

**CITY COUNCIL
AND AS SUCCESSOR AGENCY TO THE PALM SPRINGS COMMUNITY
REDEVELOPMENT AGENCY AND AS THE PALM SPRINGS FINANCING AUTHORITY**

CITY OF PALM SPRINGS, CALIFORNIA

MINUTES

WEDNESDAY, April 5, 2017

City Hall, Council Chamber

3200 E. Tahquitz Canyon Way, Palm Springs, CA 92262

CLOSED SESSION

4:30 p.m. CALL TO ORDER (Council Chamber):

Mayor Moon called the meeting to order at 4:34 p.m. All members of the City Council were present.

Douglas Holland, City Attorney, requested the City Council consider adding three items. The information was received after the posting of the agenda.

EXISTING LITIGATION, G.C. 54956.9(a)

1. Laura Walter et al. vs City of Palm Springs et al, Case No. INC 1302398, Riverside Superior Court, Indio Division
2. Justin B. Ledesma and Kanima A. Beck vs. City of Palm Springs et al., Case No. INC 1302238, Riverside Superior Court, Indio Division
3. City of Palm Springs v. O&M HR, Nexus Development Corporation et al, Case No. PSC 1701804, Riverside Superior Court, Palm Springs Division

ACTION:

By a unanimous (5-0-0) vote of the City Council the following were approved:

- 1) Find information regarding the existing litigation was received after the posting of the Agenda and there is an immediate need to hear and/or take action.
- 2) Add to the Closed Session Agenda three (3) items pursuant to Cal. Gov. Code. Section 54956.9(e)(3) as shown below:

EXISTING LITIGATION, G.C. 54956.9(a)

1. Laura Walter et al. vs City of Palm Springs et al
Case No. INC 1302398, Riverside Superior Court, Indio Division
2. Justin B. Ledesma and Kanima A. Beck vs. City of Palm Springs et al.
Case No. INC 1302238, Riverside Superior Court, Indio Division
3. City of Palm Springs v. O&M HR, Nexus Development Corporation et al, Case No. PSC 1701804, Riverside Superior Court, Palm Springs Division

PUBLIC COMMENT (Council Chamber): None.

RECESS TO CLOSED SESSION (Small Conference Room):

See Closed Session Agenda, Exhibit A.

The Mayor and City Council recessed to Closed Session in the small conference room at 4:36 p.m.

It should be noted the following item was not discussed:

4348 Lockwood Ave., LLC, et al vs. The City of Palm Springs
Case No. RIC1704320, Riverside Superior Court, Riverside Division.

REGULAR CITY COUNCIL MEETING

6:00 p.m. CALL TO ORDER:

Mayor Moon called the meeting to order at 6:04 p.m.

PLEDGE OF ALLEGIANCE:

Palm Springs Air Force ROTC Junior Color Guard led the salute to the flag.

ROLL CALL:

PRESENT: Councilmember Kors, Councilmember Mills, Councilmember Roberts, Mayor Pro Tem Foat, and Mayor Moon

ABSENT: None

ALSO PRESENT: City Manager Ready, City Attorney Holland, Interim City Clerk Hart

PRESENTATIONS: None.

ACCEPTANCE OF THE AGENDA:

Mayor Moon requested 1D be removed from the Consent Calendar.

Mayor Pro Tem Foat requested moving 5F to be the first New Business item.

Councilmember Roberts requested removing 1H from the Consent Calendar.

Councilmember Mills stated he will recuse from voting on 1F (working on a project adjacent to this project) and 1B (not required to recuse from participation on 1B but was the architect and will be exercising caution), and requested removing 1G from the Consent Calendar.

ACTION: Motion by Mayor Pro Tem Foat, seconded by Councilmember Roberts, and unanimously (5-0-0) carried on a roll call vote, the agenda was approved as presented with the following modifications:

1. Removing 1D, 1G, and 1H from the Consent Calendar.
2. Move 5F to be the first New Business item.

REPORT OF CLOSED SESSION:

Douglas Holland, City Attorney, reported as follows:

1. Three (3) items were added to the Closed Session Agenda, as previously noted in the Minutes.
2. The City Council did not take any reportable actions.
3. The City Council requested the following be provided to the public; the City filed a lawsuit against O&M HR LLC, Nexus Development Corporation, Richard Meaney et al in order to assert and reclaim the Prairie Schooner property as a potential violation pursuant to Government Code Section 1090.

PUBLIC TESTIMONY: (Non-Public Hearing Agenda Items ONLY)

Shelley Somerville spoke in support of Item 1D.

Frances Miller spoke in support of 1D.

Brenda Adams spoke in support of 1D.

Ann Leiboh spoke in support of 1D.

Carmen Ginter spoke in support of 1D.

Diane Fischer spoke in support of 1D.

Bill McMillan spoke in support of 1D.

Robert Doyle spoke in support of 1D.

Joy Silver spoke in support of 1D.

Beth Friedman spoke in support of 1D.

Lynn O'Neal spoke in support of 1D.

Carol Listenberger spoke in support of 1D.

Edward Hotzhauer thanked Councilmember Kors, Mills, Roberts, and Mayor Pro Tem Foat for supporting this item, and asked Mayor Moon to support Item 1D.

Lisa Middleton spoke in support of 1D.

Carlos Pineda spoke in support of 1D.

Ruth Debra spoke in support of 1D and

Bob Terry spoke in support of 1D.

Richard Noble spoke in support of 1D, and asked Mayor Moon to support this ordinance.

Rosie Puentes spoke in support of 1D.

Lewis Stewart spoke in support of 1D.

Joy Brown Meredith stated more information is needed from the Police Chief before she is able to form an opinion on 3A.

Christy Holstege stated she supports of 1D and does not support 3A as drafted.

Aftab Dada spoke in support of 5D.

Robert Stone spoke against 5D.

Robin Abrahams spoke in support of 5E.

Diana Grace lives at the Four Season Development and does not support 5F.

Willy Halle lives at the Four Season Development and does not support 5F.

Michael Solomon lives at the Four Season Development and does not support 5F and requested that the City Council do not let them built it on top of the levy.

Ira Rosenthal lives at the Four Season Development and does not support 5F and asked not let them built it on top of the levy.

Anita Kerezman lives at the Four Season Development and does not support 5F and do not let them built it on top of the levy.

Patricia Breslin spoke regarding 3A, the "sit and lie" ordinance should not be incorporated in the sign ordinance, and keep the "silent salesmen" (portable signs) alive.

Karen Ellis spoke in support of 1D.

CITY COUNCIL AND CITY MANAGER'S COMMENTS AND REPORTS:

David Ready, City Manager, reported the following:

1. Over half of the documents pertaining to the escrow fund on the Downtown Project have been posted to the City's website. There are hundreds of pages and staff will continue to post them to the City's website and anticipate completion in the next couple of business days.

2. An administrative policy was put in place several years ago to prohibit City travel to North Carolina; adding, Councilmember Kors asked if this was still in effect and stated this administrative policy is still in effect.
3. Announced Edward Kotkin is in the audience.

Mayor Moon commented about the annual Board and Commission and invited the public to apply.

Mayor Pro Tem Foat reported the Riverside County Transportation Commission recently approved two (2) projects, and thanked Marcus Fuller and asked him to provide the details:

1. South Palm Canyon Bridge, total cost approximately \$9 million, local funding portion will be approximately \$250,000.
2. East Palm Canyon Bridge, total cost approximately \$8-9 million, funding percentages will be same as for the South Palm Canyon Bridge.

Mayor Pro Tem Foat commented on the Desert Sun opinions article and stated the facts in the article are incorrect.

CITY COUNCIL SUBCOMMITTEE REPORTS:

Councilmember Roberts stated he and Councilmember Mills has a report regarding the Downtown Park, but will defer to later due to the fact the Downtown Project is on the agenda.

1. CONSENT CALENDAR:

ACTION: Approve Items 1A, 1B, 1C, 1E, 1F, 1I, 1J, and 1K, noting the recusal of Councilmember Mills on Items 1B and 1F.

Motion by Councilmember Roberts, seconded by Councilmember Kors, and unanimously carried on a roll call vote.

1.A. APPROVAL OF MINUTES:

ACTION: Approve the City Council Minutes of March 22, 2017.

Approved as part of the Consent Calendar.

1.B. INDIAN CANYON DRIVE PEDESTRIAN BRIDGE REPAINTING:

ACTION: Authorize the issuance of a Purchase Order to Palm Springs Action Painting, in the amount of \$30,060 for the repainting of the Indian Canyon Drive pedestrian bridge.

Approved as part of the Consent Calendar.

1.C. TREASURER'S INVESTMENT REPORT AS OF FEBRUARY 28, 2017:

ACTION: Receive and File the Treasurer's Investment Report as of February 28, 2017. **Approved as part of the Consent Calendar.**

- 1.E. APPROVAL OF PARCEL MAP 36958:**
ACTION: Adopt Resolution No. 24199-1, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PARCEL MAP 36958 FOR PROPERTY LOCATED AT 2732 NORTH CARDILLO AVENUE, IN SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST."
Approved as part of the Consent Calendar.
- 1.F. FREEHOLD CAPITAL MANAGEMENT, LLC, REQUESTING A ONE-YEAR EXTENSION OF TIME FOR PHASE 2 OF TENTATIVE TRACT MAP 31848 FOR THE MIRALON DEVELOPMENT, A PREVIOUSLY APPROVED SUBDIVISION FOR THE DEVELOPMENT OF 1,150 RESIDENTIAL UNITS LOCATED NORTH OF SAN RAFAEL ROAD, EAST OF NORTH INDIAN CANYON DRIVE, SOUTH OF THE WHITEWATER RIVER AND WEST OF SUNRISE WAY, (CASE 5.0982-PD 290 / TTM 31848):**
ACTION: Adopt Resolution No. 24200, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A REQUEST BY FREEHOLD CAPITAL MANAGEMENT, LLC, FOR A ONE-YEAR EXTENSION OF TIME FROM MAY 5, 2017, TO MAY 5, 2018, FOR TTM 31848, A PREVIOUSLY APPROVED SUBDIVISION OF 309 ACRES TO CONSTRUCT 1,150 SINGLE-FAMILY, MULTI-FAMILY RESIDENTIAL UNITS AND AN AMENITY CENTER FACILITY LOCATED ALONG THE NORTH SIDE OF SAN RAFAEL DRIVE, EAST OF INDIAN CANYON DRIVE, SOUTH OF WHITEWATER RIVER AND WEST OF SUNRISE WAY; ZONE PD 290, SECTION 35."
Approved as part of the Consent Calendar.
- 1.J. APPROVAL OF THE FISCAL YEAR 2017-2018 CSA 152 SPECIAL ASSESSMENT RATE:**
ACTION: Adopt Resolution No. 24202, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, MAKING FINDINGS AND REAFFIRMING THE ESTABLISHMENT AND SETTING OF RATES FOR COUNTY SERVICE AREA 152 FOR FISCAL YEAR 2017-2018 TO FUND THE CITY'S NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT IN ORDER TO OPERATE AND MAINTAIN THE CITY'S DRAINAGE AND FLOOD CONTROL SYSTEMS."
Approved as part of the Consent Calendar.
- 1.K. ACCEPT THE RESIGNATION OF COSIMO AIELLO FROM THE PARKS AND RECREATION COMMISSION:**
ACTION:
1) Accept with regret the resignation of Cosimo Aiello from the Parks and Recreation Commission.
2) Direct the City Clerk to post a notice of vacancy for the term ending

June 30, 2017.

Approved as part of the Consent Calendar.

EXCLUDED CONSENT CALENDAR:

- 1.D. SECOND READING AND ADOPTION OF ORDINANCE NO. 1920, AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 2.04.100 TO, AND AMENDING SECTIONS 2.45.005, 2.45.010, AND SECTION 7.010.040 OF, THE PALM SPRINGS MUNICIPAL CODE REAFFIRMING THE CITY'S PROHIBITION OF DISCRIMINATION IN THE CITY:**

Mayor Moon stated the following:

1. He never spoke opposing people being in this country illegally.
2. Spoke in support of the Police Department's policy of not asking for an individual's immigration status, which has been in effect since 1981.
3. Reiterated that he supports this ordinance, except he had concerns relating to the term "national origin" as it related to employment and contracting with respect to federal law.
4. He cannot support something that conflicts with federal law.
5. He researched the matter and discovered it does not conflict with federal laws.
6. Due to the fact there is no conflict with the federal laws, he will be supporting this ordinance.

Councilmember Kors stated he appreciates all the comments and thanked Chief Reyes and the Police Department for making this practice as policy.

Councilmember Mills asked the City Attorney if this ordinance will classify the City of Palm Springs as a sanctuary city. The City Attorney responded that this ordinance does not classify the City of Palm Springs as a sanctuary city. Councilmember Mills added many people referred to it, therefore, he pointed this out for clarification. One very important point noted in the City Attorney's Summary, "*unless otherwise authorized in Federal or State Law*", is one of the reasons he supports this ordinance.

Councilmember Kors stated it was agreed at the last meeting to change the word "authorized" to "required" in the City Attorney's Summary and the ordinance.

Kathleen Hart, Interim City Clerk, stated the edit will be made prior to finalizing the document for signature.

Mayor Pro Tem Foat stated legally there is no such thing as a sanctuary city. In her opinion the term "sanctuary city" is a place where people feel

safe. She reiterated her support for this ordinance, stated she is glad Mayor Moon reconsidered, and how proud she is of this City Council.

ACTION: Waive the second reading of the ordinance text in its entirety, read by title only, and adopt Ordinance No. 1920, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 2.04.100 TO, AND AMENDING SECTIONS 2.45.005, 2.45.010, AND SECTION 7.010.040 OF, THE PALM SPRINGS MUNICIPAL CODE REAFFIRMING THE CITY'S PROHIBITION OF DISCRIMINATION IN THE CITY."

Motion by Mayor Moon, seconded by Councilmember Kors, and unanimously carried on a roll call vote.

- 1.G. ADOPTION OF A MITIGATED NEGATIVE DECLARATION FOR THE SOUTH PALM CANYON DRIVE BRIDGE REPLACEMENT OVER TAHQUITZ CREEK CHANNEL FEDERAL AID PROJECT NO. BRLS-5282(042), CP 12-02:**

Councilmember Mills requested clarification.

ACTION: Adopt Resolution No. 24201, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING AND ORDERING THE FILING OF A MITIGATED NEGATIVE DECLARATION FOR THE SOUTH PALM CANYON DRIVE BRIDGE REPLACEMENT OVER TAHQUITZ CREEK CHANNEL FEDERAL AID PROJECT NO. BRLS-5282(042), CP 12-02."

Motion by Mayor Pro Tem Foat, seconded by Councilmember Mills, and unanimously carried on a roll call vote.

- 1.H. APPROVE A COOPERATIVE AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR A FUNDING CONTRIBUTION OF \$290,000, AND APPROVE A PURCHASE ORDER IN THE AMOUNT OF \$56,336 WITH ALBERT A. WEBB ASSOCIATES FOR THE VISTA CHINO (STATE ROUTE 111) AT VIA MIRALESTE TRAFFIC SIGNAL INSTALLATION, CP 17-03:**

Councilmember Roberts and Councilmember Mills requested funding clarification.

ACTION:

- 1) Approve a Cooperative Agreement for State Highway Operation & Protection Program (SHOPP) Minor Funds Contribution from the California Department of Transportation for an amount up to \$290,000 for the Vista Chino (State Route 111) at Via Miraleste Traffic Signal Installation, CP 17-03. A6962.

- 2) Approve a Purchase Order in the amount of \$56,336 with Albert A. Webb Associates for design services related to the Vista Chino (State Route 111) at Via Miraleste Traffic Signal Installation, CP 17-03. A6443.
- 3) Authorize the City Manager to execute all necessary documents.
Motion by Mayor Pro Tem Foat, seconded by Councilmember Roberts, and unanimously carried on a roll call vote.

2. **PUBLIC HEARINGS:** None.

3. **LEGISLATIVE:**

3.A. INITIATE AND REFER TO THE PLANNING COMMISSION AN ORDINANCE RELATING TO THE CITY'S SIGN ORDINANCE AND EXTEND INTERIM URGENCY ORDINANCES 1893 AND 1912 IMPOSING INTERIM REGULATIONS FOR THE INSTALLATION AND MAINTENANCE OF TEMPORARY SIGNS IN THE CITY OF PALM SPRINGS TO JULY 21, 2017:

Douglas Holland, City Attorney, provided the background information as noted in the staff report.

Councilmember Mills requested clarification and modifications in the following areas:

1. Portable signs in commercial zones.
2. Section 93.20.04, subsection 2, Sign on Public Property or Rights-of-Way.
3. Section 93.20.05, subsection C, Portable Signs.
4. Portable signs complying with ADA requirements; does not feel 48" is adequate and feels it should be at least 72" for ease of movement.
5. Portable sign designs with respect to "design criteria established by the Director of Planning Services.

Councilmember Roberts stated concerns and/or requested clarification on the following:

1. Support of A-frame signs to be in compliance with ADA requirements. Wanting the businesses to be successful.
2. The need for quality signs and the criteria be set by the Director of Planning Services or a Planning Commission subcommittee.
3. Inquired about the City's liability, and the need for the business owner to assume full responsibility.
4. Section 93.20.04, subsection 2, Sign on Public Property or Rights-of-Way.
5. Section 93.20.05, subsection B, 2, Permitted signs - Commercial and Industrial Business, Permitted signs - Secondary signs.

6. The limit of signs on glazing to the first floor of the build.
7. Portable signs and the need for permits.
8. Human signage.
9. Temporary signs for an event, size, and duration.
10. Where will political signs be addressed?

Councilmember Kors spoke of concern, requested clarification, and highlighted some key points:

1. Businesses with private patios. May they have a portable sign?
2. How will fines and multiple fines be handled?
3. Will their portable sign permit be revoked?
4. All commercial businesses throughout the City will be able to have one portable sign, and not only within the Downtown and Uptown areas.
5. Other opportunities have been provided i.e. blade signs, etc.
6. The need for permits prior to erecting signs.

Councilmember Kors asked the City Manager if it is possible to educate the business owners of the current ADA laws with respect to portable signs.

David Ready, City Manager, stated going forward staff will work with the City's business partners i.e. Main Street etc. and will start an educational program to educate prior to enforcement.

Mayor Pro Tem Foat stated there should be uniformity with respect to the signs and the ordinance should include a "tacky clause".

Mayor Moon stated all the important points have been addressed and looking forward to the comments from the Planning Commission.

Councilmember Mills stated though the ADA requires 48" sidewalk clearance, it is his hope the Planning Commission will consider more than 48" for those with disabilities.

ACTION:

- 1) Initiate and refer to the Planning Commission for review and comment, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 12.28.050, 14.16.010, 91.00.10, AND 93.20.01 THROUGH 93.20.11 OF, AND REPEALING SECTION 12.12.055 OF, THE PALM SPRINGS MUNICIPAL CODE RELATING TO THE CITY'S SIGN ORDINANCE."
- 2) Waive the reading of the text in its entirety, read by title only, and adopt Urgency Ordinance No. 1922, "AN INTERIM URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, EXTENDING INTERIM URGENCY ORDINANCE NOS. 1893 and 1912

OF THE CITY OF PALM SPRINGS, CALIFORNIA, IMPOSING INTERIM REGULATIONS FOR THE INSTALLATION AND MAINTENANCE OF TEMPORARY SIGNS IN THE CITY OF PALM SPRINGS SUBJECT TO CERTAIN EXCEPTIONS, AMENDING SECTION 93.20.09.B.5 OF, AND SUSPENDING ENFORCEMENT OF SECTIONS 93.20.07, 93.20.08, AND 93.20.10.C.4 OF, THE PALM SPRINGS MUNICIPAL CODE, TO JULY 21, 2017." (4/5THS Vote Required)

Motion by Councilmember Roberts, seconded by Councilmember Kors, and unanimously carried on a roll call vote.

3.B. INTERIM URGENCY ORDINANCE REQUIRING THE IMPOSITION OF CERTAIN TENANT RELOCATION AND PROTECTION AS A CONDITION OF APPROVAL OF DISCRETIONARY LAND USE ENTITLEMENTS:

Douglas Holland, City Attorney, provided background information which based on recent actions with respect to the Epic Hotel.

Mayor Pro Tem Foat provided additional background information and some key points of the urgency ordinance as follows:

1. Provide 90-day notice to tenants with respect to eviction or rent increase.
2. Take into consideration the length of time of residency at the location.

Councilmember Kors provided comments relating to the conversion of apartments to hotels or condos as follows:

1. Maintaining the City's affordable housing stock.
2. Provide a 90-day notice to tenants.
3. Provide a 180-day notice to seniors and tenants with disabilities, plus free rent.
4. Three (3) months' rent plus an additional month for each year of residency for relocation.

Councilmember Mills stated this is the first time seeing it, and the public has not had the opportunity to review and comment on this urgency ordinance. Further, he stated he is not opposed to this urgency ordinance; however, due to the fact the public has not had the opportunity to review it, the urgency ordinance is not acceptable to him. He stated he will not support this; however, he will support the urgency ordinance placed on the next agenda.

Mayor Pro Tem Foat stated this is an urgency ordinance and cited the example of the woman with children whose rent was increased over \$150 per month, and the need to stop other incidents like this from taking place.

Councilmember Roberts concurs with Councilmember Mills, and asked the City Attorney for an alternative.

Douglas Holland, City Attorney, stated rather than allow the urgency ordinance to be effective for almost a year, the City Council may make it effective for a 45-day period and return the urgency ordinance to the City Council for action, thus providing the public adequate time to review and provide comments.

It was the consensus of the City Council to have it effective to the first May meeting.

ACTION: Waive the reading of the text in its entirety, read by title only, and adopt Urgency Ordinance No. 1923, "AN INTERIM URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, REQUIRING THE IMPOSITION OF CERTAIN TENANT RELOCATION AND PROTECTION AS A CONDITION OF APPROVAL OF DISCRETIONARY LAND USE ENTITLEMENTS BY THE CITY OF PALM SPRINGS" (4/5THS Vote Required), and amending this urgency ordinance with an expiration date of on May 3, 2017. **Motion by Councilmember Roberts, seconded by Councilmember Kors, and carried 4-1-0 on a roll call vote.**

AYES: Councilmembers Kors, Roberts, Mayor Pro Tem Foat, and Mayor Moon

NOES: Councilmember Mills

4. **UNFINISHED BUSINESS:** None

5. **NEW BUSINESS:**

5.F. **CITY COUNCIL AD HOC SUBCOMMITTEE REPORT ON THE COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS' DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE CV LINK MULTI-MODAL TRANSPORTATION PROJECT:**

Mayor Pro Tem Foat and Councilmember Mills provided background information as noted in the staff report.

Mayor Moon voiced the following concerns:

1. The cost to maintain the portion of the CV Link in Palm Springs will be over \$500,000 annually.
2. The need for additional public safety.
3. Consider placing it before the voters once the costs have been determined.

Councilmember Kors spoke in support of the project, and cited the many positive comments received from the City's residents and the majority of the project is in Palm Springs, supports Option 3 which addresses the concerns the Four Seasons residents have voiced, the opportunity to be outside and enjoy our beautiful city, adding this is a vision of the future.

Councilmember Roberts stated he understands Mayor Moons concerns, concurs with the comments made by Councilmember Kors, mentioned ways to obtain outside fund, and the need to solve some of the problems, asked the subcommittee to come up with alternatives for maintenance and funding, publicize these alternatives, and work with CVAG.

