



Thursday, April 2, 2020
Minutes of the Regular Meeting of the City Council
of the City of Palm Springs

Pursuant to Executive Order N-29-20, by Governor Newsom, this meeting was conducted by teleconference and there was no in-person public access to the meeting location.

CALL TO ORDER:

A Regular Meeting of the Palm Springs City Council was called to order by Mayor Kors on Thursday, April 2, 2020, at 6:10 p.m.

ROLL CALL:

Present: Councilmembers Grace Elena Garner, Lisa Middleton, Dennis Woods; Mayor Pro Tem Christy Holstege; and Mayor Geoff Kors

Absent: None.

City Staff

Present: David H. Ready, City Manager; Jeffrey Ballinger, 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.

PLEDGE OF ALLEGIANCE:

City Manager Ready led the Pledge of Allegiance.

PRESENTATIONS:

Michael Ditoro, of Desert Regional Hospital, presented an update on the hospital's plans for preparing for an expected surge of patients related to the coronavirus.

ACCEPTANCE OF THE AGENDA:

MOTION BY COUNCILMEMBER MIDDLETON, SECOND BY MAYOR PRO TEM HOLSTEGE, CARRIED 5-0, to add to the agenda Item No. 5A, consideration of a resolution consenting to the enforcement of health laws by the Riverside County Health Officer, based on the finding that the matter came to the attention of the City after the posting of the agenda and there is a need for immediate action.

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

REPORT OF CLOSED SESSION:

The Regular Closed Session of the City Council of April 2, 2020, was called to order by Mayor Kors at 4:30 p.m., with all members present.

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

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

Mariposa Landscapes Inc v. City of Palm Springs
Case No. PSC1902404, Superior Court of the State of California, County of Riverside

CONFERENCE WITH LEGAL COUNSEL – MATTERS CREATING SIGNIFICANT EXPOSURE TO LITIGATION, Pursuant to Government Code Section 54956.9(d)(2):

Six (6) matters that, under the existing circumstances, the City Attorney believes creates significant exposure to litigation.

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

Under existing facts and circumstances, there are three (3) matters the City Council has decided or may decide to initiate litigation.

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

Property Address/Description: 225 El Cielo Road, Palm Springs CA
Agency: City of Palm Springs
City Negotiator: David H. Ready, City Manager or Designee
Negotiating Parties:
Under Negotiation: Price and Terms of Payment (Lease)

Property Address/Description: 502-210-023 (2 acre portion located at the northwest corner of East Baristo Road and El Cielo Road)
Agency: City of Palm Springs
City Negotiator: David H. Ready, City Manager or Designee
Negotiating Parties:
Under Negotiation: Price and Terms of Payment (Lease)

Property Address/Description: 505-182-010 and 505-182-004 (Adjacent parcels located at the southwest corner of North Palm Canyon Drive and Stevens Road)

Agency: City of Palm Springs and Successor Agency of the Former Redevelopment Agency of the City of Palm Springs

City Negotiator: David H. Ready, City Manager or Designee

Negotiating Parties: 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)

Property Address/Description: 233 West Tramview Road (APN 501-401-010)

Agency: Palm Springs Housing Successor Agency

City Negotiator: David H. Ready, City Manager or Designee

Negotiating Parties: Under Negotiation: Price and Terms of Payment (Sale)

Property Address/Description: APN 501-401-039 (El Dorado Boulevard)

Agency: Palm Springs Housing Successor Agency

City Negotiator: David H. Ready, City Manager or Designee

Negotiating Parties: Under Negotiation: Price and Terms of Payment (Sale)

Property Address/Description: Boulders Property (Lots 1-45 of Tract Map 31095/ APNs 504-150-011 through -055); Crescendo Property (APN 504-040-046); Rimrock Property (APN 681-480-011); Gene Autry Property (APNs 677-540-028 & 677-540-029); Block G of parcel map 36446 (APN 513-560-048)

Agency: City of Palm Springs

City Negotiator: David H. Ready, City Manager or Designee

Negotiating Parties: Grit Development, LLC and Palm Springs Promenade, LLC

Under Negotiation: Price and Terms of Payment

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

Agency Designated Representatives: City Manager David Ready
Perry Madison, Director of Human Resources
Bryan Reyes, Chief of Police
Peter Brown, Attorney

Employee Organizations: Palm Springs Police Officers Association
Palm Springs Police Management Association
Management Association of Palm Springs

City Attorney Ballinger reported that the City Council received briefings and provided direction to staff regarding the agendaized Closed Session Items but did not take any reportable action.

