CITY COUNCIL
CITY OF PALM SPRINGS, CALIFORNIA

MINUTES
WEDNESDAY, DECEMBER 17, 2008
City Hall 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. Amanda Burr, United Methodist Church of Palm Springs, led the Invocation.

ROLL CALL:

PRESENT:	Councilmember Foat, Councilmember Hutcheson, Councilmember Weigel, Mayor Pro Tem Mills, and Mayor Pougnet.
ABSENT:	None.
ALSO PRESENT:	City Manager Ready, City Attorney Holland, City Clerk Thompson.

PRESENTATIONS: Kay Hazen, City Sustainability Consultant presented a brief Sustainability Programs and Goals Progress report and update.

Mayor Pougnet presented an update on the recent Winter Wonderland event and the Raymond Cree High School Band and Choir concert at City Hall.

REPORT OF CLOSED SESSION: City Attorney Holland reported that at 4:30 p.m. the meeting was called to order, 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:

City Clerk Thompson stated that staff requests Item 4.B. be withdrawn from the Agenda.

Councilmember Foat requested Items 2.I., 2.K., 2.M., and 2.P. be removed from the Consent Calendar for separate discussion.

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

Mayor Pougnet noted his abstention on the Minutes of December 10, 2008.

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

1. PUBLIC HEARINGS:

1.A. APPEAL BY SUNQUITZ, LLC OF THE PLANNING COMMISSION'S ACTION OF OCTOBER 22, 2008, TO DENY A ONE-YEAR TIME EXTENSION FOR A PLANNED DEVELOPMENT DISTRICT FOR THE DEVELOPMENT OF AN APPROXIMATE 94,000 SQUARE FOOT COMMERCIAL RETAIL CENTER LOCATED AT THE NORTHWEST CORNER OF NORTH SUNRISE WAY AND EAST TAHQUITZ CANYON WAY, CASE NO. 5.1025 - PD-307:

Craig Ewing, Director of Planning Services, provided background information as outlined in the staff report dated December 17, 2008.

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

HANK GORDON, APPLICANT, provided the history of the Development and the reasons for the delay, and requested the City Council grant the one-year time extension for the Planned Development District.

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

Councilmember Hutcheson noted the current economic conditions and recommended the City Council support the extension.

Councilmember Foat noted her support for an extension of time, and commented on the Planning Commission recommendation.

Mayor Pro Tem Mills thanked staff for providing its recommendation, stated his support for the one-year time extension, and commented on the use of the site.

ACTION: Adopt Resolution No. 22402, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE APPEAL OF SUNQUITZ, LLC AND GRANTING A ONE-YEAR TIME EXTENSION REQUEST FOR THE PREVIOUSLY APPROVED PLANNED DEVELOPMENT DISTRICT (PD 307) ALLOWING THE DEVELOPMENT OF A 94,000-SQUARE FOOT COMMERCIAL RETAIL CENTER TO BE LOCATED AT THE NORTHWEST CORNER OF NORTH SUNRISE WAY AND EAST TAHQUITZ WAY, ZONE RA, SECTION 14," *amending the resolution to reflect the time extension as one-year from today, to December 17, 2009.*

Motion Councilmember Weigel, seconded by Councilmember Foat and unanimously carried on a roll call vote.

1.B. LA SERENA VILLAS, AN APPLICATION FOR DESIGNATION OF PROPERTY LOCATED AT 339 SOUTH BELARDO ROAD AS A HISTORIC SITE, CASE HSPB-69:

Craig Ewing, Director of Planning Services, provided background information as outlined in the staff report dated December 17, 2008.

Councilmember Foat requested staff address the author of the letter on page 62 of the report, and requested staff address the relationships of the owners.

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

MICHAEL GONZALES, representing owners, explained the ownership and the entities owning the property, stated the findings are insufficient to designate the property as a Class 1, and stated the owners support to terminate the historic proceedings.

SHELLY SAUNDERS, Palm Springs, stated her support for the City Council to designate the property as a Class 2 site.

RON MARSHALL, stated the designation of a Class 2 site does not provide any protection for demolition, commented on the staff recommendation to the City Council and the Historic Site Preservation Board, and stated his support for a Class 1 designation.