Mayor Pro Tem Foat stated her support for this project, adding some of the points raised are the very reasons for her support.

Mayor Moon stated he is not opposed to the project as a whole. He supports the Tahquitz Creek portion and not supportive of the north and east portion of the CV Link; additionally, he noted the project will not go through Rancho Mirage, and Indian Wells will be taking the project to the voters to decide.

Councilmember Mills stated this has been part of the City's Master Plan for a long time and stated his support.

No action was taken.

5.A. APPROVAL OF CITY ATTORNEY EMPLOYMENT AGREEMENT:

The Mayor and Council introduced Edward Z. Kotkin.

Mr. Kotkin provided background information on his experience, and stated he looks forward to being the in-house attorney for the City of Palm Springs.

Councilmember Kors ask Douglas Holland, City Attorney, to tell the public of Mr. Kotkin's work while he was with his firm.

Mr. Holland stated he reviewed records back to January 2010, looking for work Mr. Kotkin did for the City of Palm Springs and identified four (4) cases for the City of Palm Springs as follows:

1. One Police Department case, approximately 1.6 hours.
2. Code Enforcement Cases, approximately 4.0 hours

Mr. Holland added Mr. Kotkin did not work on or assist with the Downtown Project.

The Mayor and City Council spoke in support of Mr. Kotkin and thanked Douglas Holland, City Attorney, for his 12 plus years with the City of Palm Springs.

ACTION:

1) Approve Employment Agreement with Edward Z. Kotkin for position of City Attorney. A6963.

2) Authorize the City Manager to execute all necessary documents.
Motion by Mayor Pro Tem Foat, seconded by Councilmember Mills, and unanimously carried on a roll call vote.

5.B. AWARD A CONSTRUCTION CONTRACT TO AUDIO ASSOCIATES IN THE AMOUNT OF \$1,288,256.93 FOR THE CITY COUNCIL CHAMBER AUDIO/VISUAL SYSTEM UPGRADE, CP 15-06:

Marcus Fuller, Assistant City Manager/City Engineer, provided the background information as outline in the staff report.

ACTION:

1) Adopt Resolution No. 24203, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2016-17, APPROPRIATING A TOTAL OF \$1,585,591, FOR THE CITY COUNCIL CHAMBER AUDIO / VISUAL SYSTEM UPGRADE, CITY PROJECT NO. 15-06, OF WHICH \$985,591 IS FROM THE ASSIGNED PEG FEE BALANCE IN THE GENERAL FUND, AND \$600,000 IS FROM THE UNRESTRICTED GENERAL FUND RESERVES, AS AN INTERNAL LOAN TO BE REPAID FROM FUTURE PAYMENTS RECEIVED FOR PUBLIC, EDUCATIONAL AND GOVERNMENTAL (PEG) FEES."

2) Award to an agreement to Audio Associates in the amount of \$1,288,256.93, for the City Council Chamber Audio/Visual System Upgrade, CP 15-06. A6964.

3) Authorize a Purchase Order to Interwest Consulting Group, pursuant to On-Call Agreement, in the amount up to \$50,000 for construction management and inspection services for the City Council Chamber Audio/Visual System Upgrade, CP 15-06. A6686.

4) Authorize the temporary relocation of all scheduled City Council, Board and Commission meetings to the Convention Center or alternate available location throughout the duration of construction.

5) Delegate authority to the City Manager to approve and execute construction contract change orders up to the cumulative amount of \$128,826.

6) Authorize the City Manager to execute all necessary documents
Motion by Councilmember Roberts, seconded by Councilmember Mills, and unanimously carried on a roll call vote.

5.C. DISCUSSION OF PUBLIC PARKING OPTIONS FOR THE DREAM HOTEL LOCATED AT THE NORTHEAST CORNER OF CALLE ALVARADO AND AMADO ROAD:

David Ready, City Manager, provided a summary as outline in the staff report.

Councilmember Roberts requested additional information with respect to the amount of parking spaces available and required; additionally, suggested setting money aside for future parking needs.

Councilmember Mills requested additional information with respect to the site plan, and if it will go through all the normal approval processes.

ACTION: It was the consensus of the City Council to accept the lump sum payment from the developer in the amount of \$2,675,000 for future parking needs.

5.D. AUTHORIZE THE PAYMENT OF COSTS INCURRED IN THE CONSTRUCTION AND INSTALLATION OF PUBLIC IMPROVEMENTS IN CONJUNCTION WITH THE DEVELOPMENT OF THE DOWNTOWN PALM SPRINGS PROJECT; AUTHORIZE THE CONSTRUCTION, INSTALLATION, AND PAYMENT OF ADDITIONAL PUBLIC IMPROVEMENTS IN THE AMOUNT OF \$3,060,582.40 IN CONJUNCTION WITH THE DEVELOPMENT OF THE DOWNTOWN PALM SPRINGS PROJECT; AND CONSENT TO A SUBORDINATION OF THE CITY'S INTEREST IN THE PERFORMANCE TRUST DEED FOR BLOCK F SOLELY FOR THE BENEFIT OF A CONSTRUCTION LOAN ON BLOCK B:

Douglas Holland, City Attorney, and David Ready, City Manager, provided the summary as outlined in the staff report.

