRIVE UNION PACIFIC RAILROAD (UPRR) BRIDGE WIDENING PROJECT (CP 01-11):
ACTION: 1) Approve Amendment No. 3 to Reimbursement Agreement No. A4394 with CVAG for the Indian Canyon Drive UPRR Bridge Widening (CP 01-11); and 2) Authorize the City Manager to execute all necessary documents. A4394. **Approved as part of the Consent Calendar.**

2.L. AMENDMENT TO THE CONTRACT WITH THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, NEW 3% @ 55 SAFETY FIRE SECOND TIER WITHIN A NON-POOLED PLAN (SECTION 20475: DIFFERENT LEVEL OF BENEFITS PROVIDED FOR NEW EMPLOYEES) FOR FIRE ONLY:
ACTION: Waive reading of the full text of the Ordinance and introduce by title only and introduce on first reading Ordinance No. 1801, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE CITY COUNCIL OF THE CITY OF PALM SPRINGS." A0037. **Approved as part of the Consent Calendar.**

2.M. AGREEMENT WITH ACTION PARK ALLIANCE FOR OPERATION AND MANAGEMENT OF THE PALM SPRINGS SKATE PARK:
ACTION: 1) Approve an agreement with Action Park Alliance for the operation and management of the Palm Springs Skate Park for a five year period; and 2) Authorize the City Manager to execute all necessary documents. A6164.

2.N. TREASURER'S INVESTMENT REPORT AS OF JULY 31, 2011:
ACTION: Receive and file the Treasurer's Investment Report as of July 31, 2011. **Approved as part of the Consent Calendar.**

3. LEGISLATIVE: None.

4. UNFINISHED BUSINESS:

4.A. ESTABLISH AN IN-LIEU PARKING FEE INCENTIVE PROGRAM IN THE CENTRAL BUSINESS DISTRICT:
John Raymond, Director of Community Development, provided background information as outlined in the staff report dated October 19, 2011.

Mayor Pougnet requested staff address the grandfathering of the parking in-lieu requirements.

Councilmember Hutcheson requested staff address the implications of the in-lieu fee with the City possibly acquiring 1,000 parking spaces in the Downtown area.

Councilmember Foat commented on the history of the in-lieu parking fee, and requested the City Council consider the fairness of the waiver towards those who have already paid, requested staff address the status of the use of the current in-lieu parking fees, and requested the City Council consider extending the waiver of in-lieu parking fees.

Councilmember Mills requested staff address the use of in-lieu parking fees, commented on the mix and use of Downtown by allowing the intensification of uses with minimal provisions for parking.

Mayor Pro Tem Weigel requested staff address the number of parking spaces needed for adequate parking in the Downtown and Uptown areas, and does a parking structure in one area eliminate the need for parking in another area.

Mayor Pougnet requested staff address the grandfathering if a property is vacant for more than 180 days.

ACTION: 1) Adopt Resolution No. 23040, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ESTABLISHING AN IN-LIEU PARKING FEE INCENTIVE PROGRAM IN THE CENTRAL BUSINESS DISTRICT AREA AS ESTABLISHED BY RESOLUTION NO. 21578, AS AMENDED (COMPREHENSIVE FEE SCHEDULE), *amending Section 1 of the resolution by adding the following sentence: Parking Spaces in existence on the date of this Resolution shall not be eliminated or reduced as a result of such project;"* and 2) Direct the Planning Commission to review the current policy grandfathering of in-lieu parking qualifications. **Motion Councilmember Hutcheson, seconded by Councilmember Mills and unanimously carried (5-0).**

5. NEW BUSINESS: None.

COUNCILMEMBER COMMENTS, REQUESTS, AND REPORTS:

Councilmember Hutcheson announced the upcoming activities for Cancer Awareness Month.

Councilmember Foat requested the Human Rights Commission review transportation issues for the blind.

Councilmember Mills requested staff address the vehicles for sale on the public street Frontage Road at St. Theresa Catholic Church.

Mayor Pougnet requested the City Clerk address the use of Council Chamber for political forums and announced the ribbon cutting to celebrate the constructions of the Belardo Bridge.

ADJOURNMENT: The City Council adjourned in memory of City Commissioner Bernard Sherwyn at 9:03 p.m. to Wednesday, November 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 NOVEMBER, 2011.

STEPHEN P. POUGNET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK