



STAFF REPORT

May 11, 2004

To: City Council via City Manager
From: Finance Director
Subject: Lease of two copiers

Recommendation:

The City Council approve the lease of two copiers from The Image Source.

Discussion:

The City has two copiers that need to be replaced, the smaller machine in City Hall, and the copier at the Recreation Department.

The City Hall copier is for overflow when the primary copier is being used, it is also available at night and on weekends when the police need to make copies. The replacement for this copier has about the same capabilities as the old one.

The new Recreation Department copier is being upgraded because of the copy volume. The copier is capable of making all the many flyers and notices the department generates, and may also be connected to the computer network.

The increased cost for the two copiers is \$120 per month, which will be charged to the Recreation Department. They have cut their budget in other areas to make up the difference.



STAFF REPORT

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To: City Council via City Manager
From: Community Development Director
Date: May 11, 2004
RE: PC 02-17
Development Code Update, Chapters 19.49 Outdoor Dining Facilities

RECOMMENDATION: Conduct the Public Hearing, introduce Ordinance No. 182, and direct staff to bring the matter back to the City Council for adoption.

BACKGROUND: Chapter 19.49 is the final chapter in the Development Code update. It was reviewed by the Planning Commission in February 17, 2004 and March 2, 2004 Study Sessions. Following the March 2nd Study Session, the Planning Commission directed staff to set the matter for public hearing. The Planning Commission hearing was held on April 6, 2004. Following the hearing, the Planning Commission voted to recommend Council's adoption.

Attachments

- Draft Ordinance No. 182, with Exhibit "A" Chapter 19.49, *Outdoor Dining Facilities*
- Ordinance No. 123
- Ordinance No 139

Ordinance No 123 vs. Chapter 19.49

The purpose of Chapter 19.49 is to revise and update standards for outdoor dining facilities as established by the City in 1994 with adoption of Ordinance No. 123. If adopted, Ordinance No. 123 would be repealed.

Both Ordinance No. 123 and Chapter 19.49 require a Minor Use Permit (MUP) for the addition of outdoor dining facilities when there is food or beverage service to the area. Ordinance No. 123 exempts the MUP requirement in cases where waiter service is not provided. However, in these cases, review by the Community Development Director is required. Per Ordinance No. 123, parking requirements, including the outdoor dining area, must be met whether or not the MUP requirement is triggered. Chapter 19.49 requires a MUP in all cases and retains the standard for compliance with parking requirements.

Chapter 19.49 provides a definition of an outdoor dining area as:

Any outdoor area established in conjunction with a restaurant, full-service restaurant, bar, nightclub, or other similar facility, for the sale and/or consumption of food or drink.

Section 19.49.040 (of Chapter 19.49) specifies that outdoor dining areas can be placed in a

required setback and includes standards for location within the setback; Ordinance No. 123 is silent on this issue. However, Ordinance No. 139, adopted in 1997, does contain standards for placement of such uses in a setback. The standard in Ordinance No. 139, proposed to be retained in Chapter 19.49, allows outdoor dining areas, with MUP, to encroach to within one (1) foot of the property line with approval of the Fire Department pursuant to Uniform Fire Code. This standard is consistent with the City zoning chapter, 19.10 (see page 10-10 of the Development Code). Because the standard is being carried forward in 19.49, Ordinance No. 139 can be repealed at this time.

Chapter 19.49 establishes required Findings for Approval. These are similar to Conditions established in Ordinance No. 123, found in section (C) on page 2.

The primary change in adoption of Chapter 19.49 is the requirement for a MUP in cases where waiter service is not provided. The basis for the MUP requirement in these cases is that review of the parking requirement is done as part of a permit approval process; the MUP fee is charged to cover staff time involved in the review.

Environmental Clearance

The California Environmental Quality Act (CEQA), provides for several areas of exemptions. Class 7 allows for actions by regulatory agencies to maintain, restore, or enhance natural resources, other than construction activities, where the regulatory process includes procedures to protect the environment.

Summary

Staff recommends that Council conduct the Public Hearing, introduce Ordinance No. 182, and direct staff to bring the matter back to the City Council for adoption. If introduced by the Council, the chapter will be presented to the Council at the May 25, 2004 meeting for adoption.

