

PALM SPRINGS CITY COUNCIL
MINUTES
WEDNESDAY, OCTOBER 17, 2007
CITY COUNCIL CHAMBER

CALL TO ORDER: Mayor Oden called the meeting to order at 6:07 p.m.

PLEDGE OF ALLEGIANCE: Palm Springs Air Force ROTC Junior Color Guard, led the Pledge.

INVOCATION: Rev. Michael Kearney, Palm Springs Church of Religious Science, led the Invocation.

ROLL CALL:

PRESENT: Councilmember Foat, Councilmember McCulloch, Councilmember Mills, Mayor Pro Tem Pougnet, and Mayor Oden.

ABSENT: None.

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

PRESENTATIONS:

Fire Chief Blake Goetz administered the Oath of Office to Firefighters Ryan Barrier, Wayne Seacrist, Damien Myers, Jeff Kelsheimer, Katharine Johnson, and Luis Matheus, and presented the new Firefighters to the members of the City Council.

Police Chief Jeandron, Mayor Oden and the City Council presented Livesaving Medals to Officers Luciano Colantuona and Paola Ramos, and Sergeant Paul Abshire.

REPORT OF CLOSED SESSION: City Attorney Holland stated that at 4:30 p.m. the meeting was called to order, and the City Council recessed into Closed Session to discuss items contained on the posted Closed Session Agenda. The City Council authorized and directed the City Attorney to enter into a tolling agreement in regard to a potential lawsuit related to the approval of the MSHCP, otherwise no reportable actions were taken. A5571.

ACCEPTANCE OF THE AGENDA:

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

Councilmember Foat requested Item 2.M. and Item 2.H. be removed from the Consent Calendar for separate discussion.

Councilmember Mills requested Item 2.G. be removed from the Consent Calendar for separate discussion.

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

1. PUBLIC HEARINGS:

1.A. CASE NO. 5.1163 CUP - LOS ANGELES SMSA LP, DBA VERIZON WIRELESS, FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A FIFTY-FIVE FOOT HIGH WIRELESS COMMERCIAL COMMUNICATION ANTENNA DESIGNED AS A MONOPALM AND A 184 SQUARE FOOT EQUIPMENT SHELTER LOCATED AT 1633 SOUTH PALM CANYON DRIVE (BEST WESTERN INN):

David Newell, Assistant Planner, provided background information as outlined in the staff report dated October 17, 2007.

Mayor Oden opened the public hearing, and no speakers coming forward the public hearing was closed.

Councilmember Mills stated the site works well, but the cell tower is not integrated into the building, requested the enclosure be designed with materials to match the hotel, and the height of the wall be higher to cover the equipment.

Councilmember Foat requested staff address the surrounding landscaping and recommended additional live palms to blend with the cell tower.

Mayor Pro Tem Pougnet requested staff address the applicability of the Zoning Code with respect to the height and requiring a variance.

Mayor Oden requested staff address the number of cell towers in the immediate area.

ACTION: Adopt Resolution No. 22061, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 5.1163 TO INSTALL A FIFTY-FIVE FOOT HIGH WIRELESS COMMUNICATION ANTENNA DESIGNED AS A MONOPALM AND A 184 SQUARE FOOT EQUIPMENT SHELTER LOCATED AT 1633 SOUTH PALM CANYON DRIVE, ZONED PD-52, SECTION 22," *amending the Conditions of Approval to require that the building is completely screened with materials that match adjacent architecture, and the wrought iron gate be a solid gate.* **Motion Councilmember Mills, seconded by Councilmember McCulloch and unanimously carried on a roll call vote.**

1.B. CASE NO. 5.1150 CUP / 6.500 VAR T-MOBILE USA INC. FOR A CONDITIONAL USE PERMIT TO INSTALL A FORTY-FIVE FOOT TALL

COMMERCIAL COMMUNICATION ANTENNA DESIGNED AS A MONOPALM WITH EQUIPMENT CABINETS AND A VARIANCE TO EXCEED THE 15 FOOT ANTENNA HEIGHT MAXIMUM LOCATED AT 4711 EAST PALM CANYON DRIVE:

David Newell, Assistant Planner, provided background information as outlined in the staff report dated October 17, 2007.

Councilmember Mills requested staff address the chain link fence and materials.

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

LAURA BISHOP, Representing Applicant, requested the City Council support the CUP.

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

Councilmember Foat requested staff address the chain link fence.

Councilmember Mills requested staff address the Conditions of Approval with respect to a separate address, Condition No. 8 referring to a Church, the loss of three parking spaces, the addition of the new radius curb which would require two feet of pavement, raising the wall to the height of the equipment, the elimination of a separate screen, include the equipment (labeled No. 10) within the screening, and requested the gate be a solid gate as opposed to a wrought iron gate.