Mr. Holland highlighted the following points:

1. These are payment for public improvements, on land owned by the City.
2. The payments will only be made as work is completed.
3. The need to provide additional security for the lender on Block B, requesting the City subordinate the deed of trust for Block F, formerly identified as the block Marriott Hotel site. The lender is requesting the City subordinate this piece of property to the construction loan. City will have the priority position once the construction loan has been terminated. Additionally, the City still has priority on three (3) other sites.

Dr. Ready highlighted the following points:

1. Part of the escrow was to ensure additional checks, balances, safeguards are in place, in the form of an Owners Representative. The City has retained the services of an Owners Representative. He is on site, works for the City, and is able to verify portions of the project have been completed.
2. The Owners Representative is available for any questions.
3. The purpose of the action is to make sure the project can go forward and the City received the items.

Councilmember Kors requested confirmation that these payments are being made when the work is completed, checked, and pursuant to the public financing agreement. David Ready, City Manager, confirmed the payments are being made pursuant to the agreement.

Councilmember Kors requested clarification on the payment process of the project, and if City Council approval was required.

David Ready, City Manager, stated in the spirit of transparency, out of an abundance of caution due to the recent indictments, and at the advice of Special Counsel, with expertise in this area, going forward staff will ensure the City Council is aware of all expenditures relating to this project.

Councilmember Kors asked whether the 2014 change order was "consistent with the Specific Plan" or "specified by the Specific Plan". Mr. Holland explained that the change order was covered by the Specific Plan which generally described the kinds of improvements necessary.

Councilmember Kors requested confirmation with respect to Items 1 and 2, that the request for City Council approval is only paying bills as they were submitted for payment in accordance to the agreement. David Ready, City Manager, confirmed staff is requesting approval to only paying bills as they were submitted for payment in accordance to the agreement, adding the monies were previously allocated, and the City Council will not be allocating additional funds for the payment of these bills.

Mayor Pro Tem Foat cautioned belief in all statements made under public comment. She stated the matter was related to payment for work done on property owned by the City. She discussed the checks and balances to ensure invoices were accurate prior to payment. She expressed appreciation for the information.

Councilmember Roberts requested an update on the work under the specific payment requested. Michael Fontana, Owners Representative, explained the public escrow account for improvements that the public would own after the project was completed. He stated his role did not deal

with the buildings. He stated his role included changes after the PAF was done including the parking structure, park and street widening. He invoices were submitted to him as work was completed and he verified and made recommendations to the City for bill payment. Councilmember Roberts confirmed that the money was not issued until Mr. Fontana determined the work was completed.

City Manager Ready explained that Mr. Fontana would consult with the agent if there were questions.

Councilmember Roberts stated a full audit would be completed at the end of the project. He thanked Mr. Fontana for clarifying the checks and balances.

City Manager Ready stated Mr. Fontana confirmed that the improvement actually occurred by being onsite to verify.

ACTION:

1) Authorize the City Manager to release payments to Palm Springs Promenade, LLC, through the public improvement escrow account, for public improvements completed to the satisfaction of the City Engineer, and upon independent third-party verification of the completion of the public improvements, in accordance with the original Public Financing Agreement approved on September 7, 2011.

2) Find and reaffirm as necessary and appropriate additional public improvements consistent with the current, adopted Specific Plan and authorize payment thereof in an amount not exceed \$3,060,582.40 for such improvements upon independent third-party verification of the completion of all of such public improvements;

3) Authorize the City Manager to execute a Subordination Agreement in a form approved by the City Attorney, allowing the City's priority interest under the terms of the Performance Trust Deed to be subordinated in favor of a construction loan on Block B. A

4) Authorize the City Manager to execute all necessary documents.
Motion by Councilmember Mills, seconded by Mayor Pro Tem Foat, and unanimously carried on a roll call vote.

5.E. CITY COUNCIL AD HOC SUBCOMMITTEE REPORT ON THE DOWNTOWN PALM SPRINGS PARK:

Councilmember Roberts provided summary as outlined in the staff report.

Councilmember Mills provided information on the process and the two proposed community outreach workshops:

1. First public workshop. Mr. Rios will evaluate information from the first public workshop, report back to the City Council subcommittee,

and later to the City Council as a whole during the conceptual stage.

2. A *hardline* conceptual plan will be presented at the second public workshop to receive additional input from the public.
3. Presentation of the *hardline* conceptual plan to the City Council as a whole for approval prior to the preparation of the construction documents.

Councilmember Roberts requested an estimated cost from Mr. Rios with respect to the next step after the completion of the conceptual plan.

ACTION:

1) Waive all competitive requirements of Title 7 of the Palm Springs Municipal Code finding that Rios Clementi Hale Studios has demonstrated experience and expertise of providing the required landscape design services through prior experience partnering with the City on the initial development of conceptual designs for the Downtown Palm Springs Park, and through a competitive qualifications based selection process completed by the City of Santa Monica through its Request for Proposal (RFP No. SP2422) for the Airport Park Expansion Project.

2) Approve an agreement with Rios Clementi Hale Studios, in the amount of \$38,000 for professional landscape architectural design services. A6966.

Motion by Councilmember Mills, seconded by Councilmember Kors, and unanimously carried on a roll call vote.

PUBLIC COMMENT: (Non-Agenda Items)

Kate Castle spoke in reference to the closure of the Well in the Desert, and the need for both long term and short term solutions, suggesting allowing the use of the showers at the Pavillion on a short term basis; and suggested a long term plan on a plot of land that has a concrete pad.

Carrie Allen invited the City Council and the public to the Easter Sunrise Service at the O'Donnell House, at 5 a.m. on April 16, 2017.

COUNCILMEMBER AND CITY MANAGER REQUESTS AND UPCOMING AGENDA DEVELOPMENT:

Mayor Pro Tem Foat requested a City Council Annexations and Land Acquisitions ad hoc subcommittee meeting (subcommittee members - Councilmember Roberts and Mayor Pro Tem Foat).

Mayor Moon requested agendizing boarded and vacant building ordinance.

David Ready, City Manager, report on the placement of documents on the City's website with respect to the Downtown Project.

Mayor Moon reported the Downtown Project completion schedule has been placed on the City's website.

Councilmember Kors requested the following:

1. Agendizing the definition of "estate homes" for the April 19, 2017, or May 3, 2017, City Council meeting.
2. Agendizing the ethics and transparency item for May 17, 2017.

ADJOURNMENT:

The City Council adjourned at 10:41 p.m. to the next regular meeting Wednesday, April 19, 2017, 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.

Respectfully submitted,



KATHLEEN D. HART, MMC
Interim City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, California, hereby certify that the April 5, 2017, MINUTES were approved by the City Council of the City of Palm Springs at a regular meeting held on the May 3, 2017, by the following vote:

AYES: Councilmembers Kors, Mills, Roberts, Mayor Pro Tem Foat, and Mayor Moon
NOES: None
ABSENT: None
ABSTAIN: None
RECUSAL: None



KATHLEEN D. HART, MMC
Interim City Clerk

CITY COUNCIL
AND AS SUCCESSOR AGENCY TO THE
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF THE PALM SPRINGS



CLOSED SESSION AGENDA
Wednesday, April 5, 2017 – 4:30 p.m.

City Hall, Small Conference Room
3200 East Tahquitz Canyon Way, Palm Springs

CONFERENCE WITH LEGAL COUNSEL. The City Council finds, based on advice from the City Attorney, that discussion in open session of the following described matter(s) will prejudice the position of the City in existing and anticipated litigation.

PUBLIC EMPLOYMENT APPOINTMENT **G.C. 54957**

Position: City Attorney

EXISTING LITIGATION **G.C. 54956.9(a)**

City of Palm Springs as Successor Agency et al. v. Ana Matosantos et al
Case No. 34-2013-80001440, Sacramento Superior Court, Sacramento Division
Case No. RIC 1513477, Riverside Superior Court, Riverside Division

Intervention911 vs. City of Palm Springs
Case No. EDCV1301117, United States District Court, Central District of California

Protect Our Neighborhoods v. City of Palm Springs, City Council of Palm Springs
Case No. RIC1703102, Riverside Superior Court, Riverside Division

4348 Lockwood Ave., LLC, et al vs. The City of Palm Springs
Case No. RIC1704320, Riverside Superior Court, Riverside Division

EXPOSURE TO LITIGATION **G.C. 54956.9(b)**

3 Cases

INITIATION OF LITIGATION **G.C. 54956.9(c)**

3 Cases

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

G.C. 54956.8

Property Address/Description: APN 666-140-024, 63775 Dillon Road
Agency: City of Palm Springs
City Negotiator: David H. Ready, City Manager or Designee
Negotiating Parties: Riverside County Economic Development Agency
Under Negotiation: Price and Terms of Payment (Acquisition)

Property Address/Description: APN 504-260-004 and 504-260-005
at the intersection of Via Olivera and Zanjero
Agency: City of Palm Springs
City Negotiator: David H. Ready, City Manager or Designee
Negotiating Parties: 7 In Olivera LLC
Under Negotiation: Price and Terms of Payment (Sale)