PUBLIC TESTIMONY:

John Kirchdoerfer, speaking on Item 1E, President of the Canyon Sands Homeowners Association, thanked City staff for their efforts in working with the neighborhoods and the Parker Hotel to reduce impacts of the expansion project on adjacent residents.

Peter Simkins, speaking on Item 1E, stated that the Melody Ranch Neighborhood Organization supports the proposed expansion project, noting that the proposed traffic mitigation measures should further reduce traffic on Seven Lakes Drive and Cherokee Way.

Betty Flad, speaking on Item 1E, voiced support for the Parker Hotel expansion project; opined that the City should seek approval from adjacent residents before installing any traffic-calming measures.

Rick Miller, speaking on Item 1E, noted that a prior traffic study included justification for adding traffic-calming measures near the Parker Hotel; opined that the expansion project will further worsen traffic conditions.

Dada Aftab, speaking on Item 1E, representing the Hilton Palm Springs and the Palm Springs Hospitality Association, voiced support for the Parker Hotel expansion project, noting the success of the hotel.

Michael MacDonald, speaking on Item 1E, Architect representing the Applicant, voiced opposition to the proposed modifications to Engineering Condition No. 51, citing that the proposed improvements are unrelated to the project's impacts.

Jeremy Ogul, speaking on Item 1J, Registered City Lobbyist speaking on behalf of Ace Parking, opined that ABM failed to comply with the City's Request for Proposals (RFP) requirements and should be disqualified; requested that the City Council continue the matter until such time as in-person presentations can be made to the City Council.

Steve Burton, speaking on Item 1J, President of Ace Parking, asserted that ABM failed to comply to the RFP requirements related to staffing hours; spoke on Ace Parking's experience managing the parking lot at the Palm Springs Airport and requested that the City Council continue the matter.

Ed Learned, speaking on Item 1J, Employee of Ace Parking, spoke on his experience as an employee of ACE Parking and working at the Palm Springs Airport; requested that the City Council continue the matter to a future City Council meeting.

Jim Madaffer, speaking on Item 1J, Registered City Lobbyist speaking on behalf of Ace Parking, pointed out that the Airport Commission has not had an opportunity to review staff's recommendation and requested that the City Council continue the matter; questioned why the City Council would disrupt current operations for a saving of less than \$24,000 per year.

Scott Hutchison, speaking on Item 1J, Senior Vice President, ABM Aviation, advised that his company will comply with all conditions outlined in the contract, noting their ability to provide adequate staffing.

Matt Bousquette, speaking on Item 3A, expressed concern regarding financial impacts to landlords as a result of the proposed eviction moratorium, noting that mortgage payments and property taxes are still due.

Julius Tafur, speaking on Item 3A, voiced support for the proposed eviction moratorium; urged the City to notify residents of the moratorium and outline requirements for back-rent payment plans; requested that the City work with utility providers to suspend utility shutoffs due to non-payment.

Erick Lemis, speaking on Item 3A, representing California Partnerships, conveyed support for the proposed eviction moratorium; urged the City Council to suspend code enforcement fees, parking tickets and other citations, and to work with utility providers to suspend utility shutoffs due to non-payment.

Maribelle Nunez, speaking on Item 3A, representing California Partnerships, expressed support for the proposed moratorium, suggesting that it be modified to include a payment plan and/or rent forgiveness for commercial and residential properties.

David Weiner, speaking on Item 3A, voiced support for the eviction moratorium and urged the City Council to address a payment plan or rent forgiveness option in the ordinance.

Zack Solomon, speaking on Item 3A, spoke in support of rent forgiveness or payment plan options being included in the proposed ordinance and requested that the City waive code enforcement and parking and traffic citation fees.