Councilmember Foat requested staff address if Condition No. 14, with respect to landscaping, was mandatory.

ACTION: Adopt Resolution No. 22062, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 5.1150 TO INSTALL A FORTY-FIVE FOOT HIGH WIRELESS COMMUNICATION ANTENNA DESIGNED AS A MONOPALM WITH EQUIPMENT CABINETS AND A VARIANCE TO EXCEED THE 15 FOOT ANTENNA HEIGHT MAXIMUM LOCATED AT 4711 EAST PALM CANYON DRIVE, ZONED W-C-D-N, SECTION 30," *amending the Conditions of Approval to delete the reference to a Church in Condition No. 8, require two-feet of pavement at the new radius curb, requiring the wall height to screen the equipment and delete the separate screen, include all equipment within the wall, and require the gate to be solid as opposed to a wrought iron gate.* **Motion Councilmember Mills, seconded by Mayor Pro Tem Pougnet and unanimously carried on a roll call vote.**

The City Council discussed the procedure to conduct the public hearing(s) and the possibility of hearing Item 1.C. and 1.D. as one public hearing; requested staff address the background of the project and the challenges of the EIR, the preparation of the EIR and several of the conditions of approval.

1.C. CASE NO. TTM 31095 ("BOULDERS") A PROPOSED TENTATIVE TRACT MAP TO SUBDIVIDE AN APPROXIMATE 30.4-ACRE SITE INTO 45 SINGLE-FAMILY RESIDENTIAL LOTS AND THREE LETTERED LOTS LOCATED ALONG WEST VIA ESCUELA, SOUTH OF RACQUET CLUB ROAD AND NORTH OF CHINO CANYON ROAD, (WESSMAN DEVELOPMENT COMPANY):

Edward Robertson, Principal Planner, provided background information as outlined in the staff report dated October 17, 2007.

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

EMILY HEMPHILL, Representing Applicant, commented on the EIR and the distinct segments of the projects and the joint impacts, the changes to the original application by eliminating the Planned Development and the mass grading, stated the proposed building heights on a map would be inappropriate and should be imposed on a building basis, commented on density and lot size, street parking, in-fill project, stated some of the conditions of approval need to be eliminated as no buildings are being considered, and commented on drainage and sewer laterals.

MARVIN ROOS, MSA Consulting, provided background information and the blending of the proposed subdivision with the existing neighborhoods, and commented on guest parking.

JOHN GOODRICH, commented on the rules of the hearing, air quality, density, the reduction of the total number of units, and the disposition of the boulders.

FRANK GAYDOS, Palm Springs, commented on concerns with road widths, the proposed gate on Via Escuela, requested the reduction of the 16 foot retaining wall, and require lift stations for the higher homes.

ANDY LINSKY, commented on the confusion of the public hearing process and the process of the certification of the EIR.

CLINT TAYLOR, commented on the Appeal filed, the lack of notice on the Appeal, and the errors in the FEIR.

TOM WATSON, commented on missing information in the EIR, the supplemental information in the EIR, and the lack of time for the public to view the FEIR.

RODNEY DREW, commented on custom lots, and the length of time allowed to develop the individual 45 lots.

JEFF WELSHANS, commented on slope stability, hydrology and rock crushing.

SOLANGE TAYLOR, commented on the process of the certification of the EIR, and the confusion with the appeal process.

BOB HELBLING, Palm Springs, commented on the modifications from the original proposal, and stated the project can be done and spoke in support of the individual lots with conditions.

DON COOK, commented on sewers, Mello Roos assessments, and stated the developer should be able to develop the property.

TIM O'BAYLEY, Palm Springs, requested the City postpone a decision, stated the EIR does not apply to the modified project, the proposed gates, and the height of the retaining wall.

DANA STEWART, objected to the hydrology studies, mass grading for the streets and the future building, green building, emergency services and the relationship to the Desert Fashion Plaza.

ARLENE BATTISHILL, commented on the Planning Commission hearing, conditions of approval, recommended the City Council delay their decision, requested a grading study of the entire area, and the process and representative of the Applicant.

EMILY HEMPHILL, Rebuttal, commented on the Planning Commission certification of the EIR, conditions of approval that require re-naturalization, road width on Sanborn, retaining wall, Mello Roos district, water analysis and funding for emergency services.

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

The City Council recessed at 8:23 p.m.
The City Council reconvened at 8:36 p.m.

Mayor Oden requested staff address the noticing and the hearing requirements.

Councilmember Foat stated this has been a messy process, and commented on the Planning Commission certification of the EIR.

Councilmember Mills requested staff address the recommended changes by the Planning Commission, Conditions 23 and 24 regarding parking, commented on the improvements to the project since the modifications, the blending of the project by the use of boulders and landscaping, and the use and measurement of height with grading.

