



Wednesday, January 9, 2019
Minutes of the Regular Meeting of the City Council
of the City of Palm Springs

CALL TO ORDER:

A Regular Meeting of the Palm Springs City Council was called to order by Mayor Moon on Wednesday, January 9, 2019, at 6:00 p.m., in the Council Chamber, City Hall, located at 3200 E. Tahquitz Canyon Way, Palm Springs, California.

PLEDGE OF ALLEGIANCE:

Mayor Moon led the Pledge of Allegiance.

ROLL CALL:

Present: Councilmembers Christy Holstege, Lisa Middleton, J.R. Roberts; Mayor Pro Tem Geoff Kors; and Mayor Robert Moon.

Absent: None.

City Staff

Present: David H. Ready, City Manager; Edward Z. Kotkin, City Attorney; Marcus Fuller, Assistant City Manager; and Anthony J. Mejia, City Clerk, were present at Roll Call. Other staff members presented reports or responded to questions as indicated in the minutes.

PRESENTATIONS:

Mayor Pro Tem Kors displayed the Title Sponsor video for the Palm Springs International Film Festival created by the Palm Springs Convention and Visitors Bureau.

The City Council presented Certificates of Recognition to the members of the California Voting Rights Act Community Working Group.

ACCEPTANCE OF THE AGENDA:

MOTION BY COUNCILMEMBER HOLSTEGE, SECOND BY MAYOR PRO TEM KORS, CARRIED 5-0, to remove Consent Calendar Item Nos. 1B and 1E for separate discussion.

REPORT OF CLOSED SESSION:

The Regular Closed Session of the City Council of January 9, 2019, was called to order by Mayor Moon at 4:00 p.m., with all members present.

The meeting convened into Closed Session to discuss the following items as listed on the Closed Session Meeting Agenda:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Pursuant to Government Code Section 54956.9(d)(1):

4348 Lockwood Ave LLC et al v. City of Palm Springs
Case No. RIC1703102, Riverside Superior Court, Riverside Division

Lundberg v. City of Palm Springs
Case No. PSC 1801228, Superior Court of the State of California, County of Riverside

City of Palm Springs v. O & M HR, LLC, et al.,
Case No. PSC 1701804, Superior Court of the State of California, County of Riverside

NDC Equities Downtown PS, LLC v. City of Palm Springs
Case No. PSC 1807579, Superior Court of the State of California, County of Riverside

Ascensio et al. v. City of Palm Springs
Case No. PSC 1807953, Superior Court of the State of California, County of Riverside

EHOFF Canyon View, LLC v. City of Palm Springs
Case No. PSC 1806289, Riverside County Superior Court, Palm Springs Division

Lee H. Brandenburg and Diane M. Brandenburg, Individually and as Trustees of the Brandenburg Revocable Trust and Dennis A. Cunningham and Andrea C. Cunningham individually, and in their capacities as Trustees of the Cunningham Family Trust Dated 12/14/2000 v. City of Palm Springs et al.
Case No. PSC1606147, Superior Court of the State of California, County of Riverside

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, Pursuant to Government Code Section 54956.9(d)(2):

Number of Anticipated Cases: Ten (10)

CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION, Pursuant to Government Code Section 54956.9(d)(4):

Number of Cases: Four (4)

CONFERENCE WITH REAL PROPERTY NEGOTIATORS, Pursuant to Government Code Section 54956.8:

Property Address/Description: 980 E. Tahquitz Canyon Way, APN 508-056-010
Agency: City of Palm Springs
City Negotiator: David H. Ready, City Manager or Designee
Negotiating Parties: Palm Springs Unified School District, Sandra Lyon, Superintendent
Under Negotiation: Price and Terms of Payment (Lease)

Property Address/Description: 3.6 Acres at SE corner of Indian Canyon Drive and San Rafael Road APN 501-031-028
Agency: City of Palm Springs
City Negotiator: David H. Ready, City Manager or Designee
Negotiating Parties: Community Housing Opportunities Corporation (CHOC)
Under Negotiation: Price and Terms of Payment (Sale)

CONFERENCE WITH LABOR NEGOTIATOR, Pursuant to Government Code Section 54957.6:

Agency Designated
Representatives: City Manager David Ready and Attorney Peter Brown
Employee Organizations: Palm Springs Fire Management Association
Palm Springs Police Management Association
Palm Springs Police Officers Association
Service Employees International Union Local 721

City Attorney Kotkin advised that the City Council directed the City Attorney and staff to take and pursue all legal rights and remedies up to, and including, initiation of litigation in relation to the Cameron Project; reported that the City Council received briefings and provided direction to staff regarding the agendaized Closed Session Items, but did not take any additional reportable action; noted that City Manager Ready recused himself related to the Lockwood litigation.

PUBLIC TESTIMONY: None.

CITY COUNCIL, SUBCOMMITTEE, AND CITY MANAGER'S COMMENTS AND REPORTS:

Mayor Pro Tem Kors urged residents to volunteer for the Point-In-Time Count; provided an update on the Business Retention Subcommittee; advised that Palm Springs Resorts has engaged a consultant to conduct a Downtown parking study.

Councilmember Middleton spoke on the local impacts caused by the federal government shutdown, noting that the City Council should consider a resolution calling for the end of the shutdown if it is prolonged; provided an update on the activities of the Riverside County Transportation Commission; encouraged residents to participate in the upcoming PS Speaks event.

Councilmember Holstege spoke on her attendance at the Palm Springs International Film Festival events; noted that she and Councilmember Middleton attended the inauguration of Governor Newsom and other state officers and met with legislators to discuss legislative priorities.

Councilmember Roberts invited the community to attend the Plaza Theater Community Forum on January 26, 2019, to discuss fundraising opportunities for the restoration of the Theater.

City Manager Ready noted that the Superior Court will be expanding services at the Palm Springs Courthouse; advised that the City will suspend enforcement of the leaf blower ordinance pending activation of the leaf blower exchange program.

1. CONSENT CALENDAR:

MOTION BY COUNCILMEMBER ROBERTS, SECOND BY COUNCILMEMBER MIDDLETON, CARRIED 5-0, to approve the Consent Calendar, with the removal of Consent Calendar Item Nos. 1B and 1E for separate discussion.

A. RATIFY AND REAPPOINT THE NOMINATION OF THE CITY OF COACHELLA TO THE PALM SPRINGS INTERNATIONAL AIRPORT COMMISSION FOR THE TERM ENDING JUNE 30, 2021

MOTION BY COUNCILMEMBER ROBERTS, SECOND BY COUNCILMEMBER MIDDLETON, CARRIED 5-0, to reappoint Bill Pattison, as the City of Coachella representative, to the Palm Springs International Airport Commission for the term ending June 30, 2021.

B. REQUEST BY PALM GROVE GROUP, LLC, FOR AN ART MURAL INSTALLATION AT THE ARRIVE PALM SPRINGS HOTEL AT 1551 NORTH PALM CANYON DRIVE, CASE 18-005 MUR

This item was excluded from the Consent Calendar. Please refer to Page 5 of these minutes for a summary of that action.

C. APPROVAL OF AMENDMENT NO. 5 IN THE AMOUNT OF \$25,000 TO CONSULTING SERVICES AGREEMENT NO. A6757 WITH INTERACTIVE DESIGN CORPORATION FOR THE FIRE STATION NO. 4 REHABILITATION, CP 15-25

MOTION BY COUNCILMEMBER ROBERTS, SECOND BY COUNCILMEMBER MIDDLETON, CARRIED 5-0, to:

1. Approve Amendment No. 5 to Agreement No. A6757 in the amount of \$25,000 for a total amount of \$481,469 with Interactive Design Corporation for the Fire Station No. 4 Rehabilitation, CP 15-25.
2. Authorize the City Manager to execute all necessary documents.

D. CONSIDERATION OF THE 2019 CITY COUNCIL MEETING SCHEDULE

MOTION BY COUNCILMEMBER ROBERTS, SECOND BY COUNCILMEMBER MIDDLETON, CARRIED 5-0, to adopt Resolution No. 24543 entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING THE CANCELLATION AND RESCHEDULING OF CERTAIN CITY COUNCIL MEETINGS AND ESTABLISHING THE RESCHEDULED MEETINGS AS REGULAR MEETINGS OF THE CITY COUNCIL."

E. ACCEPTANCE OF PUBLIC IMPROVEMENTS AND AUTHORIZATION TO RELEASE SUBDIVISION IMPROVEMENT SECURITIES FOR THE “DAKOTA DEVELOPMENT,” TRACT MAP 36548

This item was excluded from the Consent Calendar. Please refer to Page 5 of these minutes for a summary of that action.

EXCLUDED CONSENT CALENDAR:

B. REQUEST BY PALM GROVE GROUP, LLC, FOR AN ART MURAL INSTALLATION AT THE ARRIVE PALM SPRINGS HOTEL AT 1551 NORTH PALM CANYON DRIVE, CASE 18-005 MUR

In response to City Council inquiry, Director of Planning Services Fagg advised that the members of the Planning Commission expressed concern that the subject mural contained images which may be considered advertising, noting that a majority of the Commissioners approved the mural.

MOTION BY COUNCILMEMBER ROBERTS, SECOND BY COUNCILMEMBER HOLSTEGE, CARRIED 5-0, to adopt Resolution No. 24542 entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING AN ART MURAL ON AN EXISTING SCREENING WALL AT THE ARRIVE PALM SPRINGS HOTEL ADJACENT TO THE WEXLER’S @ ARRIVE RESTAURANT AT 1551 NORTH PALM CANYON DRIVE, CASE 18-005 MUR,” upon confirmation that the Planning Commission had the requisite number of votes to approve the item.

E. ACCEPTANCE OF PUBLIC IMPROVEMENTS AND AUTHORIZATION TO RELEASE SUBDIVISION IMPROVEMENT SECURITIES FOR THE “DAKOTA DEVELOPMENT,” TRACT MAP 36548

Councilmember Roberts noted that the trail adjacent to the property is not interconnected to other trails and that future City Councils should ensure new trails are connected to existing trails.

MOTION BY COUNCILMEMBER HOLSTEGE, SECOND BY COUNCILMEMBER ROBERTS, CARRIED 5-0, to adopt Resolution No. 24544 entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AUTHORIZING ACCEPTANCE OF THE SUBDIVISION IMPROVEMENTS ASSOCIATED WITH TRACT MAP 36548 AND AUTHORIZING RELEASE OF SECURITIES REQUIRED BY THE SUBDIVISION IMPROVEMENT AGREEMENT WITH DAKOTA PS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY FOR PROPERTY LOCATED ON THE WEST SIDE OF BELARDO ROAD SOUTH OF MORONGO ROAD, IN SECTION 22, TOWNSHIP 4 SOUTH, RANGE 4 EAST.” A6626.

2. PUBLIC HEARINGS:**A. PROPOSED INTRODUCTION OF AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 94.08.10 OF THE PALM SPRINGS ZONING CODE, PROVIDING FOR A FIRST AMENDMENT TO THE VIRGIN HOTEL DEVELOPMENT AGREEMENT WITH DTPS B-3, LLC, REVISING THE PERFORMANCE SCHEDULE FOR CONSTRUCTION PROPOSED ON BLOCK B-1 OF THE DOWNTOWN PALM SPRINGS SPECIFIC PLAN, LOCATED AT THE NORTHEAST CORNER OF MUSEUM WAY AND BELARDO ROAD, ZONE CBD, SECTION 15, CASE 5.1427 DA AMENDMENT**

Associate Planner Newell narrated a PowerPoint presentation.

In response to City Council inquiries, City Attorney Kotkin recommended modifying the Development Agreement to include safe harbor language related to prevailing wage as set forth in Labor Code; advised that the developer must show evidence of a binding rule from the Labor Commission before the City Council would consent to any less than prevailing wage, noting that the City Council gave no indication to the developer that prevailing wage would not apply.

Mayor Moon opened the Public Hearing.

Michael Braun, Applicant, urged the City Council to support the proposed three-year extension, noting that he is committed to completing the project and has capital support; advised that he needs to resolve a legal issue related to prevailing wage prior to resuming work on the Virgin Hotel. In response to City Council inquiry, Mr. Braun advised that once the legal dispute is resolved, he intended to resume construction as quickly as possible.

Thomas Noce, Chief Financial Officer of GRIT Development, pointed out that they have invested \$17 million into the Virgin Hotel project; advised that capital investments are on hold pending resolution of legal matters; asserted that the former City Attorney implied that the City's Charter City status would exempt the project from prevailing wage.

Robert Brugeman, urged the City Council to support the extension.

There being no others desiring to speak, Mayor Moon closed the Public Hearing.

