CITY COUNCIL
CITY OF PALM SPRINGS, CALIFORNIA

MINUTES
WEDNESDAY, JANUARY 21, 2009
City Hall Council Chamber

CALL TO ORDER: Mayor Pougnet 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: Rabbi Sally Olins, Temple Isaiah, led the Invocation.

ROLL CALL:

PRESENT:	Councilmember Foat, Councilmember Hutcheson, Councilmember Weigel, Mayor Pro Tem Mills, and Mayor Pougnet.
ABSENT:	None.
ALSO PRESENT:	City Manager Ready, City Attorney Holland, City Clerk Thompson.

PRESENTATIONS:

Mayor Pougnet and the City Council proclaimed January 25, 2009, to February 1, 2009, as National Catholic Schools Week in the City of Palm Springs.

Representatives from Riverside County and the Palm Springs Business Community presented information on the proposed new County Jail facility at Whitewater Canyon.

Mayor Pougnet provided an update on the grand re-opening of the updated Riverside County Superior Court Facilities located in the City of Palm Springs.

REPORT OF CLOSED SESSION: The meeting was called to order at 4:30 p.m. and the City Council considered the addition of one item to the Closed Session Agenda pursuant to Government Code Section 54856.9(a) Conference with Legal Counsel Existing Litigation, for *Palm Springs Investment Co., L.P. v. Palm Springs*.

ACTION: 1) Make the finding that the matter came to the attention of the City after the posting of the Agenda, and there is an immediate need to hear and/or take action on the Item; and 2) Add to the Closed Session Agenda Existing Litigation *Palm Springs Investment Co., L..P. v. City of Palm Springs*, Case Nos. INC 070629 and INC 070631, Riverside Superior Court, Indio Division. **Motion Mayor Pro Tem Mills, seconded by**

Councilmember Foat and unanimously carried 4-0, noting the absence of Mayor Pougnet.

The City Council then recessed into Closed Session to discuss Items on the Closed Session Agenda. City Attorney Holland reported that no reportable actions were taken.

ACCEPTANCE OF THE AGENDA:

Mayor Pro Tem Mills requested Items 2.F., 2.H., 2.M., and 2.N. be removed from the Consent Calendar for separate discussion.

Councilmember Foat requested Items 2.H., 2.L., and 2.O. be removed from the Consent Calendar for separate discussion.

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

1. PUBLIC HEARINGS:

1.A. ADOPTION OF FEES FOR EVENT HOUSE REGISTRATION AND APPEALS, AND AMEND THE COMPREHENSIVE FEE SCHEDULE:
Geoffrey Kiehl, Director of Finance, provided background information as outlined in the staff report dated January 21, 2009.

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

ACTION: Adopt Resolution No. 22418, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ESTABLISHING FEES FOR EVENT HOUSE REGISTRATION AND APPEALS, AND MODIFYING THE COMPREHENSIVE FEE SCHEDULE, ADOPTED BY RESOLUTION NO. 21578, AS AMENDED." **Motion Mayor Pro Tem Mills, seconded by Councilmember Weigel and unanimously carried on a roll call vote.**

1.B. APPEAL BY THE NICHOLAS GROUP OF THE PUBLIC ARTS COMMISSION'S ACTION OF DECEMBER 11, 2008, DENYING THE PUBLIC ART INSTALLATION OF "AMERICA'S FAVORITE SINGING COWBOY" AT THE GENE AUTRY PLAZA PROJECT LOCATED AT 650 SOUTH GENE AUTRY TRAIL:
Tom Wilson, Assistant City Manager, provided background information as outlined in the staff report dated January 21, 2009.

Councilmember Foat requested staff address the differences in photographs in the staff report.

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

GEORGE NICHOLAS, Appellant, stated the photograph on page 9 is the artwork for submission to the City, commented on the comments and findings of the Public Arts Commission.

JACKIE AUTRY, commented on the artwork and the relationship to Gene Autry, and stated the piece is original artwork and not a reproduction.

JAMES KENNEDY, Public Arts Commission, commented on the findings of the Public Arts Commission, and the purpose of the criteria for original artwork.

DANA BIGELOW, commented on other pieces of art approved by the City Council and the Public Arts Commission, stated she is disappointed by some of artwork installed in the City, spoke in support of the Gene Autry piece.

GEORGE NICHOLAS, Rebuttal, commented on the originality of piece, the comments of the Public Arts Commission, and requested the City Council overturn the decision of the Public Arts Commission and approve the artwork.

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

Councilmember Hutcheson commented on the decision of the Public Arts Commission, and the installation of artwork that recognizes past historic residents of the City of Palm Springs.

