

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



**MEETING MINUTES
WEDNESDAY, APRIL 3, 2013
CITY HALL COUNCIL CHAMBER**

CALL TO ORDER: Mayor Pougnet called the meeting to order at 6:08 p.m.

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

INVOCATION: Rev. Kevin A. Johnson, Bloom in the Desert United Church of Christ, led the Invocation.

ROLL CALL:

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

ABSENT: None.

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

PRESENTATIONS:

Mayor Pougnet and the City Council presented a Certificate of Appreciation to Terry Tatum, and thanked him for his service to the City.

Mayor Pougnet and the City Council proclaimed April, 2013 as Prevent Child Abuse Month in the City of Palm Springs.

Mayor Pougnet provided an update on the recent installation of EV charging stations throughout the City.

Councilmember Foat provided an update on the Palm Springs Animal Shelter Neighborhood Organization challenge and donations.

Councilmember Lewin provided an update on the CDBG programs.

Councilmember Hutcheson provided an update on the 2013 Palm Springs White Party events. Mayor Pougnet provided an update on the 2013 PSNIC Picnic, announced the upcoming Mayor's Race and Wellness Festival and the City's 75th Anniversary celebration and events.

REPORT OF CLOSED SESSION:

City Attorney Holland stated the meeting was called to order at 4:30 p.m., and the City Council recessed into Closed Session to discuss items on the posted Closed Session Agenda. No reportable actions were taken.

ACCEPTANCE OF THE AGENDA:

Mayor Pro Tem Mills noted his abstention on Item 2.B. and requested Items 2.D. and 2.I. be removed from the Consent Calendar for separate discussion.

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

1. PUBLIC HEARINGS:

Councilmember Hutcheson stated he has a property ownership 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. APPEAL OF THE PLANNING COMMISSION DECISION BY KEN SEELEY OF INTERVENTION 911 PERTAINING TO THE USES OF THE PALM TEE HOTEL AT 1590 EAST PALM CANYON DRIVE AND THE ALEXANDER APARTMENTS AT 1425 VIA SOLEDAD AS SUBSTANCE ABUSE RECOVERY CENTERS/ASSISTED LIVING FACILITIES REQUIRING CONDITIONAL USE PERMITS (CASES 5.1282 / 5.1283):

Ken Lyon, Associate Planner, provided background information as outlined in the staff report dated April 3, 2013.

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

ERIC McLAUGHLIN, Appellant, outlined the services and programs provided at the facilities, commented on the residents at the facility, requested the City Council grant the appeal, and read a letter from Michael's House.

DAVID BARON, Representing Appellant, commented on lack of a category in the Palm Springs Zoning Code, requested the City Council take appropriate action to add such a category to the Code.

KEN SEELEY, commented on the process and challenges on obtaining a CUP for a sober living facility.

ED SCDORIS, commented on the former long-term residents at the Palm Tee Hotel, and the services provided at the hotel.

MAUREEN FLANNERY, requested reasonable accommodation request pursuant to Fair Housing laws and the American Disabilities Act.

JASON CAMMISA, commented on the services and programs offered at the locations for sober living.

YANKEL KREIMAN, requested the City Council grant the appeal, and commented on the positive impact to the neighborhood.

ANNE SMITH, commented on the programs at the facilities, and requested the City Council grant the appeal.

DAVID BARON, Rebuttal, commented on the impact to the community, requested the City Council grant the appeal, and stated the City should not classify the residents.

No further speakers coming forward the public hearing was closed.

Mayor Pro Tem Mills requested staff address the R-4 usage under the Building Code and if fire sprinklers are required, and commented on the lumping of uses in the Zoning Code.

Councilmember Foat commented on the lack of a classification in the Zoning Code, and commented on the neighborhood concerns.

Councilmember Lewin commented on the zoning as tourist/resort in the General Plan, and stated City Staff has identified the issues in the Staff Report.

Mayor Pougnet noted his concurrence with Councilmember Lewin.

Councilmember Mills requested staff address the options, should the City Council uphold the staff recommendation.

The City Council discussed and/or commented on the following with respect to the appeal: the procedural action needed with respect to the CUP, the current operations if the City Council tabled the appeal, study the uses and services with respect to the Zoning Code, studying the category, the current operational status of the facilities, the benefits and deterrents for requiring a CUP.

ACTION: 1) Adopt Resolution No. 23320, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DENYING THE APPEAL BY KEN SEELEY OF INTERVENTION 911 AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION TO UPHOLD A DETERMINATION MADE BY THE DIRECTOR OF PLANNING SERVICES THAT USES AT 1590 EAST PALM CANYON DRIVE AND 1425 VIA SOLEDAD ARE NOT HOTELS (CASES 5.1282 / 5.1283);" and 2) Initiate a Zone Text Amendment for sober living facilities pursuant to Palm Springs Zoning Code Section 94.07.01(A)(1)(b) and refer to the Planning Commission. **Motion Mayor Pro Tem Mills, seconded by Mayor Pougnet and carried 4-0 on a roll call vote.**

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

Councilmember Hutcheson returned to the dais.

1.B. GARNET SOLAR POWER GENERATION STATION 1, LLC. FOR AN AMENDMENT TO THE TEXT OF "D" (DESERT) GENERAL PLAN LAND USE DESIGNATION AND A CONDITIONAL USE PERMIT TO CONSTRUCT AND OPERATE A 5.0-MEGAWATT SOLAR ENERGY CONVERSION SYSTEM WITH 17,000 PHOTOVOLTAIC PANELS ON APPROXIMATELY 39.7 ACRES AT 5400 NORTH INDIAN CANYON DRIVE (CASE 5.1252):

Edward Robertson, Principal Planner, provided background information as outlined in the staff report dated April 3, 2013.

Mayor Pro Tem Mills questioned staff on the fence and/or wall and the proposed materials.

Councilmember Lewin requested staff address the use of landscaping materials, and the zoning designations.

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

BILLY OWENS, Applicant, provided information on the proposed fencing, and presented a written PowerPoint regarding the proposed project.

No further speakers coming forward the public hearing was closed.

Councilmember Hutcheson commented on the current conditions for the undergrounding of the proposed utility poles.

Mayor Pro Tem Mills commented on the undergrounding of utility poles, noted the current conditions on the property and requested enhancement to the current conditions on the property, and requested the Applicant address the proposed fencing.

Councilmember Lewin commented on the redefinition of uses for the Desert Zoning Designation.

The City Council discussed the reconfiguration of the landscaping at the entry, and the fencing conditions.

ACTION: 1) Adopt Resolution No. 23321, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A GENERAL PLAN AMENDMENT TO ALLOW

RENEWABLE ENERGY USES WITHIN THE "D" (DESERT) LAND USE DESIGNATION OF THE 2007 CITY OF PALM SPRINGS GENERAL PLAN LAND USE ELEMENT (CASE 5.1252 GPA);" *amending the resolution to read "Renewable energy uses may also be permitted, if located on an existing mining sites . . . ;"* and 2) Adopt Resolution No. 23322, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION AND OPERATION OF A 5.0-MEGAWATT SOLAR ENERGY CONVERSION SYSTEM CONSISTING OF 17,000 PHOTOVOLTAIC PANELS ON APPROXIMATELY 39.7 ACRES OF A 134.3-ACRE SITE LOCATED AT 5400 NORTH INDIAN CANYON DRIVE (CASE 5.1252);" *amending the Conditions of approval as follows: i) Condition No. PLN10 to read "Mining Operation. This CUP does not undermine or reduce the land owner's underlying vesting mining rights," ii) Condition No. ENG37 modified to require a leasehold estate covenant that defers undergrounding utilities to the future, iii) amending Condition No. PLN1 to provide site entry landscaping be submitted and approved by the AAC and the Planning Commission, and iv) adding conditions of approval regarding visible fencing on Indian Avenue and existing berm cleanup.*
Motion Councilmember Foat, seconded by Mayor Pro Tem Mills and unanimously carried on a roll call vote.

The City Council recessed at 8:33 p.m.
The City Council reconvened at 8:37 p.m.

PUBLIC COMMENT:

THOMAS WORTHY, read a letter from his insurance company.

WILHELMINA WYNN-CARTER, announced the upcoming Music and Arts event at the Palm Springs Convention Center, and requested a City sponsorship.

DAVID GRAY, commented on Item 2.D., and requested the City Council approve the agreement for the Board of Library Trustees.

MICHELLE STRAUSS, commented on the recent pentathlon event held in the City of Palm Springs.

GRAHAM SUTHERLAND, commented on the recent pentathlon event held in the City of Palm Springs.

STEVE ROSENBERG, commented on the Downtown Revitalization progress and the proposed referendum.

COUNCILMEMBER COMMENTS: None.

CITY MANAGER'S REPORT:

City Manager Ready thanked Assistant City Manager Tom Wilson for his service to the City.

2. CONSENT CALENDAR:

ACTION: Approve Items 2.A., 2.B., 2.C., 2.E., 2.F., 2.G., and 2.H. **Motion Councilmember Lewin, seconded by Mayor Pro Tem Mills and unanimously carried on a roll call vote.**

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

ACTION: Receive and file Report on the Posting of the April 3, 2013, City Council Agenda. **Approved as part of the Consent Calendar.**

2.B. APPROVAL OF MINUTES:

ACTION: Approve the City Council Minutes of March 20, 2013. **Approved as part of the Consent Calendar, noting the abstention of Mayor Pro Tem Mills.**

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

ACTION: 1) Adopt Resolution No. 23323, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1062052 THE AGGREGATE AMOUNT OF \$1,039,239.95, DRAWN ON BANK OF AMERICA;" 2) Adopt Resolution No. 23324, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 3-02-13 BY WARRANTS NUMBERED 418044 THROUGH 418064 TOTALING \$37,936.82, LIABILITY CHECKS NUMBERED 1062053 THROUGH 1062077 TOTALING \$122,000.62, FIVE WIRE TRANSFERS FOR \$62,370.60 AND THREE ELECTRONIC ACH DEBITS OF \$1,073,374.02 IN THE AGGREGATE AMOUNT OF \$1,295,682.06, DRAWN ON BANK OF AMERICA;" 3) Adopt Resolution No. 23325, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1062078 THROUGH 1062184 THE AGGREGATE AMOUNT OF \$728,305.01, DRAWN ON BANK OF AMERICA;" 4) Adopt Resolution No. 23326, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1062185 THROUGH 1062316 THE AGGREGATE AMOUNT OF \$1,555,465.34, DRAWN ON BANK OF AMERICA;" 5) Adopt Resolution No. 23327, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 3-16-13 BY WARRANTS NUMBERED 418065 THROUGH 418082 TOTALING \$34,331.06, LIABILITY CHECKS NUMBERED 1062317 THROUGH 1062341 TOTALING \$120,402.36, FIVE WIRE TRANSFERS FOR \$39,356.10 AND THREE ELECTRONIC ACH DEBITS OF \$1,012,809.33 IN THE AGGREGATE AMOUNT OF

\$1,206,898.85, DRAWN ON BANK OF AMERICA;" and 6) Adopt Resolution No. 23328, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1062342 THROUGH 1062543 THE AGGREGATE AMOUNT OF \$1,138,986.36, DRAWN ON BANK OF AMERICA." **Approved as part of the Consent Calendar.**

2.E. AGREEMENT WITH TERRA NOVA PLANNING AND RESEARCH, INC. TO UPDATE THE GENERAL PLAN LAND USE ELEMENT NOT TO EXCEED \$8,000:

ACTION: 1) Approve an agreement with Terra Nova Planning and Research, Inc. to update the General Plan Land Use Element in the amount of \$8,000; and 2) Authorize the City Manager to execute all necessary documents. A5587. **Approved as part of the Consent Calendar.**

2.F. CITY OF PALM SPRINGS 75TH ANNIVERSARY AGREEMENTS:

ACTION: 1) Waive the informal bid requirements pursuant to Title 7 of the Palm Springs Municipal Code for procurement of goods/services for the 75th Anniversary Event; and 2) Authorize the City Manager to expend funds and execute all necessary documents for the City's 75th Anniversary event. **Approved as part of the Consent Calendar.**

2.G. TREASURER'S INVESTMENT REPORT AS OF FEBRUARY 28, 2013:

ACTION: Receive and file the Treasurer's Investment Report as of February 28, 2013. **Approved as part of the Consent Calendar.**

2.H. GENERAL PLAN HOUSING ELEMENT ANNUAL PROGRESS REPORT FOR THE PERIOD OF JANUARY 1, 2012, THROUGH DECEMBER 31, 2012:

ACTION: Receive and file the General Plan Annual Housing Element Progress Report for the period of January 1, 2012, through December 31, 2012. **Approved as part of the Consent Calendar.**

EXCLUDED CONSENT CALENDAR:

2.D. PROPOSED AGREEMENT WITH GROUP 4 ARCHITECTURE, RESEARCH + PLANNING, INC. FOR NEEDS ASSESSMENT, AND CONCEPTUAL DESIGN FOR THE PALM SPRINGS PUBLIC LIBRARY:

Mayor Pro Tem Mills commented on the proposed services and contract, and requested the City Council ad hoc Library Renovation Subcommittee (Mayor Pro Tem Mills and Councilmember Lewin) be included in the process.

ACTION: 1) Approve an agreement with Group 4 Architecture, Research + Planning, Inc., in the amount not to exceed \$100,000 for initial needs assessment, building program phase, design alternatives phase, and conceptual

design recommendations phase; and 2) Authorize the City Manager to execute all necessary documents, subject to the approval of the City Attorney. A6345. **Motion Mayor Pro Tem Mills, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

2.I. APPROVE A GIFT AGREEMENT WITH KAREN AND TONY BARONE FOR THE DONATION OF SCULPTURE "R. HERO" TO BE PLACED IN FRONT OF FIRE STATION NO. 3 LOCATED AT 590 EAST RACQUET CLUB ROAD:

ACTION: 1) Approve a gift agreement for the donation of artwork, from Karen and Tony Barone for the sculpture "R. HERO" valued at \$16,500, in a form acceptable to the City Attorney; 2) Approve the installation of the sculpture "R. HERO" at Fire Station No. 3, located at 590 East Racquet Club Road; and 3) Authorize City Manager to execute all necessary documents. A6346. **Motion Councilmember Lewin, seconded by Councilmember Foat and unanimously carried on a roll call vote.**

3. LEGISLATIVE:

3.A. AMENDMENT TO THE PALM SPRINGS MUNICIPAL CODE RELATING TO SELECTION OF CONTRACTOR AND ESTABLISHING REGULATIONS FOR THE GRANT OF SOLID WASTE FRANCHISE AGREEMENTS:

City Attorney Holland provided background information as outlined in the staff report dated April 3, 2013.

ACTION: 1) Waive reading of the full text of the ordinance, and adopt Ordinance No. 1818, "AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 6.04.015 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE SELECTION OF CONTRACTOR AND ESTABLISHING REGULATIONS FOR THE GRANT OF SOLID WASTE FRANCHISE AGREEMENTS FOR THE CITY OF PALM SPRINGS;" 2) Waive the reading of the full text of the ordinance, and introduce on first reading Ordinance No. 1819, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 6.04.015 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE SELECTION OF CONTRACTOR AND ESTABLISHING REGULATIONS FOR THE GRANT OF SOLID WASTE FRANCHISE AGREEMENTS FOR THE CITY OF PALM SPRINGS." **Motion Councilmember Foat, seconded by Mayor Pro Tem Mills and unanimously carried on a roll call vote.**

4. UNFINISHED BUSINESS: None.

5. NEW BUSINESS:

5.A. CREATION OF INCENTIVE ASSISTANCE AGREEMENTS FOR RESTAURANT/NIGHTCLUB PROJECTS IN THE BUSINESS IMPROVEMENT DISTRICT AND A PORTION OF SECTION 14 AND

APPROVAL OF AN INCENTIVE ASSISTANCE AGREEMENT WITH THE COPA ROOM, INC. FOR A NIGHTCLUB LOCATED AT 244 EAST AMADO ROAD (CASE 5.1289 CUP):

City Manager Ready provided background information as outlined in the staff report dated April 3, 2013.

ACTION: 1) Authorize the creation of Incentive Assistance Agreements for Restaurant/Nightclub Projects in the Business Improvement District and the western half of a portion of Section 14; 2) Approve an Incentive Assistance Agreement with the Copa Room, Inc. for a 6,000 square foot nightclub located at 244 East Amado Road in a form acceptable to the City Attorney (Case 5.1289 CUP); and 3) Authorize the City Manager to execute all documents related to the Incentive Assistance Agreement. A6347. **Motion Councilmember Hutcheson, seconded by Mayor Pro Tem Mills and unanimously carried on a roll call vote.**

COUNCILMEMBER REPORTS, REQUESTS, AND COMMENTS:

Mayor Pro Tem Mills requested staff address the median landscaping at Vista Chino and Sunrise, and requested staff address the requirement for fire sprinklers in low pressure area for minor additions.

Councilmember Hutcheson requested the City Manager bring forward a City Council discussion on the City's Investment Policy and the formation of a Bicycle Task Force.

Councilmember Lewin requested staff bring forward the requested Public Arts Fees on solar energy production facilities.

Mayor Pougnet commented on a recent Valley Voice in the Desert Sun regarding the Downtown Revitalization Project.

ADJOURNMENT: The City Council adjourned at 9:21 p.m. to Wednesday, April 17, 2013, 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 17TH DAY OF APRIL, 2013.


STEPHEN P. POUGNET, MAYOR

ATTEST:


JAMES THOMPSON, CITY CLERK