Mayor Pro Tem Pougnet commented on the history of the project and the highest and best use of the land, the Statement of Overriding Considerations, density and the impact to infrastructure.

Councilmember Foat commented on the certification of the EIR, stated the EIR is not sufficient for both of these projects, requested the City Council take additional time to review the EIR.

Councilmember McCulloch noted the time frame for this project and modifications, the preparation of the EIR as opposed to the original negative declaration, and stated the Applicant has addressed the concerns of the neighborhood.

Mayor Oden commented on multiple and overlapping aspects of different projects and addressing those on their individual merits, the deficiency of high-end housing, and the reaction of the neighborhood.

MOTION: 1) Review and correct the Environmental Impact Report with a focus on air quality; and 2) re-circulate the Environmental Impact Report for public review and further mitigation. **Motion Councilmember Foat, seconded by Mayor Pro Tem Pougnet and failed 2-3 on a roll call vote.**

AYES: Councilmember Foat and Mayor Pro Tem Pougnet.

NOES: Councilmember McCulloch, Councilmember Mills, and Mayor Oden.

ACTION: Adopt Resolution No. 22063, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CERTIFYING A FINAL ENVIRONMENTAL IMPACT REPORT (FEIR), ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVING TENTATIVE TRACT MAP 31095 (TTM 31095), FOR THE SUBDIVISION OF AN APPROXIMATE 30.4-ACRE SITE INTO 45 SINGLE-FAMILY RESIDENTIAL LOTS AND THREE LETTERED LOTS FOR THE PROPERTY LOCATED ALONG WEST VIA ESCUELA,

SOUTH OF RACQUET CLUB ROAD AND NORTH OF CHINO CANYON ROAD, ZONE R-1-A, SECTION 3," *amending the Conditions of Approval by deleting Planning Commission Item 12, retaining Condition No. 27, requiring the off-site sewer laterals, and modifying Condition Nos. 23 and 24 to allow signs only at the entry points with respect to prohibiting parking on the pavement as approved by the City Engineer.* **Motion Councilmember Mills, seconded by Mayor Oden and carried 3-2 on a roll call vote.**

AYES: Councilmember McCulloch, Councilmember Mills, and Mayor Oden.

NOES: Councilmember Foat and Mayor Pro Tem Pougnet.

The City Council recessed at 9:32 p.m.

The City Council reconvened at 9:45 p.m.

1.D. CASE NO. 5.0996-PD294 / TTM 31766 ("CRESCENDO") A PLANNED DEVELOPMENT DISTRICT APPLICATION AND TENTATIVE TRACT MAP FOR THE SUBDIVISION OF AN APPROXIMATE 42-ACRE SITE INTO 79 SINGLE-FAMILY RESIDENTIAL LOTS, THE PROPOSED CONSTRUCTION OF 79 HOMES, AND VACATION OF THE WESTERLY 23 FEET OF VISTA GRANDE AVENUE RIGHT-OF-WAY, LOCATED ON WEST RACQUET CLUB ROAD, SOUTH OF TRAMWAY ROAD AND WEST OF VISTA GRANDE AVENUE ZONE R-1-A, SECTION 3 (WESSMAN DEVELOPMENT CO.):

Edward Robertson, Principal Planner, provided background information as outlined in the staff report dated October 17, 2007.

Councilmember Foat requested staff address the lot size.

Councilmember Mills requested staff address the previous City Council modifications with the Crescendo project and whether or not they are included in the staff report.

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

ACTION: Continue past the 10:00 p.m. tentative adjournment time. **Motion Councilmember Mills, seconded by Mayor Oden and carried 3-2 on a roll call vote, noting the NO votes of Councilmember Foat and Mayor Pro Tem Pougnet.**

EMILY HEMPHILL, Representing Applicant, stated the Applicant has performed an EIR, stated the project is within density, lot size, commented

on the public recreation benefits, the sewer/drainage requirements, and mitigation of the rock crushing.

JOHN WESSMAN, Palm Springs, commented on the size of the lots, and the surrounding projects with higher density than the proposed project.

FRANK GAYDOS, Palm Springs, commented on the preparation of a single EIR and the City process and determination of the Appeal, noted that the project will have significant and unavoidable effects that cannot be mitigated, rock crushing for 18-24 months, stated rock crushing should be eliminated from the project, and the project should provide for custom home sites.

JOHN GOODRICH, commented on the EIR and the unavoidable effects that cannot be mitigated, rock crushing and the hours of operation, emissions, and air quality problems.

CLINT TAYLOR, commented on the process and the certification of the EIR, and requested the City Council re-circulate the EIR.

JEFF WELSHANS, read a letter published in the Desert Sun regarding the projects.

SOLANGE TAYLOR, Palm Springs, commented on rock crushing and the insufficiency of the EIR.