Mayor Pougnet commented on the originality of the artwork, and stated his support for the original artwork.

Mayor Pro Tem Mills commented on the provisions contained in the Code pertaining to public art, and stated his support for the proposed artwork that reflects the cultural aspects of the City.

Councilmember Foat commented on the purpose of the Public Arts Commission and the installation of public art in the City, commented on the proposed artwork, and stated her support of the artwork at the proposed location.

Councilmember Weigel commented on the selection and appreciation of artwork, and stated the City should not over regulate public art installations.

ACTION: Adopt Resolution No. 22419, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, GRANTING THE APPEAL AND APPROVING THE PUBLIC ART INSTALLATION OF 'AMERICA'S FAVORITE SINGING COWBOY' BY ARTIST DE L'ESPRIE, AT THE GENE AUTRY PLAZA PROJECT, LOCATED AT 650 SOUTH GENE AUTRY TRAIL." **Motion Councilmember Hutcheson, seconded by Mayor Pougnet and unanimously carried on a roll call vote.**

PUBLIC COMMENT:

DANA BIGELOW, Palm Springs, commented on the Courtesy Notice of Violation she received for the commercial property she owns on Racquet Club Road.

GEORGE KLAUSS, thanked the City for support of the Opera in the Park Event.

JEFF HOCKER, thanked the City Council for the support of the performing arts and the support of the Opera in the Park event.

PHYLLIS BURGESS, Palm Springs, stated there are problems in the City in which she is trying to fix.

PAUL LEWIN, commented on the proposed County jail at Whitewater Canyon.

CHARLES SACHS, Palm Springs, commented on the illegal tree removal at his condominium complex Casa de Oro.

MINDY REED, commented on the proposed County jail at Whitewater Canyon.

KARINE GORNES, commented on the proposed County jail at Whitewater Canyon.

NANCY STUART, provided the City Council an update on the Palm Spring Aerial Tramway and the Tram Board.

JOY MEREDITH, commented on the proposed County jail at Whitewater Canyon, and provided an update of the business activities in the Downtown and Uptown areas.

ANNA GIBSON, commented on the proposed County jail at Whitewater Canyon.

JULIUS KAZEN, commented on the proposed County jail at Whitewater Canyon.

FRANK TYSEN, commented on the proposed County jail at Whitewater Canyon.

COUNCILMEMBER COMMENTS:

Councilmember Hutcheson requested a Joint Meeting with the Public Arts Commission.

Councilmember Foat requested the City Manager address the Panera Bakery, and requested such banner and/or sign regulations be reviewed by the City Council Business Retention Subcommittee.

CITY MANAGER'S REPORT: None.

2. CONSENT CALENDAR:
ACTION: Approve Items 2.A., 2.B., 2.C., 2.D., 2.E., 2.G., 2.I., 2.J., and 2.K. **Motion Councilmember Foat, seconded by Councilmember Hutcheson 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 January 21, 2009, City Council Agenda. **Approved as part of the Consent Calendar.**

2.B. APPROVAL OF MINUTES:
ACTION: Approve the City Council Minutes of January 7, 2009, and January 14, 2009. **Approved as part of the Consent Calendar.**

2.C. APPROVAL OF PAYROLL WARRANTS, CLAIMS AND DEMANDS:
ACTION: 1) Adopt Resolution No. 22420, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1032815 THROUGH 1032905 IN THE AGGREGATE AMOUNT OF $472,956.17, DRAWN ON BANK OF AMERICA;" 2) Adopt Resolution No. 22421, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF PAYROLL WARRANTS FOR THE PERIOD ENDED 12-27-08 BY WARRANTS NUMBERED 414222 THROUGH 414267 TOTALING $90,920.82, LIABILITY CHECKS NUMBERED 1032906 THROUGH 1032926 TOTALING $153,182.30, FOUR WIRE TRANSFERS FOR $63,084.18, AND THREE ELECTRONIC ACH DEBITS OF $1,157,431.20, IN THE AGGREGATE AMOUNT OF $1,464,618.50, DRAWN ON BANK OF AMERICA;" and 3) Resolution No. 22422, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PAYMENT OF CLAIMS AND DEMANDS BY WARRANTS NUMBERED 1032927 THROUGH 1033074 IN THE AGGREGATE AMOUNT OF $890,500.57, DRAWN ON BANK OF AMERICA." **Approved as part of the Consent Calendar.**

2.D. STAFF AUTHORIZED AGREEMENTS FOR DECEMBER 31, 2008:
ACTION: Receive and file Staff Authorized Agreements covering the period December 1 through December 31, 2008. **Approved as part of the Consent Calendar.**

2.E. TREASURER'S INVESTMENT REPORT AS OF NOVEMBER 30, 2008:
ACTION: Receive and file the Treasurer's Investment Report as of November 30, 2008. **Approved as part of the Consent Calendar.**

2.G. ACCEPT AIRPORT IMPROVEMENT PROJECT FEDERAL GRANT IN AN AMOUNT NOT TO EXCEED $4,000,000 TO IMPROVE TERMINAL COMPLEX - PHASE II - AIP 3-06-0181-44:
ACTION: 1) Accept Federal Aviation Administration (FAA) Grant No. 3-06-0181-44 in an amount not to exceed $4,000,000 to improve the Terminal Complex - Phase II; and 2) Authorize the City Manager to execute all necessary documents. A5777. **Approved as part of the Consent Calendar.**

2.I. AGREEMENT WITH CARRIER CORPORATION IN THE AMOUNT OF $33,754 FOR CHILLER EQUIPMENT MAINTENANCE AT THE PALM SPRINGS INTERNATIONAL AIRPORT TERMINAL:
ACTION: 1) Approve an agreement with Carrier Corporation in the amount of $33,754 for specified preventive maintenance services to the York and Trane chillers at the Airport, in a form acceptable to the City Attorney; and 2) Authorize the City Manager to execute all necessary documents. A4009. **Approved as part of the Consent Calendar.**

2.J. SUMMARY VACATION OF A PORTION OF SAN JOAQUIN DRIVE IN SECTION 18, TOWNSHIP 4 SOUTH, RANGE 5 EAST; FILE R 08-028:
ACTION: Adopt Resolution No. 22424, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, SUMMARILY VACATING AND ABANDONING ALL ITS RIGHT, TITLE AND INTEREST TO A PORTION OF SAN JOAQUIN DRIVE IN SECTION 18, TOWNSHIP 4 SOUTH, RANGE 5 EAST; FILE R 08-028." **Approved as part of the Consent Calendar.**

2.K. REQUEST FROM THE CALIFORNIA BUSINESS, TRANSPORTATION, AND HOUSING AGENCY TO ENDORSE THE CALIFORNIA CONSENSUS ON FEDERAL TRANSPORTATION AUTHORIZATION FOR 2009:
ACTION: Adopt Resolution No. 22425, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, OFFERING FORMAL SUPPORT FOR DOCUMENT TO DEVELOP CONSENSUS ON TRANSPORTATION ISSUES." **Approved as part of the Consent Calendar.**

2.N. REQUEST FOR PROPOSALS FOR CIVIL ENGINEERING DESIGN SERVICES FOR THE RAMON ROAD WIDENING PROJECT, SAN LUIS REY DRIVE TO LANDAU BOULEVARD, CP 08-25:

ACTION: 1) Approve release of the Request for Proposals No. 10-09, Professional Civil Engineering Design Services for the Ramon Road Widening Project, San Luis Rey Drive to Landau Boulevard, City Project No. 08-25. **Approved as part of the Consent Calendar.**

EXCLUDED CONSENT CALENDAR:

2.F. APPROVAL OF SOUTHWEST REAL ESTATE HOLDINGS, LLC. TENTATIVE TRACT MAP 28308 TO SUBDIVIDE A PORTION OF A 3.2 ACRE PARCEL AT SUNNY DUNES ROAD AND SUNRISE WAY INTO SEVEN RESIDENTIAL LOTS:

The City Council discussed and/or commented on the Conditions of Approval.

ACTION: Adopt Resolution No. 22423, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING TENTATIVE TRACT MAP 28308; SECTION 23, TOWNSHIP 4, RANGE 4," *amending the Conditions of Approval to delete the reference to the commercial lot and replace with reference to the remainder lot, and incorporate Conditions PLN 8, PLN 11, and PLN 12 into the Condition regarding Final Design for the Remainder Lot.* **Motion Mayor Pro Tem Mills, seconded by Mayor Pougnet and unanimously carried on a roll call vote.**

2.H. AMENDMENT NO. 4 TO AGREEMENT NO. A5488 WITH ALLEN F. SMOOT & ASSOCIATES EXTENDING THE ASSIGNMENT OF THE OWNER'S REPRESENTATIVE ON THE IMPROVE/MODIFY/REHAB TERMINAL COMPLEX PROJECT, CP 07-09, AIP 3-06-0181-44, FOR TWO MONTHS AND ADDING AN HOURLY ALLOCATION FOR FABRIC CANOPY INSTALLATION:

The City Council discussed and/or commented on the following with respect to the project: clarification on the payment provision for the canopy work, the progress of the project, and if the project was within budget.

ACTION: 1) Approve Amendment No. 4 to Agreement No. A5488 with Allen F. Smoot & Associates for an additional amount of $42,852.90, subject to FAA approval *amending the agreement to reflect the correct provisions for the payment of the canopy work as outlined in the staff report*; and 2) Authorize the City Manager to execute all necessary documents. A5488. **Motion Councilmember Weigel, seconded by Mayor Pro Tem Mills and unanimously carried on a roll call vote.**

2.L. AGREEMENT WITH MAXWELL SECURITY FOR UN-ARMED SECURITY SERVICES AT THE PALM SPRINGS TRAIN STATION FOR THREE YEARS IN THE AMOUNT OF $34,800 ANNUALLY:

ACTION: 1) Approve an agreement with Maxwell Security Services for un-armed security guard services at the Palm Springs Train Station for a three-year period with two one-year renewal options, commencing February 1, 2009, in the amount of $34,800 per year; and 2) Authorize the City Manager to execute all necessary documents. A5630. **Motion Councilmember Hutcheson, seconded by Mayor Pro Tem Mills and unanimously carried on a roll call vote.**

2.M. LETTER FROM TIME WARNER CABLE ON THE UPCOMING RATE CHANGES FOR CERTAIN SERVICES:

ACTION: Receive and file. **Motion Mayor Pro Tem Mills, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

2.O. REIMBURSEMENT AND MAINTENANCE AGREEMENT WITH PALM SPRINGS DISPOSAL SERVICES FOR TWO MARATHON SELF-CONTAINED TRASH COMPACTORS AND ODOR NEUTRALIZING UNIT AT THE DOWNTOWN TRASH ENCLOSURE:

ACTION: 1) Approve an agreement with Palm Springs Disposal Services for two marathon self-contained trash compactors and odor neutralizing unit at the Downtown Trash Enclosure; 2) Adopt Resolution No. 22426, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2008-09;" and 3) Authorize the City Manager to execute all the necessary documents. A5778. **Motion Councilmember Foat, seconded by Mayor Pro Tem Mills and unanimously carried on a roll call vote.**

3. LEGISLATIVE: None.

4. UNFINISHED BUSINESS: None.

5. NEW BUSINESS:

5.A. AGREEMENT WITH G & M CONSTRUCTION FOR THE HOUSEHOLD HAZARDOUS WASTE RECYCLING FACILITY, IN THE AMOUNT OF $475,631.60, CP 08-19:

City Manager Ready provided background information as outlined in the staff report dated January 21, 2009.

Councilmember Foat commented on the placement and diagram of the facility as it relates to the Animal Shelter.

Councilmember Hutcheson requested staff clarify the timeline and the grant application.

Mayor Pro Tem Mills stated the project is under budget.

ACTION: 1) Approve an agreement with G & M Construction in the amount of $475,631.60, for Bid Schedules A, B, and C, for the Household Hazardous Waste Recycling Facility, CP 08-19; and 2) Authorize the City Manager to execute all necessary documents. A5779. **Motion Councilmember Foat, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

5.B. FISCAL YEAR 2008-09 MID-YEAR BUDGET REVIEW:
Geoffrey Kiehl, Director of Finance, provided an update to the City's Fiscal Year 2008-09 budget.

No action taken.

5.C. APPOINTMENT TO THE HUMAN RIGHTS COMMISSION FOR THE TERM ENDING JUNE 30, 2012:
ACTION: Appoint Pamela Jo Kershaw to the Human Rights Commission for the term ending June 30, 2012. **Motion Councilmember Foat, seconded by Councilmember Hutcheson and unanimously carried on a roll call vote.**

Councilmember Mills noted a business related conflict of interest with respect to Item 5.D., stated he will abstain from the appointment to the City Council Subcommittee.

5.D. APPOINTMENT TO THE COLLEGE OF THE DESERT CITY COUNCIL SUBCOMMITTEE:
ACTION: Appoint Councilmember Foat to the College of the Desert City Council Subcommittee. **Motion Mayor Pougnet, seconded by Councilmember Hutcheson and carried 4-0 on a roll call vote.**

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

COUNCILMEMBER COMMENTS, REQUESTS, AND REPORTS:

Councilmember Weigel requested the City Manager look at the new County Ordinance with respect to spay/neuter and micro-chipping pets, and bring forth recommendations.

Mayor Pougnet commented on the recent Presidential Inauguration.

ADJOURNMENT: The City Council adjourned at 9:03 p.m. to Wednesday, February 4, 2009, 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. There will not be a City Council meeting on January 28, 2009.

APPROVED BY A MOTION OF THE PALM SPRINGS CITY COUNCIL THIS 4TH DAY OF FEBRUARY, 2009.

STEPHEN P. POUGNET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK