

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



MINUTES
WEDNESDAY, JANUARY 7, 2009
City Hall Council Chamber

CALL TO ORDER: Mayor Pougnet called the meeting to order at 6:03 p.m.

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

INVOCATION: Pastor David Sanger, Our Savior's Community Church, 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: Date Festival Queen Sheherazade and her Court announced the upcoming activities for the 2009 Date Festival and Riverside County Fair.

Mayor Pougnet and Councilmember Hutcheson announced the progress of the Downtown Facade Improvement Program.

Mayor Pougnet announced the activities at the 2009 Palm Springs International Film Festival Opening Gala.

REPORT OF CLOSED SESSION: City Attorney Holland report 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, the City Council will recess into Closed Session at the end of the business meeting.

ACCEPTANCE OF THE AGENDA:

City Clerk Thompson stated that staff requests Item 5.A. be withdrawn from the Agenda.

Mayor Pro Tem Mills requested Items 2.D. and 2.I. be removed from the Consent Calendar for separate discussion.

Item 2.G. was removed from the Consent Calendar for separate discussion to determine participation due conflict of interest.

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

1. PUBLIC HEARINGS:

1.A. APPLICATION TO AMEND THE PALM SPRINGS ZONING CODE RELATING TO THE LOCATION AND OPERATION OF MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES:

Craig Ewing, Director of Planning Services, provided background information as outlined in the staff report dated January 9, 2009.

Councilmember Weigel requested staff show the M-1 and M-2 zones that are being proposed.

Councilmember Foat requested staff address the M-1 and M-2 zones with existing retail establishments, and the calculation for the number of allowable establishments.

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

JOY MEREDITH, stated her support for allowing medical cannabis cooperatives in the City of Palm Springs, and requested existing cooperatives be allowed to operate at their existing location.

BOB MILLER, Rancho Mirage, stated his support for medical marijuana cooperatives in the City of Palm Springs, and commented on the impact to the Police Department.

TOM SWANN, Rancho Mirage, stated his support for medical marijuana cooperatives in the City of Palm Springs.

STACY HOCHANADEL, stated his support for medical marijuana cooperatives in the City of Palm Springs with restrictions.

JIM CAMPER, spoke in support of medical cannabis in the City of Palm Springs.

DR. JANE COWLES, spoke in support of medical cannabis for pain management.

RYAN MICHAELS, Vista, spoke in support of medical cannabis cooperatives and collectives, and requested the City Council allow additional zones.

JEFF YABLAN, Palm Springs, stated his support for medical cannabis cooperatives and collectives.

VICTOR MOLINAS, stated his support for medical cannabis cooperative and collectives.

LENNY SWERDLOW, stated his support for medical cannabis cooperatives and collectives, and expressed concerns with the restrictions in the M-1 and M-2 zones.

CHRIS CAUHAPE, commented on drug prohibition.

LANCE CALDWELL, stated his support for medical cannabis cooperatives and collectives.

RICK PANTELE, stated his support for the operation of medical cannabis cooperatives and collectives in limited areas in the City of Palm Springs.

DEGE CORTEE, Los Angeles, spoke in support of medical cannabis cooperatives and collectives in Palm Springs, and requested the City Council provide for other locations by variance.

BECKY DAMON, stated her support for medical cannabis cooperatives, but stated her concerns with the zones proposed.

SHEILA GRATTAN, stated the City should work with the Federal government toward resolve, commented on her concerns with the existing locations.

No further speakers coming forward the public hearing was closed.

Councilmember Weigel commented on his decision making process, the enhancement of public safety, stated the City of Palm Springs should not be in the business of the regulation of medical cannabis cooperatives and collectives, requested staff address if the City can restrict the use of cooperatives to residents, if the City can limit the number of cooperatives, and requested the Chief of Police address the impact to the Police Department and his recommendations.

Mayor Pro Tem Mills stated his support of allowing cannabis cooperatives and collectives in the M-1 and M-2 by CUP, but also recommended several regulatory measures.

Councilmember Foat commented on public safety, stated her support for limiting the number of cooperatives, stated her opposition to allow by the CUP process in the M-1 and M-2 zones but by right of zone, and commented on other proposed restrictions.

Councilmember Hutcheson commented on the conflict between State and Federal Laws, and balancing the interests of the residents of the City of Palm Springs, stated his support for the M-1 and M-2 zones and not by the CUP process in other areas, his support for other restrictions, and an overall limit of 3 establishments in the City.

Mayor Pougnet stated his support for medical marijuana and the balancing of State and Federal laws, stated his concern with the businesses currently operating illegally, stated his support for M-1 and M-2 and not by CUP, limiting the overall number to 2 locations, stated his opposition to limiting only to Palm Springs residents.

Councilmember Hutcheson stated he could support limiting the number of locations to two and the prohibition of other retail sales.

Councilmember Foat recommended the City Council consider a minimum of three locations and requested the City Attorney address the selection process.

Councilmember Hutcheson commented on the limited number of establishments for public safety and security, recommended the City Council consider an Ordinance that limits the collectives to the M-1 and M-2 zones with out a CUP requirement, include the restrictions in Section 5 of the proposed ordinance, further restrictions in paragraph 1 on page 15 of the City Council report, and four additional conditions as recommended by the Chief of Police for inspection, registration, prohibition of weapons and prohibition of loitering.

Councilmember Mills further commented on limiting the cooperatives to Palm Springs residents, recommended an overall limit of two cooperatives, and recommended exterior lighting and ADA accessibility at each location.

ACTION: Direct the City Attorney to revise and prepare an Ordinance limiting Medical Cannabis Cooperatives or Collectives only in the M-1 and M-2 zones without a requirement for a Conditional Use Permit, include restrictions currently outlined in Section 5 of the draft ordinance, include further restrictions contained in Paragraph 1 of Page 15 of the City Council report, limiting the total number of collectives/cooperatives to two, eliminating the requirement that patients using collectives/cooperatives be City residents, adding requirements that provide for exterior lighting and ADA accessibility at each location, and further restrictions as recommended by the Chief of Police, to provide for inspection of the premises, registration of employees, volunteers and all persons providing services at the collectives/cooperatives with the Police Department, prohibition on weapons without the prior approval of the Police Department, and a prohibition on loitering in or near the collective/cooperative. **Motion Councilmember Hutcheson, seconded by Mayor Pougnet and carried 3-2 on a roll call vote.**

AYES: Councilmember Hutcheson, Mayor Pro Tem Mills, and Mayor Pougnet.

NOES: Councilmember Foat and Councilmember Weigel.

The City Council recessed at 7:46 p.m.

The City Council reconvened at 7:54 p.m.

1.B. FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (FINAL SEIR) FOR THE SECTION 14 MASTER DEVELOPMENT PLAN/SPECIFIC PLAN:

Craig Ewing, Director of Planning Services, provided background information as outlined in the staff report dated January 9, 2009.

Councilmember Weigel requested staff address any potential subsidence within the City of Palm Springs.

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

DR. JANE COWLES, commented on reports from staff, the history of Section 14 development and the EIR.

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

ACTION: Adopt Resolution No. 22411, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CERTIFYING THE SUPPLEMENTAL EIR FOR THE SECTION 14

MASTER DEVELOPMENT PLAN/SPECIFIC PLAN." Motion Mayor Pro Tem Mills, seconded by Councilmember Weigel and unanimously carried on a roll call vote.

PUBLIC COMMENT:

PAUL LEWIN, stated his opposition to the proposed County jail at Whitewater Canyon, and submitted an on-line petition.

KARINE GORNES, stated her opposition to the proposed County jail at Whitewater Canyon.

ANNA GIBSON, stated her opposition to the proposed County jail at Whitewater Canyon.

DR. JANE COWLES, stated her opposition to the proposed County jail at Whitewater Canyon.

WILLIE HOLLAND, commented on the proposed jail at Whitewater Canyon.

BILL SOUZA, stated his opposition to the proposed County jail at Whitewater Canyon.

JOY MEREDITH, provided an updated on the activities of MainStreet Merchants Association.

JERRY CARLSON, stated his opposition to the proposed County jail at Whitewater Canyon.

COUNCILMEMBER COMMENTS:

Mayor Pougnet and Councilmember Foat commented on the City's participation in the proposed County jail in Whitewater Canyon.

CITY MANAGER'S REPORT:

2. CONSENT CALENDAR:

ACTION: Approve Items 2.A., 2.B., 2.C., 2.E., 2.F., 2.H., and 2.J. **Motion Councilmember Hutcheson, seconded by Councilmember Weigel 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 January 7, 2009, City Council Agenda. **Approved as part of the Consent Calendar.**

2.B. APPROVAL OF MINUTES:

ACTION: Approve the City Council Minutes of December 17, 2008.
Approved as part of the Consent Calendar.

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

ACTION: 1) Adopt Resolution No. 22412, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1032445 THROUGH 1032602 IN THE AGGREGATE AMOUNT OF \$3,378,540.42, DRAWN ON BANK OF AMERICA;" 2) Adopt Resolution No. 22413, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1032603 THROUGH 1032793 IN THE AGGREGATE AMOUNT OF \$2,514,572.82, DRAWN ON BANK OF AMERICA;" and 3) Adopt Resolution No. 22414, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED THROUGH 12-13-08 BY WARRANTS NUMBERED 414167 THROUGH 414221 TOTALING \$97,410.41, LIABILITY CHECKS NUMBERED 1032794 THROUGH 1032814 TOTALING \$154,337.35, FOUR WIRE TRANSFERS FOR \$66,395.19, AND THREE ELECTRONIC ACH DEBITS OF \$1,405,170.74, IN THE AGGREGATE AMOUNT OF \$1,723,313.69, DRAWN ON BANK OF AMERICA." **Approved as part of the Consent Calendar.**

2.E. ACCEPTANCE OF HOMELAND SECURITY GRANT FROM THE CALIFORNIA OFFICE OF HOMELAND SECURITY IN THE AMOUNT OF \$365,494 FOR FISCAL YEAR 2008-09:

ACTION: 1) Accept a grant from the California Department of Homeland Security through the Riverside County Office of Emergency Services in the amount of \$365,494 for Fiscal Year 2008-09; and 2) Authorize the City Manager to execute all necessary documents. A5773. **Approved as part of the Consent Calendar.**

2.F. TRAFFIC SIGNAL MAINTENANCE SERVICES AGREEMENT MODIFICATION AND BUDGET AMENDMENT:

ACTION: 1) Approve a maximum contract amount of \$250,235.21 for Agreement No. A4725 with Riverside County, Department of Transportation, for traffic signal maintenance for Fiscal Year 2007-08; 2) Adopt Resolution No. 22416, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR THE 2008-2009 FISCAL YEAR;" and 3) Authorize the City Manager to execute all necessary documents. A4725. **Approved as part of the Consent Calendar.**

2.H. APPROVAL OF PLANS, SPECIFICATIONS AND ESTIMATE (PS&E) AND AUTHORIZATION TO BID PALM SPRINGS STORM DRAIN LINE 22, STAGE 2, CP 07-15:

ACTION: 1) Adopt Resolution No. 22417, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2008-09;" and 2) Approve the plans, specifications, and working details for the Palm Springs Storm Drain Line 22, Stage 2, CP 07-15. **Approved as part of the Consent Calendar.**

2.J. ACCEPT WITH REGRET THE RESIGNATION OF NANCY BENTINCK FROM THE RESOURCE CONSERVATION COMMISSION:

ACTION: 1) Accept with regret the resignation of Nancy Bentinck; 2) Direct the City Clerk to post a Notice of Vacancy for the unexpired term ending June 30, 2010. **Approved as part of the Consent Calendar.**

EXCLUDED CONSENT CALENDAR:

2.D. 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:

Councilmember Mills requested staff draft a resolution denying the GPA and the Zone Change and return with a Resolution approving the Tentative Tract Map.

ACTION: 1) Adopt Resolution No. 22415, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DENYING CASE 5.1175 GPA CZ, A GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE DESIGNATION FOR A REMAINDER PARCEL OF APPROXIMATELY 1.57-ACRES AT THE NORTHWEST CORNER OF SUNNY DUNES AND SOUTH SUNRISE WAY FROM VLDR (VERY LOW DENSITY RESIDENTIAL) TO NCC (NEIGHBORHOOD COMMUNITY COMMERCIAL), A CHANGE OF ZONE FOR THE REMAINDER PARCEL FROM RMHP (RESIDENTIAL MOBILE HOME PARK) TO C-1 (COMMERCIAL-1), SECTION 23, TOWNSHIP 4, RANGE 4," *amending the Resolution to delete references to Tentative Tract Map 28308;* and 2) Direct staff to prepare a Resolution providing for the approval of Tentative Tract Map 28308 at the January 21, 2009, City Council meeting. **Motion Mayor Pro Tem Mills, seconded by Mayor Pougnet and unanimously carried on a roll call vote.**

- 2.I. CITY HALL AND DOG PARK PARKING LOT REPAIRS, PHASE 1, CP 01-17:**
Councilmember Mills commented on the revised layout and the space for a demonstration garden in the front of City Hall.

Councilmember Weigel requested staff address the reduction in the number of parking spaces.

ACTION: 1) Approve the revised parking lot layout; and 2) Provide advance approval of the plans, specifications, and working details for the City Hall and Dog Park Parking Lot Repairs, Phase 1, CP 01-17. **Motion Councilmember Hutcheson, seconded by Mayor Pougnet and unanimously carried on a roll call vote.**

Councilmember Foat, Councilmember Hutcheson, and Mayor Pougnet stated they have a property ownership conflict of interest with respect to Item 2.G. Invoking the rule of necessity to reach a quorum, at the July 30, 2008 meeting, lots were drawn, and it was determined Mayor Pougnet would hear the Item. Councilmember Foat and Councilmember Hutcheson left Council Chamber.

- 2.G. CHANGE ORDER NO. 2 TO AGREEMENT NO. A5700 WITH GRANITE CONSTRUCTION COMPANY, FOR THE FISCAL YEAR 2007-08 ANNUAL ARHM OVERLAY, CP 07-17:**

Mayor Pro Tem Mills requested staff address the reimbursement amount from DWA.

ACTION: 1) Approve Change Order No. 2 to Agreement No. A5700 with Granite Construction Company, in an amount of \$52,495.51 for a revised total contract amount of \$1,497,039.51 for the Fiscal Year 2007-08 Annual ARHM Overlay, CP 07-17; and 2) Authorize the City Manager to execute all necessary documents. A5700. **Motion Mayor Pro Tem Mills, seconded by Councilmember Weigel and unanimously carried 3-0 on a roll call vote.**

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

Councilmember Foat and Councilmember Hutcheson returned to the dais.

- 3. LEGISLATIVE:** None.

4. **UNFINISHED BUSINESS:** None.

5. **NEW BUSINESS:**

5.A. **BUILDING INDUSTRY ASSOCIATION'S REQUEST FOR WAIVER OF FEES:**

Withdrawn from the Agenda.

COUNCILMEMBER COMMENTS, REQUESTS, AND REPORTS:

Mayor Pro Tem Mills requested the City Manager provide an update on the masonry wall for the construction project at East Palm Canyon and Camino Real.

Councilmember Hutcheson requested the City Council Business Retention Subcommittee address the transformation of vacant stalled construction sites for temporary public space.

Councilmember Weigel thanked staff for the report on abandoned and blighted properties, and requested staff address abandoned residential properties.

Councilmember Foat commented on abandoned and blighted properties and the addition of the abandoned properties not on the report.

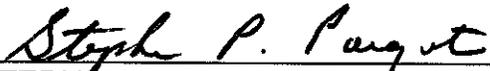
Mayor Pougnet congratulated Joy Meredith on her re-election for President of MainStreet, and commented on the activities of the Downtown businesses.

The City Council recessed into Closed Session at 8:45 p.m.
The City Council reconvened at 8:53 p.m.

REPORT OF CLOSED SESSION: City Attorney Holland reported that the City Council approved joining two amicus curiae briefs in support of the City of San Francisco's lawsuit before the California Supreme Court, City and County of San Francisco et. al. Petitioners v. Mark B. Horton et. al., Case No. S168078, by unanimous 5-0 vote. City Attorney Holland stated that no other reportable actions were taken during the Closed Session.

ADJOURNMENT: The City Council adjourned at 8:55 p.m. to an Adjourned Regular Meeting, Wednesday, January 14, 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.

APPROVED BY A MOTION OF THE PALM SPRINGS CITY COUNCIL THIS
21ST DAY OF JANUARY, 2009.


STEPHEN P. POUCKET, MAYOR

ATTEST:


JAMES THOMPSON, CITY CLERK