SIDNEY WILLIAMS, Historic Site Preservation Board, commented on the condition of the property, the requirements in the Code for Class 1 designation, stated the property could be restored and the density and scale would be restored.

FRANK TYSEN, spoke in support of a Class 1 designation, and stated the property can be restored.

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

Councilmember Foat commented on the condition of the property in 2004, stated the current owners were responsible for the current condition of the property, stated her support for a Class 1 designation, and requested staff address how the City can delay the demolition to allow parties to negotiate a possible sale.

Councilmember Weigel questioned if a Class 1 designation would require the restoration of the site, provided the background of the City Council's discussion and proceedings six months ago, and stated his support for a Class 2 designation.

Councilmember Hutcheson questioned if the property was in negotiation for sale or transfer and the future of the property, commented on the value to the neighborhood and the condition of the property, recommended the owner seek an offer to sell the property, and stated he is not in support of the demolition of the property at this time.

Mayor Pougnet requested staff address if the property was designated as a Class 2, could the City prohibit the demolition of the property.

Mayor Pro Tem Mills stated he is not opposed to a 45-day stay, but the City Council needs to deal with the issue, commented on the current condition of the property, and the history and background of the site.

ACTION: 1) Continue the Public Hearing to February 4, 2009; 2) Direct the City Clerk to Post a Notice of Continued Public Hearing; 3) Approve the Agreement to Extend Time for Action on Case No. HSPB-69, amending the Agreement to provide for the extension of time to February 5, 2009; and 4) Authorize the City Manager to execute the Agreement. A5771. **Motion Councilmember Foat, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

1.C. APPLICATION BY SOUTHWEST REAL ESTATE HOLDINGS, LLC, FOR A GENERAL PLAN AMENDMENT AND A CHANGE OF ZONE FOR A PARCEL AT THE NORTHWEST CORNER OF SUNNY DUNES ROAD AND SUNRISE WAY; AND TENTATIVE TRACT MAP 28308 TO SUBDIVIDE A PORTION OF A 3.2 ACRE PARCEL FRONTING SUNNY DUNES ROAD INTO SEVEN RESIDENTIAL LOTS, CASE 5.1175 GPA, CZ, TTM 28308:

Craig Ewing, Director of Planning Services, provided background information as outlined in the staff report dated December 17, 2008.

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

PETER INTRAVARTOLO, provided a history of the property and stated the neighborhood came to agreement in 2002 with respect to the zoning of the parcel, stated his concerns for the change to a commercial designation, and requested the City Council prohibit an entry/exit on Sunny Dunes Road.

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

Mayor Pro Tem Mills commented on the configuration of the property and the limits to its use, stated he is not in support of the Zone Change and recommended the owner use the PDD process.

Councilmember Foat requested staff address the previous agreement and discussion on the property.

ACTION: Deny the Change of Zone and General Plan Amendment. **Motion Mayor Pro Tem Mills, seconded by Councilmember Foat and unanimously carried on a roll call vote.**

PUBLIC COMMENT:

CURTIS BERGERON, Guide Dogs of the Desert, provided an update on the activities and programs of Guide Dogs of the Desert.

SID CRAIG, provided an update of the events for the upcoming Palm Springs Film Festival, and stated the organization is seeking additional volunteers.

COUNCILMEMBER COMMENTS: None.

CITY MANAGER'S REPORT:

City Manager Ready provided an update on the activities of Code Enforcement.

The City Council recessed at 8:06 p.m. and convened as the Community Redevelopment Agency.

The Community Redevelopment Agency adjourned at 8:10 p.m. and the City Council reconvened.

2. CONSENT CALENDAR:
ACTION: Approve Items 2.A., 2.B., 2.C., 2.D., 2.E., 2.F., 2.H., 2.J., 2.L., 2.N., and 2.O. **Motion Councilmember Weigel, seconded by Mayor Pro Tem Mills and unanimously carried on a roll call vote.**

2.A. REPORT ON POSTING OF THE AGENDA:
ACTION: Receive and file Report on the Posting of the December 17, 2008, City Council Agenda. **Approved as part of the Consent Calendar.**

2.B. APPROVAL OF MINUTES:
ACTION: Approve the City Council Minutes of December 3, 2008, and December 10, 2008. **Approved as part of the Consent Calendar, noting the abstention of Mayor Pougnet on the Minutes of December 10, 2008.**