Luz Gallegos, speaking on Item 3A, discussed undocumented immigrants who do not have access to unemployment insurance, urging that the City Council consider rent forgiveness or payment plans for those experiencing economic hardships as a result of the coronavirus pandemic.

Edwin Ramoran, speaking on Item 3A, encouraged the City Council to consider rent forgiveness and/or payment plans for back-rent, noting the dire financial conditions of residents; urged the City Council to suspend code enforcement, parking and traffic citation fees, and work with utility providers to suspend utility shutoffs due to non-payment.

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

Councilmember Middleton reported on her attendance at the League of California Cities' Revenue and Taxation Policy Committee meeting; requested that staff agendaize consideration of taking a position on Senate Bill 1072, related to collection of Transient Occupancy Taxes (TOT).

Mayor Pro Tem Holstege spoke on the City's efforts to protect the community during the coronavirus pandemic; commended Find Food Bank for providing a second food distribution site in Palm Springs.

Councilmember Garner encouraged residents to utilize the food distribution sites available every Thursday.

1. CONSENT CALENDAR:

MOTION BY MAYOR PRO TEM HOLSTEGE, SECOND BY COUNCILMEMBER MIDDLETON, CARRIED 5-0, to approve the consent calendar, with the removal of Item Nos. 1E and 1F for separate discussion.

A. APPROVAL OF MINUTES

MOTION BY MAYOR PRO TEM HOLSTEGE, SECOND BY COUNCILMEMBER MIDDLETON, CARRIED 5-0, to approve the City Council Meeting Minutes of February 27, 2020 and March 14, 2020.

B. APPROVAL OF PAYROLL WARRANTS, CLAIMS AND DEMANDS

MOTION BY MAYOR PRO TEM HOLSTEGE, SECOND BY COUNCILMEMBER MIDDLETON, CARRIED 5-0, to adopt Resolution No. 24739 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDING 03-07-2020 BY WARRANTS NUMBERED 421003 THROUGH 421016 TOTALING \$28,693.14 CLAIMS, DEMANDS AND LIABILITY CHECKS NUMBERED 1112180 THROUGH 1112469 TOTALING \$2,972,850.03, FOUR WIRE TRANSFERS FOR \$72,148.69, AND SEVEN ELECTRONIC ACH DEBITS OF \$1,633,256.89 IN THE AGGREGATE AMOUNT OF \$4,706,948.75, DRAWN ON BANK OF AMERICA."

C. RESOLUTION AMENDING THE BUDGET FOR FISCAL YEAR 2019-20 FOR AMENDMENTS TO THE CITY OF PALM SPRINGS GENERAL PLAN SCOPE OF WORK AND AN UPDATE TO THE AIRPORT LAND USE COMPATIBILITY PLAN

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

1. Approve Amendment No. 1 to Agreement No. 8396 increasing the contract amount by \$72,275.00, for a total not to exceed \$924,855.00, with PlaceWorks Inc. for a limited update to the City of Palm Springs General Plan.
2. Adopt Resolution No. 24741 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2019-20."
3. Authorize the City Manager to execute all necessary documents.

D. SECOND READING AND ADOPTION OF AN ORDINANCE NO. 2020 ENTITLED "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING AN ANNUAL UPDATE TO THE PALM SPRINGS ZONING CODE (CASE 5.1466 ZTA)"

MOTION BY MAYOR PRO TEM HOLSTEGE, SECOND BY COUNCILMEMBER MIDDLETON, CARRIED 5-0, to adopt Ordinance No. 2020 entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING AN ANNUAL UPDATE TO THE PALM SPRINGS ZONING CODE (CASE 5.1466 ZTA)."

E. SECOND READING AND ADOPTION OF ORDINANCE NO. 2019 ENTITLED "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING PLANNED DEVELOPMENT DISTRICT 58 (POD 58) TO INCLUDE A 3.53-ACRE PORTION OF THE PARKER PALM SPRINGS PROPERTY CURRENTLY ZONED R- 3 INTO THE PLANNED DEVELOPMENT DISTRICT 58 IN LIEU OF A CHANGE OF ZONE (CASE 5.927 POD 58 AMENDMENT)"

This item was excluded from the Consent Calendar. Please refer to Page 10 of these minutes for a summary of that action.