ARLEEN DUCHOWNY, commented on the principals of rock crushing.

BOB HELBLING, commented on the preparation of one EIR for the two projects, rock crushing and recommended we do the best we can to mitigate the impacts.

GREG DAY, commented on the real estate market.

DANA STEWART, commented on the real estate market, and stated the EIR does not address the impacts.

TONY HOETKER, stated his opposition to the Crescendo Project, and the impact due to wind, sand and dust.

DENISE HOETKER, commented on the health aspects of the project, and impacts due to the wind.

The City Council recessed at 10:48 p.m.
The City Council reconvened at 10:57 p.m.

EMILY HEMPHILL, Rebuttal, commented on the mitigation measures with respect to rock crushing, air quality and noise.

Councilmember McCulloch commented on real estate economic issues.

Mayor Oden requested staff address the actions taken.

Mayor Pro Tem Pougnet stated he did not support the project due to the rock crushing, the significant impact to the area, the utilization of a Planned Development District and the proposed setbacks.

Councilmember Foat commented on the usual development standards as compared with the proposed standards for the PD, rock crushing impacts, and how to mitigate the impact to the area.

MOTION: 1) Not to certify the EIR for the Crescendo Project; 2) Review and correct the Environmental Impact Report with a focus on air quality and rock crushing; and 3) re-circulate the Environmental Impact Report for public review and further mitigation. **Motion Councilmember Foat, seconded by Mayor Pro Tem Pougnet and failed 2-3 on a roll call vote.**

AYES: Councilmember Foat and Mayor Pro Tem Pougnet.

NOES: Councilmember McCulloch, Councilmember Mills, and Mayor Oden.

Councilmember Mills requested staff address the retention basins, private internal streets, commented on rock crushing, and the alternatives to rock crushing.

Councilmember Foat requested that the grading and rock crushing activities be limited to 8 hours of operation per day, and requested staff confirm that only 2 acres of property be worked on at any given time.

Councilmember Mills requested staff address the external project slopes, and requested an amendment to the Conditions of Approval to provide that all proposed walls be located back from the top of the slope to be screened by landscaping and boulders and requiring split level construction on units where possible.

ACTION: Adopt Resolution No. 22064, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR), ADOPTING STATEMENTS OF OVERRIDING CONSIDERATIONS, AND

APPROVING PLANNED DEVELOPMENT DISTRICT 294; CASE NO. 5.0996 - PD 294, AND TENTATIVE TRACT MAP 31766 FOR A PROPOSED SUBDIVISION CONSISTING OF 79 SINGLE-FAMILY RESIDENTIAL LOTS ON AN APPROXIMATE 42-ACRE SITE, AND THE VACATION OF THE WESTERLY 23 FEET OF VISTA GRANDE AVENUE RIGHT OF WAY; FOR THE PROPERTY LOCATED ALONG WEST RACQUET CLUB ROAD, SOUTH OF TRAMWAY ROAD AND WEST OF VISTA GRANDE AVENUE, ZONE R-1-A, SECTION 3." *amending the Conditions of Approval: Condition No. 26 Option 1 to be included, modify the street width of Racquet Club as appropriate for a collector street, Condition No. 12 to additionally require the approval of the Planning Director, Condition No. 23 to include that the wedge curb be complimentary to the paving, require the retention areas not be fenced but be opened and landscaped, restrict the hours of grading and rock crushing to a maximum of eight hours per day, require all proposed walls be located back from the top of slope be screened by landscaping and boulders and require split level construction on units where possible.* **Motion Councilmember Mills, seconded by Councilmember McCulloch and carried 3-2 on a roll call vote.**

AYES: Councilmember McCulloch, Councilmember Mills, and Mayor Oden.

NOES: Councilmember Foat, and Mayor Pro Tem Pougnet.

1.E. FORMATION OF A MELLO-ROOS COMMUNITY FACILITIES DISTRICT NO. 2007-1 FOR ALLOTTED LAND:

Troy Butzlaff, Assistant City Manager, provided background information as outlined in the staff report dated October 17, 2007.

Councilmember McCulloch requested staff address if the Tribal Council had been consulted.

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

DON COOK, stated his opposition to the Mello-Roos Community Facilities District.

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

ACTION: 1) Receive and file the revised 2007-01 Community Facilities District Report; 2) Adopt Resolution No. 22065 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BOUNDARY MAP ADOPTED BY RESOLUTION NO. 22034, SHOWING THE TERRITORY PROPOSED FOR INCLUSION IN

THE PROPOSED COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SAFETY SERVICES); AND SUBSTITUTING AMENDED BOUNDARY MAP FOR THE ORIGINAL BOUNDARY MAP IN THE RESOLUTION OF INTENTION AND RESOLUTION NO. 22034;" 3) Adopt Resolution No. 22066, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, FORMING AND ESTABLISHING A COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SAFETY SERVICES) AND AUTHORIZING THE SUBMITTAL OF LEVY OF SPECIAL TAXES TO QUALIFIED ELECTORS;" 4) Adopt Resolution No. 22067, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CALLING A SPECIAL ELECTION AND SUBMITTING TO THE VOTERS OF THE CITY OF PALM SPRINGS COMMUNITY FACILITIES DISTRICT NO. 2007-1 PROPOSITIONS REGARDING THE ANNUAL LEVY OF SPECIAL TAXES WITHIN THE COMMUNITY FACILITIES DISTRICT TO FINANCE POLICE PROTECTION SERVICES, AND FIRE PROTECTION AND SUPPRESSION SERVICES THEREIN AND THE ESTABLISHMENT OF AN APPROPRIATIONS LIMIT." **Motion Councilmember Mills, seconded by Mayor Pro Tem Pougnet and carried 4-1 on a roll call vote.**

AYES: Councilmember Foat, Councilmember Mills, Mayor Pro Tem Pougnet, and Mayor Oden.
NOES: Councilmember McCulloch.

City Clerk Thompson stated he conducted a Special Election pursuant to Resolution No. 22067, tabulated and canvassed the valid ballots, and executed a Certificate of Election as follows: Proposition "A" 10 votes cast in support and 0 votes cast in opposition. Proposition "A" was approved with 100% vote. Proposition "B" 10 votes cast in support and 0 votes cast in opposition. Proposition "B" was approved with a 100% vote. The City Council may proceed by adopting the Resolution Declaring the Results of the Special Election and Introducing the Ordinance levying the Special Tax within the District.

ACTION: 5) Adopt Resolution No. 22068, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DECLARING THE RESULTS OF A SPECIAL ELECTION IN THE CITY OF PALM SPRINGS COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SAFETY SERVICES) AND DIRECTING THE RECORDING OF A NOTICE OF SPECIAL TAX LIEN; and 6) Waive reading of the Ordinance text and introduce by title only Ordinance No. 1723, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE CITY OF PALM SPRINGS COMMUNITY FACILITIES DISTRICT NO. 2007-1

(PUBLIC SAFETY SERVICES)." **Motion Councilmember Mills, seconded by Mayor Pro Tem Pougnet and carried 4-1 on a roll call vote.**

AYES: Councilmember Foat, Councilmember Mills, Mayor Pro Tem Pougnet, and Mayor Oden.

NOES: Councilmember McCulloch.

1.F. CASE NO. 5.1152 THE 2007 COMPREHENSIVE UPDATE OF THE PALM SPRINGS GENERAL PLAN:

The City Council discussed re-opening the public testimony portion of the public hearing.

ACTION: 1) Continue to October 24, 2007; and 2) Direct the City Clerk to post a Notice of Continued Public Hearing. **Motion Mayor Pro Tem Pougnet, seconded by Councilmember Mills and carried 4-1 on a roll call vote.**

AYES: Councilmember McCulloch, Councilmember Mills, Mayor Pro Tem Pougnet, and Mayor Oden.

NOES: Councilmember Foat.

PUBLIC COMMENT:

ROCK JOHNSON, Palm Springs, spoke in support of Item 3.B.

JOHN HUGHES, requested the City Council reopen the discussion of the BID adopted for the Downtown area.

MICHELLE LAPRISE, Palm Springs, spoke in support of Item 3.B.

UNNAMED SPEAKER, spoke in support of Item 3.B.

RODOLFO CASTILLO, commented on A-frame signs in the Downtown area.

DARRON DAHLE, requested relief from code enforcement for A-frame signs.

JOY SMITH, spoke in support of Item 3.B.

ARNOLD GALVAN, Palm Springs, spoke in support of Item 3.B.

DAVID BELL, spoke in support of Item 3.B. and donated an American flag to the City.

SUBASTION HALL, spoke in support of the Greyhound bus terminal near Tramway Rd.

VICTORIA HURST, stated she lived near the Pedregal development project and she is sick.

DANA STEWART, commented on development, environmental issues, and on Measure "C" for the November 6, 2007, election.

ED PHALAIPE, spoke in support of Item 3.B.

COUNCILMEMBER COMMENTS AND REQUESTS:

Councilmember Foat announced the upcoming Forum at the Mizel Senior Center, discussing issues related to Domestic Partnership laws and benefits.

Councilmember Mills wished his wife happy anniversary.

Mayor Pro Tem Pougnet requested the City Manager provide an update on the BID program at the next meeting.

CITY MANAGER'S REPORT: None.

2. CONSENT CALENDAR:

The Items requested to be excluded from the Consent Calendar were returned to the Consent Calendar for approval. Councilmember Foat requested staff revisit the condo conversion issue.

ACTION: Approve Items 2.A., 2.B., 2.C., 2.D., 2.E., 2.F., 2.G., 2.H., 2.I., 2.J., 2.K., 2.L., 2.M., 2.N., 2.O., 2.P., and 2.Q. **Motion Mayor Pro Tem Pougnet, seconded by Councilmember 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 October 17, 2007, City Council Agenda. **Approved as part of the Consent Calendar.**

2.B. APPROVAL OF MINUTES:

ACTION: Approve the City Council Minutes of October 3, 2007. **Approved as part of the Consent Calendar.**

2.C. STAFF AUTHORIZED AGREEMENTS FOR SEPTEMBER 2007:

ACTION: Receive and file Staff Authorized Agreements covering the period September 1 through September 30, 2007. **Approved as part of the Consent Calendar.**

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

ACTION: 1) Adopt Resolution No. 22069, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 9-22-07 BY WARRANTS NUMBERED 412487 THROUGH 412540 TOTALING \$81,866.54 LIABILITY CHECKS NUMBERED 1023599 THROUGH 1023621 TOTALING \$140,259.04, THREE WIRE TRANSFERS FOR \$60,484.50 AND THREE ELECTRONIC ACH DEBITS OF \$1,080,865.73 IN THE AGGREGATE AMOUNT OF \$1,363,475.81 DRAWN ON BANK OF AMERICA;" and 2) Adopt Resolution No. 22070, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANT NUMBERED 1023622 IN THE AMOUNT OF \$7,048.77 DRAWN ON BANK OF AMERICA;" and 3) Adopt Resolution No. 22071, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1023623 THROUGH 1023876 IN THE AGGREGATE AMOUNT OF \$1,845,700.97 DRAWN ON BANK OF AMERICA." **Approved as part of the Consent Calendar.**

2.E. CHANGE ORDER NO. 3 TO AGREEMENT NO. A5353 WITH GRANITE CONSTRUCTION FOR WORK RELATED TO THE NEW CONCOURSE APRON AREA IN THE AMOUNT OF \$225,917.29:

ACTION: 1) Approve Change Order No. 3 to Agreement No. A5353 with Granite Construction Company in the amount of \$225,917.29 for work related to the apron area around the new concourse subject to Federal Aviation Administration (FAA) approval; and 2) Authorize City Manager to execute all necessary documents. A5353 **Approved as part of the Consent Calendar.**

2.F. PALM SPRINGS INTERNATIONAL AIRPORT HOLDROOM PROJECT - CHANGE ORDER AUTHORITY REPORT:

ACTION: Receive and file. **Approved as part of the Consent Calendar.**

2.G. PURCHASE OF THREE (3) 2008 FORD ESCAPE HYBRID VEHICLES:

ACTION: Approve the purchase of three (3) 2008 Ford Escape Hybrid vehicles in the amount of \$76,882.17 from Redlands Ford of Redlands, California. **Approved as part of the Consent Calendar.**

2.H. PARCEL MAP 35046 FOR CONDOMINIUM PURPOSES LOCATED AT 993 EAST PAROCOLA PLACE:

ACTION: Adopt Resolution No. 22072, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PARCEL MAP 35046 FOR PROPERTY LOCATED AT 993

EAST PAROCELA PLACE, IN SECTION 23, TOWNSHIP 4 SOUTH, RANGE 4 EAST." **Approved as part of the Consent Calendar.**

- 2.I. DENNIS CUNNINGHAM FOR PALM SPRINGS MODERN HOMES VI, LLC; AMENDMENT TO CONDITIONS OF APPROVAL FOR "PEDREGAL" CASE 5.1103 CUP, MAJ 3.2941, TTM 33162:**
ACTION: Adopt Resolution No. 22073, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE CONDITIONS OF APPROVAL FOR CASE NO. 5.1103 CUP, 3.2941 MAJ, TTM 33162, OVERTURNING THE DECISION OF THE PLANNING COMMISSION AND DELETING THE REQUIREMENT TO UNDERGROUND EXISTING OVERHEAD UTILITY LINES ALONG THE SOUTHERLY PROPERTY LINE, AND CONCURRING WITH THE DECISION OF THE PLANNING COMMISSION TO ELIMINATE THE REQUIREMENT TO REPLACE THE STREET LIGHTS ALONG TRAM WAY." **Approved as part of the Consent Calendar.**
- 2.J. AGREEMENT WITH THE CITY OF CATHEDRAL CITY FOR BLOW SAND MITIGATION MEASURES ALONG THE MORONGO CREEK WASH NORTH OF VISTA CHINO:**
ACTION: 1) Approve an agreement with the City of Cathedral City for the construction and maintenance of Ventura Road Living Wind Break along the Morongo Creek Wash to provide blow sand mitigation; and 2) Authorize the City Manager to execute all necessary documents. A5566. **Approved as part of the Consent Calendar.**
- 2.K. TREASURER'S INVESTMENT REPORT AS OF AUGUST 31, 2007:**
ACTION: Receive and file. **Approved as part of the Consent Calendar.**
- 2.L. ENCROACHMENT LICENSE FOR A PRIVATE SANITARY SEWER LINE LOCATED IN WEST TAHQUITZ CANYON WAY:**
ACTION: 1) Approve the issuance of an Encroachment License to Harold J. Meyerman and Dorothy C. Meyerman for a private sanitary sewer line located within West Tahquitz Canyon Way, Section 15, Township 4 South, Range 4 East; File EL 07-04; and 2) Authorize the City Manager to execute all necessary documents. A5567. **Approved as part of the Consent Calendar.**
- 2.M. AMENDMENT NO. 1 TO AGREEMENT NO. A5282 WITH PALM SPRINGS POWER FOR USE OF PALM SPRINGS STADIUM BY THE PALM SPRINGS CHILL FROM JANUARY 28, 2008, THROUGH FEBRUARY 24, 2008:**
ACTION: 1) Approve Amendment No. 1 to Agreement No. A5282 with Palm Springs Power for use of Palm Springs Stadium by the Palm Springs Chill from January 28, 2008, through February 24, 2008; and 2) Authorize

the City Manager to execute all necessary documents. A5282. **Approved as part of the Consent Calendar.**

2.N. ACCEPTANCE OF THE SUPPLEMENTAL LAW ENFORCEMENT FUNDS (SLESF) GRANT FROM THE STATE OF CALIFORNIA, APPROVING AN EXPENDITURE PLAN AND APPROPRIATION:

ACTION: 1) Accept the State of California Supplemental Law Enforcement Funds Grant (SLESF) and Expenditure Plan; 2) Direct the Director of Finance/City Treasurer to fund the appropriation; and 3) Authorize the City Manager to execute any documents to effectuate the acceptance of the Grant. A5568. **Approved as part of the Consent Calendar.**

2.O. MEMORANDUM OF UNDERSTANDING - PALM SPRINGS POLICE MANAGEMENT ASSOCIATION:

ACTION: 1) Adopt Resolution No. 22074, "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 MANAGEMENT ASSOCIATION (PSPMA) REPRESENTING THE POLICE MANAGEMENT UNIT, FOR THE PERIOD JULY 1, 2007, THROUGH JUNE 30, 2010, SUBJECT TO THE UNIT'S RATIFICATION AND EXECUTING THE MEMORANDUM OF UNDERSTANDING;" 2) Authorize the City Manager to execute the Memorandum of Understanding in a form acceptable to the City Attorney; and 3) Adopt Resolution No. 22075, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2007-08." A5569. **Approved as part of the Consent Calendar.**

2.P. APPROVE AND AUTHORIZE A LEGAL SERVICES AGREEMENT WITH KIESEL BOUCHER LARSON, LLP AND BARON & BUDD, P.C. FOR REPRESENTATION IN ADMINISTRATIVE PROCEEDINGS AND LITIGATION AGAINST ONLINE TRAVEL COMPANIES FOR THE NON-PAYMENT OR UNDERPAYMENT TO THE CITY OF TRANSIENT OCCUPANCY TAXES:

ACTION: 1) Approve an agreement with Kiesel Boucher Larson, LLP and Baron & Budd, P.C. for legal services for representation in administrative proceedings and litigation against on-line hotel booking companies for the non-payment or underpayment to the City of Transient Occupancy Taxes to the City; and 2) Authorize the City Attorney to execute the agreement on behalf of the City. A5570. **Approved as part of the Consent Calendar.**

2.Q. AMENDMENT NO. 2 TO AGREEMENT NO. A5209, A JOINT POWERS AGREEMENT FOR THE COACHELLA VALLEY CONSERVATION COMMISSION:

ACTION: 1) Approve Amendment No. 2 to Agreement No. A5209 to the Joint Powers Agreement for the Coachella Valley Conservation Commission; and 2) Authorize the Mayor to execute the Amendment to the Joint Powers Agreement. A5209. **Approved as part of the Consent Calendar.**

EXCLUDED CONSENT CALENDAR: None.

3. LEGISLATIVE:

3.A. PROPOSED ORDINANCE AMENDING THE CRITERIA FOR THE APPOINTMENT AND MEMBERSHIP OF THE PALM SPRINGS INTERNATIONAL AIRPORT COMMISSION:

City Clerk Thompson provided background information as outlined in the staff report dated October 17, 2007.

ACTION: 1) Waive the reading of the ordinance text in its entirety and read by title only; and 2) Introduce on first reading Ordinance No. 1724, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SUBSECTION (f) OF SECTION 2.06.010 AND SECTION 2.16.020 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE MEMBERSHIP OF THE PALM SPRINGS INTERNATIONAL AIRPORT COMMISSION." **Motion Councilmember Foat, seconded by Councilmember Mills and unanimously carried on a roll call vote.**

3.B. INTERIM URGENCY ORDINANCE PROHIBITING TRANSPORTATION TERMINALS WITHIN THE CITY OF PALM SPRINGS FOR A PERIOD OF 45 DAYS PENDING THE COMPLETION OF A STUDY OF THE EFFECTS OF NEW TRANSPORTATION TERMINALS ON THE RESIDENTS AND NEIGHBORHOODS OF THE CITY OF PALM SPRINGS AND THE INTRODUCTION OF A PROPOSED ORDINANCE RELATING TO THE ESTABLISHMENT OF TRANSPORTATION TERMINALS AS A USE PERMITTED PURSUANT TO CONDITIONAL USE PERMIT IN THE C-2 AND M-1 ZONES:

City Attorney Holland provided background information as outlined in the staff report dated October 17, 2007.

ACTION: 1) Waive reading of the Interim Urgency Ordinance text and adopt by title only; 2) **ADOPT INTERIM URGENCY ORDINANCE NO. 1725, "AN INTERIM URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, PROHIBITING TRANSPORTATION TERMINALS IN THE M-1 SERVICE / MANUFACTURING ZONE, FOR A**

PERIOD OF 45 DAYS PENDING THE ADOPTION OF ANY AND ALL AMENDMENTS TO THE CITY'S ZONING CODE AND RELATED LAND USE REGULATIONS;" 3) Waive reading of the Ordinance text and introduce by title only; 4) Introduce on first reading Ordinance No. 1726, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 91.00.00, SUBSECTION D OF SECTION 92.14.01, AND SUBSECTION D OF SECTION 92.17.01, AND REPEALING PARAGRAPH 20 OF SUBSECTION A OF SECTION 92.14.01 AND PARAGRAPH 10 OF SUBSECTION A OF SECTION 92.17.01 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE ESTABLISHMENT OF TRANSPORTATION TERMINALS AS A USE PERMITTED PURSUANT TO CONDITIONAL USE PERMIT IN THE C-2 AND M-1 ZONES; and 5) Refer the ordinance to the Planning Commission for review and recommendation. **Motion Councilmember Foat, seconded by Mayor Pro Tem Pougnet and unanimously carried on a roll call vote.**

4. **UNFINISHED BUSINESS:** None.

5. **NEW BUSINESS:** None.

5.A. APPOINTMENT OF A TWO-MEMBER CITY COUNCIL SUBCOMMITTEE FOR DOWNTOWN SIGN REGULATIONS:

ACTION: Appoint Councilmember Foat and Councilmember Mills to a City Council Subcommittee to review Downtown Sign Regulations and the Sign Ordinance. **Motion Mayor Pro Tem Pougnet, seconded by Councilmember Mills and carried 4-1 on a roll call vote.**

AYES: Councilmember McCulloch, Councilmember Mills, Mayor Pro Tem Pougnet, and Mayor Oden.

NOES: Councilmember Foat.

5.B. APPROVING A VOLUNTARY PILOT CITY POLLWORKER PROGRAM THAT ALLOWS CERTAIN CITY EMPLOYEES TO WORK AT THE POLLS ON ELECTION DAY, AS ELECTION OFFICERS:

City Clerk Thompson provided background information as outlined in the staff report dated October 17, 2007.

ACTION: 1) Adopt Resolution No. 22076, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A VOLUNTARY PILOT CITY POLLWORKER PROGRAM, ALLOWING CERTAIN CITY EMPLOYEES TO WORK AT THE POLLS ON ELECTION DAY, AS ELECTION OFFICERS;" and 2) Direct the City Clerk to prepare a report on the success and effectiveness of the pilot program, along with recommendations for a permanent program if

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

COUNCILMEMBER COMMENTS AND REPORTS:

Mayor Oden outlined the events attended by the Mayor's Office.

Mayor Pro Tem Pougnet requested staff address the Code Enforcement issues of Barry Loud in the Desert Highland neighborhood.

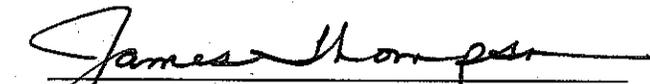
Councilmember Foat announced that a building has been selected for the homeless shelter and the selection will go before the CVAG Executive Committee for approval.

ADJOURNMENT: The City Council adjourned at 12:35 a.m. on Thursday, October 18, 2007, to a Study Session and Adjourned Regular Meeting, Wednesday, October 24, 2007, 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
7TH DAY OF NOVEMBER, 2007.**


MAYOR

ATTEST:


City Clerk