2.C. APPROVAL OF PAYROLL WARRANTS, CLAIMS AND DEMANDS:
ACTION: 1) Adopt Resolution No. 22403, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1032027 THROUGH 1032117 IN THE AGGREGATE AMOUNT OF $573,554.74 DRAWN ON BANK OF AMERICA;" 2) Adopt Resolution No. 22404, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 11-15-08 BY WARRANTS NUMBERED 414071 THROUGH 414120 TOTALING $97,964.26, LIABILITY CHECKS NUMBERED 1032118 THROUGH 1032138 TOTALING $156,127.00, FOUR WIRE TRANSFERS FOR $82,440.54, AND THREE ELECTRONIC ACH DEBITS OF $1,215,708.90, IN THE AGGREGATE AMOUNT OF $1,552,240.70, DRAWN ON BANK OF AMERICA;" 3) Adopt Resolution No. 22405, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1032139 THROUGH 1032310 IN THE AGGREGATE AMOUNT OF $1,971,527.65, DRAWN ON BANK OF AMERICA;" 4) Adopt Resolution No. 22406, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1032311 THROUGH 1032423 IN THE AGGREGATE AMOUNT OF $1,528,686.65, DRAWN ON BANK OF AMERICA;" and 5) Adopt Resolution No. 22407, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 11-29-08 BY WARRANTS NUMBERED 414121 THROUGH 414166 TOTALING $97,676.52, LIABILITY CHECKS NUMBERED 1032424 THROUGH 1032444 TOTALING $152,743.15, FOUR WIRE TRANSFERS FOR $140,692.70, AND THREE ELECTRONIC ACH DEBITS OF $1,538,256.82, IN THE AGGREGATE AMOUNT OF $1,929,369.19, DRAWN ON BANK OF AMERICA." **Approved as part of the Consent Calendar.**

2.D. STAFF AUTHORIZED AGREEMENTS FOR NOVEMBER 2008:
ACTION: Receive and file Staff Authorized Agreements covering the period November 1 through November 30, 2008. **Approved as part of the Consent Calendar.**

2.E. SECOND READING AND ADOPTION OF PROPOSED ORDINANCE NO. 1754, ESTABLISHING A PASSENGER BILL OF RIGHTS FOR THE BENEFIT OF USERS OF GROUND TRANSPORTATION COMMERCIAL VEHICLES AT THE PALM SPRINGS INTERNATIONAL AIRPORT:
ACTION: Waive further reading and adopt Ordinance No. 1754, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING

SECTION 16.02.095 TO, AMENDING SECTIONS 16.02.015 AND 16.36.020 AND SUBSECTION (a) OF SECTION 16.36.030 AND SUBSECTION (c) OF SECTION 16.36.045 TO, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE ESTABLISHMENT OF A PASSENGER BILL OF RIGHTS FOR THE BENEFIT OF USERS OF GROUND TRANSPORTATION COMMERCIAL VEHICLES AT THE PALM SPRINGS INTERNATIONAL AIRPORT." **Approved as part of the Consent Calendar.**

2.F. TREASURER'S INVESTMENT REPORT AS OF OCTOBER 31, 2008:
ACTION: Receive and File the Treasurer's Investment Report as of October 31, 2008. **Approved as part of the Consent Calendar.**

2.H. SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUNDS (SLESF) GRANT FROM THE STATE OF CALIFORNIA, IN THE AMOUNT OF $100,000:
ACTION: 1) Accept from the State of California the Supplemental Law Enforcement Services Funds Grant (SLESF) and Expenditure Plan in the amount of $100,000; 2) Direct the Director of Finance/City Treasurer to fund the appropriation; and 3) Authorize the City Manager to execute all documents to effectuate the acceptance of the Grant. A5765. **Approved as part of the Consent Calendar.**

2.J. AGREEMENT WITH DBX, INC. FOR THE INDIAN CANYON DRIVE AT TAMARISK ROAD TRAFFIC SIGNAL INSTALLATION, FEDERAL AID PROJECT HSIPL-5282(028), CP 06-12:
ACTION: 1) Approve an agreement with DBX, Inc., for the Indian Canyon Drive at Tamarisk Road Traffic Signal Installation, in the amount of $165,204, Federal Aid Project HSIPL-5282(028), CP 06-12; and 2) Authorize the City Manager to execute all necessary documents. A5766. **Approved as part of the Consent Calendar.**