RESOLUTION NO. 04-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS OPPOSING SENATE BILL 744 (DUNN) WHICH TRANSFERS LOCAL LAND USE AUTHORITY TO THE STATE ALLOWING THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) THE AUTHORITY TO OVERRULE LOCAL DECISIONS

WHEREAS, Senate Bill 744 gives the California Department of Housing and Community Development (HCD) and Developers the power to determine conditions for approval of local projects - even in cases where a local government has already *approved* a project in accordance with the law; and

WHEREAS, Senate Bill 744 empowers HCD to hear appeals from developers, whose projects were approved with conditions or additional requirements, effectively encouraging a them to attempt an “end-run” around any local conditions imposed on a housing development that has been approved at the local level; and

WHEREAS, Senate Bill 744 gives the Department discretion to decide that the conditions or requirements imposed by the local government render the provision of housing “infeasible” or “not reasonable or consistent with meeting local housing needs,” and to order the local agency to modify or remove any such condition or requirement and to issue any necessary permit or approval; and

WHEREAS, even in cases where conditions imposed by a local government are legally valid, they may still be overturned based upon a political decision by the Department under this legislation; and

WHEREAS, Senate Bill 744 also gives HCD and Developers the power to overturn legally valid local government decisions to deny a project if the Department considers the local agency decision unreasonable or inconsistent with meeting local housing needs; and

WHEREAS, Senate Bill 744 is duplicative and unnecessary because developers who believe that a local government has unjustly treated their projects already have recourse to the courts under Anti-Nimby Law [Section 65589.5 of the Government Code]; and

WHEREAS, Senate Bill 744 fails to recognize that recent state-imposed conditions such as prevailing wage requirements have a serious impact on housing cost and can increase the costs of affordable housing by over 20 percent.

WHEREAS, the League of California Cities and other California cities are strongly opposed to Senate Bill 744.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Twentynine Palms opposes SB 744 (Dunn), regarding the preemption of local land use authority by the California Department of Housing and Community Development.

PASSED, APPROVED, AND ADOPTED, by the City Council of the City of Twentynine Palms at a regular meeting held on the 11th day of May, 2004.

Glenn Freshour, Mayor

ATTEST:

Charlene L. Sherwood, CMC
City Clerk

I, Charlene L. Sherwood, CMC, City Clerk of the City of Twentynine Palms, do hereby certify that the foregoing Resolution No. 04-09 was duly and regularly adopted by the City Council at a regular meeting of the City Council on the 11th day of May, 2004, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Charlene L. Sherwood, CMC
City Clerk

THE TWENTYNINE PALMS CHAMBER OF COMMERCE AND VISITORS BUREAU

MONTHLY REPORT

April 2004

RECAP OF THE MONTH

Our fabulous crop of desert wildflowers continues to bring curious visitors. Marketing efforts continue to pay dividends as travelers report finding Twentynine Palms information in many and various publications and on a wide variety of websites.

In addition, real estate and business developers visit us nearly daily.

Community support for our deployed troops remains high with numerous daily inquiries about providing assistance.

VISITOR SERVICES

New information/publications available in the Visitor Center include:

- 2004 Our Local Book phone books
- Summer Day Camp Program brochures
- TV & Computer Monitor Recycling flyers
- Street Fair & Car Show vendor and car show entry forms
- Spring 2004 edition of The Sun Runner

Gift shop -

Mural post cards continue to be our most popular item. Consignments are accepted from Chamber members.

Customer contacts during April 2004:

Phone Calls: 585

Visitors: 614

Information Packets Mailed: 7

MEMBER SERVICES

During April 2004:

- 1 new member

Membership currently totals 241.

Note: Most member renewals occur during July of each year.

Employer Posters

Required employer posters are now available for purchase at the Chamber office. These posters are required for every California employer. Poster sets are priced significantly below regular retail.

Networking Opportunities:

The Chamber's April mixer was hosted by Action Council for 29 Palms. The Mixer marked the dedication and groundbreaking for Action Council's Bucklin Memorial Park in downtown Twentynine Palms.