F. DEFERRAL OF MAKING APPOINTMENTS TO BOARDS AND COMMISSIONS WHERE TERMS WERE SET TO EXPIRE ON JUNE 30, 2020

This item was excluded from the Consent Calendar. Please refer to Page 11 of these minutes for a summary of that action.

G. REQUEST FOR APPROVAL OF MILLS ACT HISTORIC PROPERTY PRESERVATION AGREEMENT FOR A CLASS 1 HISTORIC SITE LOCATED AT 1850 SMOKETREE LANE ROCK 12 1L (HSPB 125)

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

1. Approve a Mills Act Historic Property Preservation Agreement between the City of Palm Springs and Fain Smoketree Ranch LLC, a Class 1 Historic Site (HSPB #125).
2. Authorize the City Manager to execute the Agreement.
3. Direct the City Clerk to record the Agreement.

H. REQUEST FOR APPROVAL OF MILLS ACT HISTORIC PROPERTY PRESERVATION AGREEMENT FOR A CLASS 1 HISTORIC SITE LOCATED AT 730 EAST PASEO EL MIRADOR (HSPB #126)

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

1. Approve a Mills Act Historic Property Preservation Agreement between the City of Palm Springs and The Jon Roberts Living Trust, a Class 1 Historic Site (HSPB #126).
2. Authorize the City Manager to execute the Agreement.
3. Direct the City Clerk to record the Agreement.

I. AWARD CONTRACT FOR SECURITY AND FIRE DETECTION ALARM MONITORING, TESTING AND MAINTENANCE SERVICES AT VARIOUS CITY FACILITIES

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

1. Award a contract services agreement for Bid (IFB) 20-02, Alarm Monitoring and Maintenance Services for various City-owned facilities to O'Linn Executive Security Services Inc. of Palm Springs, CA for an initial 3-year term at an annual fixed cost of \$12,643.20 with 2 one-year renewal options subject to a CPI increase, at the mutual consent of the city and contractor.
2. Authorize the City Manager to execute all necessary documents.

J. APPROVAL OF A CONTRACT SERVICE AGREEMENT IN THE TOTAL AMOUNT OF \$4,270,796 WITH ABM AVIATION, INC., A GEORGIA CORPORATION FOR PARKING MANAGEMENT SERVICES AT THE PALM SPRINGS INTERNATIONAL AIRPORT

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

1. Uphold the City Manager's decision to dismiss the bid protest filed by ACE Parking Management, Inc.
2. Approve an Agreement with ABM Aviation, Inc., a Georgia corporation, in the total amount of \$4,270,796 with a term commencing April 1, 2020, and expiring March 31, 2025, for parking management services at the Palm Springs International Airport.
3. Authorize the City Manager to execute all necessary documents.

K. AWARD OF A CONSTRUCTION CONTRACT TO LIMBACH CO., LP, A DELAWARE LIMITED LIABILITY COMPANY, IN THE AMOUNT OF \$244,811 FOR THE CITY YARD CHILLER REPLACEMENT, CITY PROJECT NO 19-21

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

1. Award a construction contract to Limbach Co., a Delaware limited liability company, in the amount of \$244,811 for the City Yard Chiller Replacement, City Project No. 19-21.
2. Authorize the City Manager to execute all necessary documents.

L. ACCEPTANCE OF THE MEASURE J COMMUNITY PROJECTS SIDEWALK GAP CLOSURE IMPROVEMENTS, CITY PROJECT NO. 15-31

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

1. Accept the public works improvements identified as the Measure J Community Projects Sidewalk Gap Closure Improvements, City Project No. 15-31 as completed in accordance with the plans and specifications.
2. Authorize the City Engineer to execute and file for recordation with the Riverside County Recorder a Notice of Completion for the Measure J Community Projects Sidewalk Gap Closure Improvements, City Project No. 15-31.

EXCLUDED CONSENT CALENDAR:**E. SECOND READING AND ADOPTION OF ORDINANCE NO. 2019 ENTITLED "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING PLANNED DEVELOPMENT DISTRICT 58 (POD 58) TO INCLUDE A 3.53-ACRE PORTION OF THE PARKER PALM SPRINGS PROPERTY CURRENTLY ZONED R- 3 INTO THE PLANNED DEVELOPMENT DISTRICT 58 IN LIEU OF A CHANGE OF ZONE (CASE 5.927 POD 58 AMENDMENT)"**

Councilmember Garner announced her recusal due to a business conflict of interest and left the City Council Meeting.

Director of Planning Services Fagg presented the staff report and responded to City Council inquiries.

In response to City Council inquiry, Assistant City Manager Fuller advised that Engineering Condition No. 51 was recommended by the Planning Commission to address traffic concerns; opined that the developer should be financially responsible to implement the improvements, if needed; stated that staff will need to evaluate the appropriateness of installing the improvements as well as coordinate with the adjacent neighborhoods

Councilmember Woods pointed out that modifying the on-street parking to angled parking will help reduce traffic speeds and increase available parking; suggested that a condition be added to require that the Parker Hotel maintain its parking on-premises.

Director of Planning Services Fagg confirmed such a condition may be imposed by the City Council, noting that it would be feasible if the Parker Hotel implemented an all-valet parking program with stacking.

Councilmember Middleton recommended that the City Council defer implementation of the traffic-calming measures until staff has an opportunity to engage and seek input from the adjacent neighborhoods.

MOTION BY COUNCILMEMBER WOODS, SECOND BY MAYOR PRO TEM HOLSTEGE, CARRIED 4-0 (WITH COUNCILMEMBER GARNER RECUSED), to adopt Ordinance No. 2019 entitled, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING PLANNED DEVELOPMENT DISTRICT 58 (POD 58) TO INCLUDE A 3.53-ACRE PORTION OF THE PARKER PALM SPRINGS PROPERTY CURRENTLY ZONED R- 3 INTO THE PLANNED DEVELOPMENT DISTRICT 58 IN LIEU OF A CHANGE OF ZONE (CASE 5.927 POD 58 AMENDMENT)," with the following modifications:

- All Parker Hotel parking shall be on-site.
- In regard to Condition of Approval Eng. 51, proceed with the proposed stop sign and angled parking stalls and evaluate other traffic-calming measures with the adjacent neighborhoods.

RECESS/RECONVENE

The City Council recessed at 7:37 p.m. and reconvened at 7:46 p.m. with all Councilmembers present via teleconference.

F. DEFERRAL OF MAKING APPOINTMENTS TO BOARDS AND COMMISSIONS WHERE TERMS WERE SET TO EXPIRE ON JUNE 30, 2020

City Clerk Mejia presented the staff report.

Councilmember Garner requested that staff seek confirmation of which Commissioners are willing to serve an extended term.

Mayor Kors encouraged the City Council Interviewing Subcommittee to continue with interviews for vacant positions.

MOTION BY COUNCILMEMBER GARNER, SECOND BY COUNCILMEMBER WOODS, CARRIED 5-0, to:

1. Defer taking action on appointments for Boards and Commissions where terms were set to expire on June 30, 2020, and conduct interviews and make appointments to commence on January 1, 2021, as outlined in this staff report.
2. Waive the requirements of Palm Springs Municipal Code Section 2.06.01 0(c) to allow a Board or Commission Member to serve for more than seven consecutive years.

2. PUBLIC HEARINGS:**A. COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) 2020-2025 FIVE YEAR CONSOLIDATED PLAN (CONPLAN), 2020-2021 ANNUAL ACTION PLAN, CITIZEN PARTICIPATION PLAN AND CDBG 2020-2021 BUDGET**

City Manager Ready presented the staff report.

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

Councilmember Middleton requested that Housing Goal No. 2 reflect the City's standard non-discrimination policy verbiage; questioned whether the plan adequately addresses discrimination against the LGBTQ community.

In response to City Council inquiry, Daryl Stamps, City Consultant, opined that the City's fair housing analysis does consider the LGBTQ community as being disadvantaged, noting that it does not call out the LGBTQ population as it relates to housing needs in the community.

The City Council directed that Housing Goal No. 2 be modified to reflect the City's non-discrimination policy and directed that consideration of potential CDBG funded projects be agendaized for the City Council meeting of April 23, 2020.

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

1. Review the draft 2020-2021 CDBG Budget and Annual Action Plan and provide direction to staff as appropriate.
2. Review the proposed Consolidated Plan Goals for the 2020 - 2024 CDBG program years.
3. Schedule a Public Hearing for May 7, 2020, to approve and adopt the 2020-2021 CDBG Budget and Annual Action Plan, and 2020-2024 Consolidated Plan (ConPlan).

3. LEGISLATIVE:

A. TEMPORARY MORATORIUM ON EVICTIONS RESULTING FROM NONPAYMENT OF RENT WHEN SUCH NONPAYMENT WAS CAUSED BY THE COVID-19 PANDEMIC

City Attorney Ballinger presented the staff report.

Mayor Pro Tem Holstege questioned whether the City Council could impose a rent forgiveness program. In response, City Attorney Ballinger advised against a rent forgiveness program, noting that it could be viewed as a governmental “taking” and could result in litigation.

Councilmember Middleton opined that the ordinance must include a requirement for tenants to provide documentation verifying a direct connection between their inability to pay rent due to economic losses as a result of the coronavirus; stated the amount of rent relief should be commensurate with the amount of financial loss a tenant has suffered.

Councilmember Garner and Mayor Pro Tem Holstege opined that the loss of income documentation requirements should be broadly defined, noting that undocumented workers may not have proof of income losses readily available; expressed support for requiring tenants to provide such documentation upon request from the landlord.

Mayor Pro Tem Holstege expressed concern that correlating the ability to pay rent commensurate to financial losses does not consider other factors such as medical and childcare expenses.

Councilmember Woods spoke on the importance that tenants openly communicate with their landlords about their inability to pay rent, noting that the City Council must consider the impacts to landlords and their mortgages.

Mayor Kors agreed that tenants should be required to provide landlords with notice of their inability to pay rent due to financial losses or increased expenses related to the coronavirus and that documentation should be provided upon request by the landlord; voiced support for providing up to six months in which a tenant must pay back-rent.

Discussion ensued relative to including no-fault eviction provisions in the proposed ordinance, noting that landlords may attempt to proceed with evictions for issues such as additional temporary residents, pets, or minor noise violations. Councilmembers Middleton and Woods spoke on the importance of focusing on responding to the immediate needs of residents rather than setting regulations which may not be directly related to the coronavirus, noting that tenants and landlords need to communicate or seek mediation services, when necessary.

The City Council requested that City staff send a letter to federal, state, and county officials requesting consideration of providing other economic relief programs such as rent and mortgage relief and deferring property taxes.

Following discussion, MOTION BY COUNCILMEMBER GARNER, SECONDED BY MAYOR PRO TEM HOLSTEGE, FAILED 3-2, (COUNCILMEMBERS MIDDLETON AND WOODS VOTING NO), to adopt Urgency Ordinance No. 2022 entitled, "AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ENACTING A TEMPORARY MORATORIUM ON EVICTIONS RESULTING FROM NONPAYMENT OF RENT WHEN SUCH NONPAYMENT WAS CAUSED BY THE COVID-19 PANDEMIC, AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY," with the following modifications (additions/deletions are indicated with underlining or strikethrough):

1. Section A shall read as, "Notwithstanding anything to the contrary in Palm Springs Municipal Code, during the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19. Nor shall any landlord endeavor to evict a tenant during the period of local declared emergency period based on the presence of unauthorized occupant(s) (within building code occupancy limits), pet(s) or alleged nuisance, provided that such unauthorized occupant(s), pet(s) or alleged nuisance is related to COVID-19. "Endeavor" includes, but is not limited to, serving an eviction notice (aka 3-day notice to pay or quit), filing or prosecuting an unlawful detainer action based on a 3-day notice to pay or quit notice, or otherwise attempting to evict the tenant for nonpayment of rent."
2. Section B shall read as, "A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to CCP 1161(2), file or prosecute an unlawful detainer action based on a pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of a tenant's inability to pay rent within the meaning of this ordinance if the tenant, prior to the date that is fifteen (15) days following the date that the rent is due from residential tenant or seven (7) days following the date that the rent is due from any non-residential tenant, notifies the landlord in writing of the reason for the tenant's lost income and inability to pay full rent due to financial impacts related to COVID-19. If the landlord requests documentation supporting the tenant's claim within ten (10) days following the landlord's receipt of the tenant's written reason, then the tenant shall and provides verifiable documentation to support the tenant's claim within thirty (30) days following tenant's receipt of the landlord's request..."

3. Section C shall read as, “For residential tenants, a ‘financial impact related to COVID-19’ shall mean a tenant’s loss of income or an increase in expenses, due to any of the following: a) tenant was sick with COVID-19, experiencing symptom indicative of COVID-19, or caring for a household or family member who was sick with COVID-19; ... (ii) For non-residential tenant, a “financial impact related to COVID-19” shall mean a tenant’s loss of income or an increase in expenses, due to the tenant’s closure of, operating restrictions placed upon, or other loss of patronage of the tenant’s business directly resulting from...”
4. Section D shall read as, “Violation of this ordinance shall be punishable as set forth in Sections 1.01.140 and 2.20.100 of the Palm Springs Municipal Code. In addition, this ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this ordinance. In addition, in the event of a violation of this ordinance, an aggrieved tenant may institute a civil proceeding for injunctive relief, money damage, and whatever other relief the court deems appropriate. In the case of an award for damages, said award shall only be awarded if the trier of fact finds that the landlord acted in knowing violation of, or in reckless disregard of, this ordinance. The prevailing party shall be entitled to reasonable attorneys’ fees and costs pursuant to order of the court. The remedies available in this subsection shall be in addition to any other existing remedies that may be available to the tenant under local, state or federal law.”
5. Section E shall read as, “Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent. Any tenant who was afforded protection under this ordinance shall have ~~120~~ 180 days after the City of Palm Springs proclaims the termination of the local emergency to pay to that tenant’s landlord all unpaid rent. A landlord may not charge or collect any interest or any late fee for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent that is delayed for the reasons stated in this ordinance through the eviction process. During that ~~120~~ 180-day period, the protections against eviction found in subsection A of this ordinance apply to such tenants. However, the tenant and landlord may, prior to the expiration of the local emergency period or within 90 days of the first missed rent payment, whichever comes first, mutually agree to a plan for repayment of unpaid rent selected from options promulgated by the Community and Economic Development Department for that purpose.”
6. Section H shall read as “This ordinance shall remain in effect through June 4, 2020, unless extended by the City Council. Notwithstanding the foregoing, and in order to prevent inconsistencies, the Director of Emergency Services may suspend the effectiveness of this ordinance in the event that the President of the United States, Congress, Governor of the State of California, or California State Legislature adopts an order or legislation to the extent that such order or legislation pre-empts this ordinance similarly prohibits evictions for failure to pay rent by individuals impacted by the COVID-19 crisis.”
7. Add Section I to read as, “Financial assistance paid by a government agency to a rental property owner designed to mitigate the impacts of non-payment of rent due to financial

impacts related to COVID-19 shall be credited against the rental payment(s) owed for the landlord's rental unit(s). Similarly, financial assistance paid by a government agency to a tenant specifically to assist with rental assistance made necessary by the financial impacts related to COVID-19 shall be used."

In response to City Council inquiry, City Attorney explained the differences between willful intent and knowing intent related to a landlord's violation of the ordinance.

MOTION BY COUNCILMEMBER GARNER, SECOND BY MAYOR PRO TEM HOLSTEGE, CARRIED 5-0, to adopt Urgency Ordinance No. 2022 entitled, "AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ENACTING A TEMPORARY MORATORIUM ON EVICTIONS RESULTING FROM NONPAYMENT OF RENT WHEN SUCH NONPAYMENT WAS CAUSED BY THE COVID-19 PANDEMIC, AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY," as previously stated.

4. UNFINISHED BUSINESS:

A. CORONAVIRUS (COVID-19) UPDATE

City Manager Ready introduced Neighborhoods Manager Goolsby who provided an update on the 2020 Census outreach efforts in light of the coronavirus pandemic.

Police Chief Reyes provided an update on the Police Department's enforcement efforts related to the City's public health orders; spoke on the importance of maintaining social distancing on hiking trails, noting that repeated violations may cause him to recommend closure of the trails; encouraged residents to contact the Police Department's non-emergency phone line to report violations.

In response to City Council inquiry, Police Chief Reyes and Fire Chief Nalder expressed concern regarding business owners boarding up closed businesses, noting that it reduces an officer's ability to monitor the interior of the building and restricts access for the Fire Department in the event of an emergency; summarized new protocols enacted to protect police and fire personnel in the field. Police Chief Reyes advised that calls for service have generally decreased, noting that officers are using the additional time to increase street patrols; recommended that business owners review their security systems to ensure they are operational.

Community and Economic Development Director Virata provided an update on efforts to provide services to the homeless, noting that the County launched an emergency hotel voucher program; pointed out that Find Food Bank has opened a second food distribution site in Palm Springs.

Assistant City Manager Fuller summarized assistance programs offered by utility providers.

City Manager Ready announced that the federal government has awarded the airport with \$11 million to help offset revenue losses.

Mayor Kors noted that the Riverside County Department of Public Health is recommending that all residents wear face covering when outside their homes; expressed gratitude to first responders and essential workers for their service.

Mayor Pro Tem Holstege noted that the City has established a hotline for residents to call regarding the coronavirus and the various programs and services available to residents and businesses; suggested that the City utilize its foundation to establish a local relief fund and requested that the matter be agendaized for a future City Council meeting.

In response to City Council inquiry, City Attorney Ballinger summarized the County's orders in regard to vacation rental, pet grooming services, salons, real estate services, community pools, gyms, and non-essential facilities; noted that the City will suspend issuing building permits for non-essential construction.

The City Council directed staff to: 1) evaluate the feasibility of using the City foundation to create a local relief fund; 2) requested that staff communicate to construction permit holders about the importance of social distancing and include information for workers to report unsafe conditions; 3) consider extending all entitlements and business licenses for the duration of the local emergency; 4) notify short term vacation rental owners about the latest County guidelines for vacation rentals.

5. NEW BUSINESS:

A. URGENCY ITEM – CONSIDERATION OF ADOPTING A RESOLUTION ENTITLED “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CONSENTING TO THE ENFORCEMENT OF ALL HEALTH LAWS WITHIN THE CITY OF PALM SPRINGS BY THE RIVERSIDE COUNTY HEALTH OFFICER”

City Attorney Ballinger presented the staff report.

MOTION BY MAYOR PRO TEM HOLSTEGE, SECOND BY COUNCILMEMBER WOODS, CARRIED 5-0, to adopt Resolution No. 24740 entitled, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CONSENTING TO THE ENFORCEMENT OF ALL HEALTH LAWS WITHIN THE CITY OF PALM SPRINGS BY THE RIVERSIDE COUNTY HEALTH OFFICER.”

PUBLIC COMMENT:

David Feltman, reported that he witnessed three police officers congregating without personal protective equipment or maintaining social distancing; spoke in support of seeking contributions to establish a local emergency relief fund.

CITY COUNCIL AND CITY MANAGER REQUESTS AND UPCOMING AGENDA DEVELOPMENT:

Councilmember Middleton requested that staff agendaize consideration of taking a position on Senate Bill 1072: Local agencies: transient occupancy taxes: online short-term rental facilitator: collection, for a future City Council meeting.

City Manager noted that ratification of the local emergency declaration will be agendaized for the City Council meeting of April 23, 2020.

ADJOURNMENT:

The City Council adjourned at 11:40 p.m.

Respectfully submitted,


Anthony J. Mejia, MMC
City Clerk

APPROVED BY CITY COUNCIL: 05/07/2020