2.L. PLACEMENT OF ARTWORK ON PRIVATE PROPERTY AND GRANT OF EASEMENT OF PUBLIC ART WITH TAHITI PARTNERS REAL ESTATE DEVELOPMENT CORPORATION AND 111/CAMINO REAL, LLC AND REIMBURSEMENT OF PUBLIC ART FEES IN THE AMOUNT OF $11,005 FOR PLACEMENT OF PUBLIC ART AT THE OCEO PROJECT:
ACTION: 1) Approve an Agreement for Placement of Artwork on Private Property and Grant of Easement with Tahiti Partners Real Estate Development Corporation and 111/Camino Real, LLC in an amount not to exceed $22,000 for placement and reimbursement of public art at the Oceo Project; 2) Approve partial payment of the Reimbursement of Public Art Fees in the amount of $11,005 to Tahiti Partners Real Estate Development Corporation and 111/Camino Real, LLC for placement and reimbursement of public art at the Oceo Project; and 3) Authorize the City

Manager to execute all necessary documents. A5767. **Approved as part of the Consent Calendar.**

2.N. AGREEMENT WITH MUNISERVICES, LLC FOR AUDITING AND CONSULTING SERVICES FOR THE CITY'S UTILITY USER TAX/FRANCHISE COMPLIANCE PROGRAM:
ACTION: 1) Approve an agreement with MuniServices, LLC to provide auditing and consulting services on the City's Utility User Tax/Franchise Compliance Program for a three-year period with three-year extension options, subject to final review and approval of the City Attorney; 2) Adopt Resolution No. 22409, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2008-09;" and 3) Authorize the City Manager to execute all necessary documents. A5768. **Approved as part of the Consent Calendar.**

2.O. PURCHASE OF TWO NEW CNG FORD TRUCKS FOR USE BY THE PARKS DEPARTMENT AND THE PUBLIC WORKS DEPARTMENT:
ACTION: 1) Approve the purchase of one (1) CNG powered new 2009 Ford F-350 flat/tilt bed in the amount of $48,546.08 and one (1) CNG powered new 2009 Ford F-150 4X4 Super Crew in the amount of $45,662.43, for a total purchase amount for both vehicles of $94,208.51 from Redlands Ford of Redlands, California; and 2) Authorize the City Manager to execute all necessary documents. **Approved as part of the Consent Calendar.**

EXCLUDED CONSENT CALENDAR:

2.G. AUTOMATED TELLER MACHINE (ATM) LICENSE AGREEMENT WITH UNIVERSAL MONEY CENTERS, INC., AT THE PALM SPRINGS INTERNATIONAL AIRPORT, FOR A THREE-YEAR PERIOD:

Councilmember Mills requested staff address the location and the replacement of the current ATM machines.

City Attorney Holland stated the Agreement will be amended to reflect the entity as a licensed ATM company as opposed to a Federally insured bank.

ACTION: 1) Approve a license agreement with Universal Money Centers, Inc. to provide Automated Teller Machine (ATM) Services at the Palm Springs International Airport effective January 4, 2009, through January 3, 2012, with two one-year extensions; and 2) Authorize the City Manager to execute all necessary documents. A5764. **Motion Mayor Pro Tem Mills, seconded by Councilmember Weigel and unanimously carried on a roll call vote.**

2.I. DEVELOPMENT PROJECT FEE REPORT FOR FISCAL YEAR 2007-08:

Councilmember Foat requested staff address the deficit in the Drainage Construction Fund, the expenditures of the Public Arts Fund, the deficit reported in the Wastewater Treatment Fund, and the Quimby Fees.

ACTION: Receive and File the Government Code Section 66000 Development Project Fee Report for Fiscal Year 2007-08. **Motion Mayor Pro Tem Mills, seconded by Mayor Pougnet and unanimously carried on a roll call vote.**

2.K. NOTICE TO PROCEED FOR VEOLIA WATER NORTH AMERICA-WEST, LLC, FOR THE DESIGN PHASE OF THE DIGESTER NO. 1 REHABILITATION, CP 08-09:

Councilmember Foat questioned if the Digester Rehabilitation would alleviate the smell.