The May Mixer will be held May 20 at Trinkets & Tomes who will celebrate their grand re-opening following a facelift and refurbishing as well as their 4th year in business.

Complaints Mediation

requests for complaint mediation were received during March.

1. Customer reported that a local merchant had over charged her. When she pointed out the error, she was treated negatively and her money was thrown back at her. The customer felt it was an honest mistake and wanted to pay for her purchases but the store owner would not let her pay and told her she should never return. The store owner feels the customer was wrong and that he was being accused of stealing.

2. A complaint was received from a customer of a local tax preparation company. The customer said she hadn't heard from them regarding her tax return and couldn't get a return call when she left messages. The business owner advised that numerous calls had been placed to the customer but the customer has no answering machine or voice mail service. Customer admitted same and picked up her tax return same day.

3. A customer of the R.V. Park complained that the Park's public bathrooms were locked at night. Their R.V. has no restroom and they were forced outdoors for toileting. The R.V. Park advises that restroom keys are available to customers with a refundable deposit and that the customer was made aware of this policy.

MARKETING

Joshua Tree National Park Art Festival and the **Hilltoppers M.C. Wild West Gran Prix Motorcycle Races** were marketed to various event publications and websites.

29 Palms Art Gallery Art Auction and Bailey's Automotive Annual Car Show will be marketed similarly.

Wildflower Alert Campaign. News releases regarding our spectacular crop of desert wildflowers continue to draw visitors. A link in the news release points to the city's website where an article and photos of wild flowers have been loaded.

The Blend Magazine and its website, www.theblend.com, are bringing visitors and recognition to Twentynine Palms through the feature of our arts community, extraordinary natural resources and various events.

Visitors Guide - Work is nearly complete on the Morongo Basin Visitors Guide. Layout and galley proofs are being edited. Advertising sales are being curtailed as a publishing contract is being finalized. This project has taken longer than expected and the final product is more modest than originally planned. However, the benefit of all Morongo Basin communities working together to produce a mutually beneficial marketing piece is priceless. Future guides will be more efficiently and comfortably produced now that the groundbreaking effort has been established.

Tours, Conferences & Meetings

- Provided advance information to an R.V. group which will bring 50 rigs to visit Twentynine Palms in 2005.

Other Marketing

- Exploring opportunities to market Twentynine Palms to the Coachella Valley.
- Exploring a proposed "information swap" with East San Diego Visitors Center.
- Publicizing Street Fair and Car Show throughout Southern California and parts of Arizona. Expanding vendor invitation list to include additional types of vendors from a wider area.
- News releases featuring the 29 Palms Pistol and Rifle Club's Cowboy Action Shooting were sent to Southern California media outlets.

- Obtained a listing in The Business Press' Directory of Inland Empire Economic Development Agencies.
- Obtained a listing in the AssociationsCentral.com Director of Associations and Non-Profit Organizations.
- Continuing to work with City Manager on www.visit29.org. Meeting planning services and travel information will be available 24 hours.
- Continuing development of media contacts for use in marketing our community
- Expanding selection of ready response information for visitor inquiries about less well-known visitor attractions and services.
- Submitting regular updates about 29 Palms events to the Hi-Desert Publishing "Things to Do and Places to Go!" publication.
- Submitting local events and attractions to California Happenings, Event Crazy and other travel-related publications and sites.

TECHNOLOGY & EQUIPMENT COMMITTEE

This Chamber committee is currently writing a request for proposal to be issued for a Visitor's Center computer system. This computer would be available to visitors to check their email, download and print brochures and other information about our area or to plan the next part of their trip.

BUSINESS & ECONOMIC DEVELOPMENT Roundtables

The Chamber's Business and Economic Development Committee has scheduled an Effective Business Signage Workshop for Saturday, May 15. Presenters will include a professor from L.A. Trade-Technical College who will educate local merchants on signage basics and the value of hand crafted wood signs in an art community. Local sign maker Geoff's Graffix will also give a presentation on other kinds of locally created signs.

The Chamber will host a "Doing Business With the Military" Workshop in the next few months. Local merchants will have the opportunity to learn how the military contracting and procurement system works and how they can take advantage of bidding opportunities.