Following discussion, MOTION BY COUNCILMEMBER ROBERTS, SECOND BY MAYOR PRO TEM KORS, CARRIED 5-0, to:

1. Introduce Ordinance No. 1973 entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 94.08.10 OF THE PALM SPRINGS ZONING CODE, PROVIDING FOR A FIRST AMENDMENT TO THE VIRGIN HOTEL DEVELOPMENT AGREEMENT WITH DTPS B-3, LLC, REVISING THE PERFORMANCE SCHEDULE FOR CONSTRUCTION PROPOSED ON BLOCK B-1 OF THE DOWNTOWN PALM SPRINGS SPECIFIC PLAN, LOCATED AT THE NORTHEAST CORNER OF MUSEUM WAY AND BELARDO ROAD, ZONE CBD, SECTION 15, CASE 5.1427 DA AMENDMENT," with the following direction:

- a. The proposed extension will shall be for a two-year period;
 - b. Prevailing wage shall apply if the Transient Occupancy Tax (TOT) rebate is utilized;
 - c. The Development Agreement shall be modified to include safe harbor language related to prevailing wage;
 - d. The developer shall submit a plan within 60-days to improve the subject parcel; and
 - e. The developer shall provide the City Council with an annual status update.
2. Approve Amendment No. 1 to that certain “Operations Covenant and Declaration of Covenants and Restrictions for the Virgin Hotel approved on November 29, 2017.”
 3. Authorize the City Manager to execute the amended Development Agreement with DTSP B-3, LLC.

MEETING RECESS:

The City Council recessed at 8:25 p.m. and reconvened at 8:40 p.m., with all members present.

B. REQUEST BY THE CITY OF PALM SPRINGS FOR AMENDMENTS TO CHAPTER 8.05 OF THE PALM SPRINGS MUNICIPAL CODE RELATIVE TO PROCEDURES FOR ALTERATION AND DEMOLITION OF HISTORIC BUILDINGS AND STRUCTURES, AND GENERAL REVISIONS TO HISTORIC PRESERVATION STANDARDS, CASE 5.1454

Director of Planning Services Fagg narrated a PowerPoint presentation and responded to City Council inquiries.

Mayor Moon opened the Public Hearing.

Jim Franklin, representing the Regional Realtors Association, recommended that the City Council select 1978 as the benchmark year; voiced support for prohibiting an illegal demolition from resuming construction for five years.

Peter Moruzzi, urged the City Council to adopt the proposed ordinance.

There being no others desiring to speak, Mayor Moon closed the Public Hearing.

In response to City Council inquiries, Director Fagg advised that the City’s historic preservation webpages will be redesigned to improve ease of navigation; stated that staff will ensure that the City Council is informed of Historic Site Preservation Board decisions in a timely manner to allow for City Council call-ups, if necessary.

MOTION BY MAYOR PRO TEM KORS, SECOND BY COUNCILMEMBER ROBERTS, CARRIED 5-0, to introduce Ordinance No. 1970 entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING CHAPTER 8.05 OF THE PALM SPRINGS MUNICIPAL CODE RELATIVE TO PROCEDURES FOR ALTERATION AND DEMOLITION OF HISTORIC BUILDINGS AND STRUCTURES, AND GENERAL REVISIONS TO HISTORIC PRESERVATION STANDARDS (CASE 5.1454 ZTA),” with the following direction:

(City Council action continued on the next page)

- a. The benchmark year will be 1978 instead of 1980;
- b. A report of HSPB decisions will be provided to City Council in a timely manner; and
- c. Staff will provide the City Council with a status report on the effectiveness of the ordinance within nine months.

C. AMENDMENT TO THE PALM SPRINGS ZONING CODE (PSZC) TO ESTABLISH DEFINITIONS AND STANDARDS FOR TRANSITIONAL AND SUPPORTIVE HOUSING, CASE 5.1460 ZTA

Director of Planning Services Fagg presented the staff report.

Mayor Moon opened and closed the Public Hearing, there being no one desiring to speak.

MOTION BY COUNCILMEMBER ROBERTS, SECOND BY MAYOR PRO TEM KORS, CARRIED 5-0, to introduce Ordinance No. 1974 entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING SECTION 93.23.19 OF THE PALM SPRINGS ZONING CODE RELATING TO TRANSITIONAL AND SUPPORTIVE HOUSING (CASE 5.1460 ZTA)."

D. AMENDMENT TO THE PALM SPRINGS ZONING CODE (PSZC) TO ESTABLISH PROCEDURES RELATING TO REASONABLE ACCOMMODATIONS, CASE 5.1459 ZTA

Director of Planning Services Fagg presented the staff report.

Mayor Moon opened and closed the Public Hearing, there being no one desiring to speak.

In response to City Council inquiry, Director Fagg advised that the suggested modifications proposed by the Inland Counties Legal Services had been accepted by the Planning Commission and will be reflected in the second reading and adoption of the ordinance.

