



## City Council Staff Report

DATE: NOVEMBER 17, 2010 CONSENT CALENDAR  
SUBJECT: SECOND READING AND ADOPTION OF PROPOSED ORDINANCE NO. 1782, DISSOLVING COMMUNITY FACILITIES DISTRICT NO. 2005-2 (ESCENA) OF THE CITY OF PALM SPRINGS  
FROM: David H. Ready, City Manager  
BY: Office of the City Clerk

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### SUMMARY:

The City Council will consider adoption of Ordinance Nos. 1782.

### RECOMMENDATION:

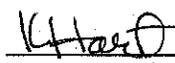
1. Waive further reading and adopt Ordinance No. 1782, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, REPEALING ORDINANCE NO. 1672 AND DISSOLVING COMMUNITY FACILITIES DISTRICT NO. 2005-2 (ESCENA) OF THE CITY OF PALM SPRINGS."

### STAFF ANALYSIS:

At its December 15, 2010, meeting Ordinance No. 1782 was introduced by the following vote:

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

This report provides for the City Council to waive further reading and adopt the ordinances. The ordinances shall be effective 30-days from adoption.

  
Kathie Hart, CMC  
Chief Deputy City Clerk  
FOR: James Thompson  
City Clerk

  
David H. Ready, Esq., Ph.D.  
City Manager

/kdh  
Attachments: Ordinance No. 1782

Item No. **2.D.**

**PROPOSED ORDINANCE NO. 1782**

ORDINANCE OF THE CITY OF PALM SPRINGS CALIFORNIA, REPEALING ORDINANCE NO. 1672 AND DISSOLVING COMMUNITY FACILITIES DISTRICT NO. 2005-2 (ESCENA) OF THE CITY OF PALM SPRINGS.

**City Attorney Summary**

*This Ordinance repeals Ordinance No. 1672 which created Community Facilities District No. 2005-2 (Escena) of the City of Palm Springs. This Ordinance dissolves Community Facilities District No. 2005-2.*

The City Council of the City of Palm Springs finds:

A. On July 20, 2005, the City Council of the City of Palm Springs (the "**City Council**"), adopted Resolution No. 21381 (the "**Resolution of Intention to Establish the District**") stating its intention to form Community Facilities District No. 2005-2 (Escena) of the City of Palm Springs (the "**District**") pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code (the "**Government Code**"), commonly known as the "Mello-Roos Community Facilities Act of 1982," as amended (the "**Act**").

B. On July 20, 2005, the City Council also adopted Resolution No. 21382 (the "**Resolution of Intention to Incur Bonded Indebtedness**") stating its intention to incur bonded indebtedness in an amount not to exceed \$21,000,000 within the District for the purpose of financing the construction and acquisition of certain facilities (the "**Facilities**"), and incidental expenses related thereto as authorized by the Act (the "**Incidental Expenses**"), including, but not limited to, the cost of planning and designing the Facilities, the costs associated with the creation of the District, issuance of the bonds, determination of the amount of and collection of taxes, the payment of taxes, and costs otherwise incurred in order to carry out the authorized purposes of the District, and any other expenses incidental to the construction, completion and inspection of the Facilities, all as more fully described in the Resolution of Intention to Establish the District.

C. Notice was published as required by law relative to the intention of the City Council to form the proposed District and to incur bonded indebtedness in an amount not to exceed \$21,000,000 within the District.

D. On October 5, 2005, the City Council held a noticed public hearing, consistent with the provisions of the Act, as required by law, (1) to determine whether it should proceed with the formation of the District and authorize the rate and method of apportionment of a special tax to be levied within the District for the purposes of paying for the Facilities and the Incidental Expenses relating thereto and the costs associated with the bonded indebtedness proposed to be issued to finance the Facilities, including

the principal of and interest on the proposed bonded indebtedness, and (2) on the proposed issuance of the bonded indebtedness.

E. At the hearing of October 5, 2005, all persons desiring to be heard on all matters pertaining to the formation of the District, the levy of the special tax, the proposed issuance of the bonded indebtedness, and all other matters set forth in the Resolution of Intention to Incur Bonded Indebtedness, were heard and considered and a full and fair hearing was held thereon.

F. The City Council, subsequent to said hearing, adopted Resolution Nos. 21416 and 21417 which, taken together, formed the District, determined the necessity of incurring bonded indebtedness in an amount not to exceed \$21,000,000, and called a special election for October 5, 2005 on the proposition of levying special taxes, incurring bonded indebtedness, and establishing an appropriations limit (collectively, the "**Resolution Calling Election**").

G. On October 5, 2005, in accordance with the Resolution Calling Election, a consolidated election was held within the District in which the qualified electors approved by more than two-thirds vote the propositions of incurring bonded indebtedness, levying a special tax and establishing an appropriations limit within the District.

H. The City Council, subsequent to the consolidated election, adopted Resolution No. 21418, which certified the results of the election, ordered the levy of the special tax within the District, authorized the issuance of bonded indebtedness, and directed the recording of a Notice of Special Tax Lien.

I. On October 19, 2005, the City Council adopted Ordinance No. 1672 (the "**Ordinance Authorizing the Levy of the Special Tax**") that authorizes the levy of a special tax consistent with the rate and method of apportionment that the qualified electors approved at the consolidated election held on October 5, 2005.

J. On October 20, 2005, the Clerk of the City Council caused to be recorded with the Office of the Recorder for the County of Riverside a "Notice of Special Tax Lien" (the "**Notice of Special Tax Lien**") that bears Document No. 2005-0867366.

K. The District has not incurred bonded indebtedness to finance the construction of the Facilities.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS:

SECTION 1. The above recitals are all true and correct and this City Council so finds and determines.

SECTION 2. By the passage of this Ordinance, the City Council finds that (i) no bonded indebtedness has been or will be incurred by the District to finance the construction of the Facilities, (ii) all of the outstanding assessments of the City of Palm

Springs Assessment District No. 155 have been paid in full and, therefore, there is no lien of Assessment District No. 155 to be paid from the proceeds of District bonds, and (iii) there is no outstanding debt of any kind for which the District is obligated to pay.

SECTION 3. The City Council finds that the District is not authorized to levy the special tax in the District due to (i) the special findings set forth in Section 2 of this Resolution, (ii) the completion of the Facilities, and (iii) the waiver by the Landowner of any right to payment of the acquisition prices of, or reimbursement for, the completed Facilities, or for any other payments from the bonded indebtedness.

SECTION 4. By the passage of this Ordinance, the City Council repeals Ordinance No. 1672 adopted on October 19, 2005, and any concurrent or subsequent Ordinance of the City confirming the establishment of CFD 2005-2.

SECTION 5. By the passage of this Ordinance, the City Council dissolves "Community Facilities District No. 2005-2 (Escena) of the City of Palm Springs" and all associated liens.

SECTION 6. This Ordinance relating to the dissolution of the District and the repeal of the Ordinance authorizing the levy of the special tax shall take effect immediately upon its final passage as authorized under Section 53338.5 of the Government Code.

SECTION 7. The City Clerk of the City is authorized and directed to execute a Notice of Cancellation of Special Tax Lien for CFD No. 2005-2, substantially in the form attached hereto as Exhibit "A".

SECTION 8. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provision of law, and this Ordinance shall take effect thirty (30) days after adoption.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF PALM SPRINGS THIS 5<sup>TH</sup> DAY OF JANUARY, 2011.

ATTEST:

\_\_\_\_\_  
STEPHEN P. POGNET, MAYOR

\_\_\_\_\_  
JAMES THOMPSON, CITY CLERK

CERTIFICATION

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

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. \_\_\_\_\_ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on the 15<sup>th</sup> day of December, 2010, and adopted at a regular meeting of the City Council held on the 5<sup>th</sup> day of January, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
JAMES THOMPSON, CITY CLERK  
City of Palm Springs, California