LEGISLATIVE AFFAIRS Endorsements

The Twentynine Palms Chamber of Commerce Board of Directors has signed on as a public supporter of the Local Taxpayers and Public Safety Protection Act aimed for the November 2004 ballot. This measure would increase local control over our local tax dollars without raising taxes. The Act ensures that local tax dollars to fund local services like police and fire, emergency and trauma care, parks, roads libraries and water delivery are not taken by the state. The measure also makes it absolutely clear that if the State Legislature mandates that local governments provide new or expanded programs or services, then the State would have to reimburse local governments for the cost of those programs.

The Chamber collected petition signatures to help place a workers' compensation reform act on the November ballot. We applaud the Governor's successful efforts in affecting some reform immediately.

The Chamber is also making plans to present Measure I information to local merchants and voters, encouraging them to vote for the Measure on the November ballot.

MILITARY AFFAIRS

The Chamber is partnering with the Combat Center and MCCS in Operation Enduring Families 2. The Adopt-A-Unit Program has been very successful with over half the deployed units currently adopted by local businesses.

M.A.C. Assistance Fund

The Chamber maintains a small fund of donated monies which has been set aside to assist military personnel and their families with urgent needs. Military personnel are eligible to apply for assistance upon referral from the Navy/Marine Corps Relief Society.

FAM Tours:

Community tours are offered to organizations aboard base on a scheduled tailored to their group. Organizations will establish a group of attendees and arrange for transportation. The Chamber will provide guides, informational materials, and breakfast or lunch for a nominal fee.

EVENTS

Street Fair and Car Show

The 2004 Street Fair and Car Show will be held Friday, June 4 from 6 to 10 p.m. on the highway, downtown. News Releases sent to a wide audience have triggered interest from media and potential sponsors out of the Morongo Basin. This event was accepted by publication by Culture California and is now listed on culturecalifornia.com. The event has also been submitted to Westways Magazine, California Happenings, Event Crazy and other national and state publications. The event will be featured in the Twentynine Palms section of The Blend magazine's e-zine.

Local artist and graphic designer David Fick has been chosen to design the event poster. Car Show coordinator is Jim Woolsey. Sponsors are being recruited with assistance from Jan Peters. The Chamber has obtained different insurance which will allow us to relax the requirement for vendors to carry business liability insurance. This change will encourage and enable crafters to vend at this event. A vendor has been recruited to bring a rock climbing wall and several children's inflatable bouncers. Downtown merchants are planning sidewalk sales and local non-profit groups are planning displays and fundraising activities during the event.

Temporary Use Permit and CalTrans Encroachment Permit Applications have been submitted. Barricades and Temporary No Parking signs have been requested.

Pioneer Days 2004

Dates: October 14-17

Saturday- Military Appreciation Day

Theme: "29 Palms Rocks!"

Parade Grand Marshals: Bill & Betty Holmes

Graphic Artist Patrick Brink has been chosen to design this year's Pioneer Days button.

Twentynine Palms Chamber of Commerce
Phone Calls / Visitor Breakdown for the Month of April 2004

Subject	Phone Calls	Walk-Ins
Action Council	4	5
Adopt a Marine Unit	7	4
Art Galleries	2	6
Homesteads		5
Bank		3
Camping	2	3
Carpentry	1	
Chamber Business	119	70
Carnival	25	
Complaints	5	1
Computer Sales/Service/Questions	2	5
Vehicle Repair		1
Car Show	3	17
Demographics	6	7
CPR Classes	1	
Directions	20	42
Gas Station	2	
Entertainment		2
Bus Service to Laughlin		2
Library		5
Gran Prix	14	7
Golf	3	
Government	18	12
General Information		18
Information 411	57	
RV Dump		3
Joshua Tree N.P.	11	85
Laundrymat		2
Lodging	21	12
Maps	1	20
Marketing	28	
Marine Corps Base	61	18
Miscellaneous	32	17
Miss 29 Palms	2	5
Mixers	24	16
Restroom Keys		10
Murals	1	75
Newspaper	2	1
Newsletter	5	
Old Car Club	1	
Packet Requests (Relocation)	2	2
Packet Requests (Visitors)	3	1
Phone Books	2	15
Pioneer Days	13	8
Post Office		8
Parenting Classes	1	
Real Estate	5	16
Relocation Information	2	8
Rentals, Homes, Apartments, Business		3
Reporters	2	2
Restaurants	3	5

Twentynine Palms Chamber of Commerce
Phone Calls / Visitor Breakdown for the Month of April 2004

Rental Equipment	2	
Roofers	4	
RV Parks	3	9
Road Conditions	2	3
Street Fair	36	13
Sun Runner Magazine		19
Wild Flowers	9	17
Weed Show		1
Transportation, Bus/Air/Cabs/etc.	5	1
Workman's Comp Petition	2	
Water Delivery	2	
Weather	7	1
Surplus Store		3
TOTAL	585	614

Packets Mailed **7**



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To: City Council via City Manager
From: Community Development Director
Date: May 11, 2004
RE: PC 04-17
Business License application from Betty Barnett

RECOMMENDATION: Council denial of the Business License based upon implementing a court's decision, specific conditions of probation, and a recommendation from the Sheriff's Department.

BACKGROUND: Betty Barnett held a valid 2003 City Business License. On October 30, 2003, she applied to the City for a 2004 license. The application was routed to the Sheriff's Department for comment. A November 6, 2003 fax from Sergeant Gonzalez of the Morongo Basin Sheriff's station indicated that Ms. Barnett was not allowed to conduct such business. Accordingly, staff sent a November 7, 2003 letter to Ms. Barnett offering to refund the application fee.

Attachments

- City Treasurer recommendation of denial
- November 6, 2003 fax from Sheriff's Dept.
- November 7, 2003 letter from staff to Ms. Barnett
- November 14, 2003 letter from Barnett attorney
- November 24, 2003 letter from staff to Sheriff
- Gary Penrod recommendation of denial
- Probation Dept. communication to Sheriff
- Betty Barnett terms of probation
- City Attorney comment
- February 6, 2004 letter to Ms. Barnett
- Municipal Code Chapter 5.01

Staff received a November 14, 2003 letter from Attorney Peter B. Schlueter stating that terms of probation had not been set that would prohibit Ms. Barnett from being a tax preparer.

On November 24, 2003, staff sought clarification from Captain Jim Williams of the Sheriffs Department and on December 12, 2003, Sheriff Gary Penrod, via Captain Williams, recommended denial of the license based on input from the San Bernardino County Probation Department and limitations, specifically terms 16 and 17, placed on Ms. Barnett by her terms of probation. The recommendation of denial went on to state that the Sheriff's objection would be withdrawn if the San Bernardino Superior Court were to grant Ms. Barnett authorization to participate in the business of tax preparation.

On February 4, 2004, the City Attorney provided comment on the Sheriff's recommendation. Based upon this review, the City Attorney states that there is sufficient legal grounds to deny the Business License application.

After receiving the City Attorney's comment, staff routed a February 6, 2004 letter to Ms. Barnett. The letter stated, in part:

As is noted in the communication from Patrick D. Burke, Supervising Probation Officer, you may seek the Court's final interpretation as to limitations of employment in reference to terms 16 and 17 of your probation. If you were to receive an interpretation that would result in the Probation Department and Sheriff's Department withdrawing their recommendation for denial, processing of your application could resume.

And:

To allow an opportunity for you to consider your options, I will hold off for 60 days taking this matter to the Council for denial. If the Sheriff's Department withdraws their recommendation for denial before April 6, 2004, your license will be processed and, if found to be in compliance with all applicable laws and regulations, could be approved. If their objection is not withdrawn by that time, your Business License application will be scheduled for hearing before the City Council with a recommendation for denial.

If you submit a letter to my office prior to April 6, 2004, withdrawing your application, no action before the Council will be necessary.

Since that time, staff has received no written or verbal communications from Ms. Barnett regarding this matter. Therefore, staff is left with no choice but to schedule it for hearing and recommend denial of the license.

Based on requirements of the Municipal Code and the recommendation of the County Sheriff, staff recommends that Council conduct the public hearing and take action to deny the Business License application.