MOTION BY COUNCILMEMBER MIDDLETON, SECOND BY COUNCILMEMBER ROBERTS, CARRIED 5-0, to introduce Ordinance No. 1975 entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING SECTION 93.23.18 OF THE PALM SPRINGS ZONING CODE RELATING TO REASONABLE ACCOMMODATIONS (CASE 5.1459 ZTA)."

E. AMENDMENT TO THE PALM SPRINGS ZONING CODE (PSZC) TO ESTABLISH DENSITY BONUS PROVISIONS FOR AFFORDABLE HOUSING, CASE 5.1458 ZTA

Director of Planning Services Fagg presented the staff report.

Mayor Moon opened the Public Hearing.

Daryl Terrell, urged the City Council to support density bonuses exceeding the state requirements and to streamline permitting processes.

There being no others desiring to speak, Mayor Moon closed the Public Hearing.

MOTION BY COUNCILMEMBER MIDDLETON, SECOND BY MAYOR PRO TEM KORS, CARRIED 5-0, to introduce Ordinance No. 1976 entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING SECTION 93.23.17 OF THE PALM SPRINGS ZONING CODE RELATING TO DENSITY BONUSES FOR AFFORDABLE HOUSING (CASE 5.1458 ZTA),” as amended to allow the City Council to increase the density bonus by resolution.

3. LEGISLATIVE: None.

4. UNFINISHED BUSINESS: None.

5. NEW BUSINESS:

A. PROJECT UPDATE OF THE CITYWIDE HISTORIC CONTEXT STATEMENT AND SURVEY FINDINGS, CASE 5.1328

Director of Planning Services Fagg narrated a PowerPoint presentation and responded to City Council inquiries.

By consensus, the City Council received and filed the Citywide Historic Context Statement and Survey Findings document.

B. MEMORANDUM OF UNDERSTANDING WITH THE PALM SPRINGS POLICE OFFICERS’ ASSOCIATION

City Manager Ready presented the staff report.

MOTION BY MAYOR PRO TEM KORS, SECOND BY COUNCILMEMBER HOLSTEGE, CARRIED 5-0, to:

1. Adopt Resolution No. 24545 entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A MEMORANDUM OF UNDERSTANDING RELATIVE TO WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT FOR EMPLOYEES IN THE PALM SPRINGS POLICE OFFICERS’ ASSOCIATION FOR THE PERIOD OF DECEMBER 16, 2018, THROUGH JUNE 30, 2020, SUBJECT TO ASSOCIATION EXECUTING THE MEMORANDUM OF UNDERSTANDING.”
2. Authorize the City Manager to execute the Memorandum of Understanding (MOU) and all documents necessary to effectuate the above action, including the allocation and compensation plans, agreements, contracts, and any non-substantial MOU language or reorganization

C. APPOINTMENT OF VARIOUS COMMISSIONERS AND BOARD MEMBERS AS PART OF THE 2018 ANNUAL RECRUITMENT PROCESS

City Clerk Mejia presented the staff report.

MOTION BY COUNCILMEMBER HOLSTEGE, SECOND BY COUNCILMEMBER MIDDLETON, CARRIED 5-0, to:

1. Appoint Kathy Weremiuk and David Kelly to the Board of Library Trustees for the terms ending June 30, 2021.
2. Reappoint Terri Andrade and Denise Chappell to the Human Rights Commission for the terms ending June 30, 2021.
3. Reappoint Doug Donenfeld for a term ending June 30, 2021, appoint Maria Song and Grace Garner to the Planning Commission for the terms ending June 30, 2021.
4. Appoint Darrell Baum to the VillageFest Board for the term ending June 30, 2021.

PUBLIC COMMENT:

Daryl Terrell, urged the City Council to support moving forward with a biennial City Budget and a local hiring ordinance.

Allen Worthy, expressed condolences for Cathedral City Mayor Greg Pettis; urged the City Council to settle his claim against the City.

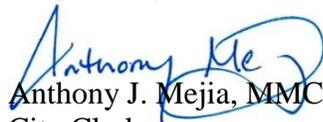
CITY COUNCIL AND CITY MANAGER REQUESTS AND UPCOMING AGENDA DEVELOPMENT:

Councilmember Middleton questioned whether the City should move towards a biennial City Budget and requested that the Budget Subcommittee evaluate the proposal.

ADJOURNMENT:

The City Council adjourned at 10:13 p.m.

Respectfully submitted,


Anthony J. Mejia, MMC
City Clerk

APPROVED BY CITY COUNCIL: 06/05/2019