Mayor Pro Tem Mills requested staff address the margin and the management of the project.

ACTION: Approve a Notice to Proceed for Veolia Water North America-West, LLC, in the amount of $503,286 for the design phase of the Digester No. 1 Rehabilitation, CP 08-09. **Motion Mayor Pro Tem Mills, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

2.M. WAIVER OF FEES ASSOCIATED WITH MINOR ARCHITECTURAL APPLICATION, SIGN PERMITS, AND HISTORIC SITE PRESERVATION BOARD REVIEW FOR BUSINESSES OR PROPERTY OWNERS PARTICIPATING IN THE FACADE IMPROVEMENT PROGRAM:

Mayor Pro Tem Mills requested staff address the complimentary design guidance.

Councilmember Foat commented on the progress and the City's efforts to the businesses in the Downtown area.

ACTION: Adopt Resolution No. 22408, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING THE WAIVER OF FEES ASSOCIATED WITH MINOR ARCHITECTURAL APPLICATION, SIGN PERMITS, AND HISTORIC SITE PRESERVATION BOARD REVIEW FOR BUSINESSES OR PROPERTY OWNERS PARTICIPATING IN THE FACADE IMPROVEMENT PROGRAM." **Motion Mayor Pro Tem Mills, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

2.P. CITY COUNCIL AND COMMUNITY REDEVELOPMENT AGENCY, AGREEMENT WITH CANYON COMMERCIAL SERVICES, INC. FOR CONSULTING SERVICES, WHICH PROVIDE ASSISTANCE AND ADVICE ON THE MARKETING AND MANAGEMENT OF THE PALM SPRINGS DOWNTOWN:

Councilmember Foat requested that an Item be added to the Scope of Services to meet on a regular basis with the City Council Business Retention Subcommittee.

ACTION: 1) Approve an agreement with Canyon Commercial Services, Inc. for consulting services, which provide assistance and advice to the City and Community Redevelopment Agency in the marketing and management of the Palm Springs Downtown, *amending the Scope of Services to include a provision that the Consultant meet with the City Council Business Retention Subcommittee on a routine basis*; 2) Adopt Resolution No. 1371, "A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2008-09;" and 3) Authorize the City Manager/Executive Director to execute all necessary documents in a form acceptable to the City/Agency Attorney. A5769. **Motion Councilmember Hutcheson, seconded by Councilmember Weigel and unanimously carried on a roll call vote.**

3. LEGISLATIVE: None.

4. UNFINISHED BUSINESS:

4.A. APPROVAL OF PLANS, SPECIFICATIONS AND ESTIMATE AND AUTHORIZATION TO BID FOR FIRST PHASE REPAIR OF THE CITY HALL AND DOG PARK PARKING LOT, CP 01-17:
Item withdrawn from the Agenda at the request of staff.

5. NEW BUSINESS:

5.A. AMENDMENT TO THE FISCAL YEAR 2008-09 BUDGET FOR ADDITIONAL NUISANCE ABATEMENT ACTIVITIES IN THE AMOUNT OF $50,000:

City Manager Ready provided background information on the request for funding for additional nuisance abatement activities.

ACTION: Adopt Resolution No. 22410, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2008-09." **Motion Councilmember Foat, seconded by Councilmember Weigel and unanimously carried on a roll call vote.**

COUNCILMEMBER COMMENTS, REQUESTS, AND REPORTS:

Mayor Pougnet and Members of the City Council wished the residents, businesses, and guests . . . . happy holidays!

Mayor Pougnet announced the "No Fee" holiday pet adoption program at the Palm Springs Animal Shelter.

ADJOURNMENT: The City Council adjourned at 8:12 p.m. to a Regular Meeting, Wednesday, January 7, 2009, at 6:00 P.M. in the Council Chamber, City Hall, preceded by a Closed Session at 4:30 P.M., Small Conference Room, City Hall, 3200 East Tahquitz Canyon Way, Palm Springs. *City Council meetings will not be held on December 24, 2008, and December 31, 2008.*

APPROVED BY A MOTION OF THE PALM SPRINGS CITY COUNCIL THIS 7TH DAY OF JANUARY, 2009.

STEPHEN P. POUGNET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK