



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: October 23, 2007

SUBJECT: Adoption of Ordinance No. 210 Amending Section 3.24.020 of the Twentynine Palms Municipal Code Deleting References to the State and Federal Government.

RECOMMENDATION: The City Council adopt Ordinance No. 210

ORDER OF PROCEDURE:

Request Staff Report (Michael Tree Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

Attachments

Ordinance No. 210

BACKGROUND: At the October 9, 2007, City Council meeting the Council took action after a public hearing to introduce Ordinance No. 210, and directed staff to bring the Ordinance back for adoption at their October 23, 2007 meeting.

The following is the background information on the Transient Occupancy Tax (T.O.T.) provided for the City Council on October 9, 2007:

When the T.O.T. ordinance was initially adopted by the City in 1987, it exempted “any Federal or State of California officer or employee when on official business.” It was generally thought at that time that such an exemption was required under the intergovernmental tax immunity doctrine. Consistent with this belief the definition section of the T.O.T. ordinance was further amended in 1990 to define “persons” as not to include state and federal governments.

Following an Attorney General opinion suggesting that such an exemption was not required, the City again amended its T.O.T. ordinance in 1994 to delete the exemption provided in the original ordinance. While the City clearly intended to eliminate the exemption for state and federal employees, the reference to state and federal governments added by the 1990 amendment remained in the definition section.

Review of Staff Report: _____
City Manager City Attorney City Engineer Department Head

In order to remove any confusion and clarify the City's prior and current intention to impose the T.O.T. on state and federal employees, it is requested that the City Council amend Section 3.24.020(a) of the Twentynine Palms Municipal Code to delete its reference to the state and federal government. The attached Ordinance accomplishes this request.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

ORDINANCE NO. 210

**ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF TWENTYNINE PALMS,
CALIFORNIA, AMENDING SECTION 3.24.020
OF THE TWENTYNINE PALMS MUNICIPAL
CODE RELATING TO THE UNIFORM
TRANSIENT OCCUPANCY TAX.**

WHEREAS, Ordinance No. 9, adopted in 1987, established the Uniform Transient Occupancy Tax of the City of Twentynine Palms (T.O.T.) and, because it was generally believed that such an exemption was required under the intergovernmental tax immunity doctrine, it exempted “any Federal or State of California officer or employee when on official business”;

WHEREAS, the T.O.T. was further amended in 1990 by Ordinance No. 74 to define the term “person” as not to include “the state or federal government”;

WHEREAS, following an Attorney General opinion suggesting that such an exemption was not required, the City again amended the T.O.T. in 1994 by Ordinance No. 119 to delete the exemption for state and federal employees provided in Ordinance No. 9;

WHEREAS, while the City Council intended to eliminate the T.O.T. exemption for state and federal employees by passing Ordinance No. 119, the reference to state and federal governments added by Ordinance 74 remained;

WHEREAS, in order to remove any confusion and clarify its prior and current intention not to exempt state and federal employees from the T.O.T., the City Council finds it necessary to amend Section 3.24.020(a) of the City of Twentynine Palms Municipal Code to delete references to state and federal government.

NOW, THEREFORE, the City Council hereby ordains as follows:

SECTION 1. Section 3.24.020, subsection (a) of the Twentynine Palms Municipal Code is hereby amended to read in its entirety as follows:

- (a) “Person” means any individual, firm, public entity, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver trustee, syndicate, or any other group or combination acting as a unit.

SECTION 2. This Ordinance is exempt from compliance with the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

SECTION 3. If any portion of this Ordinance, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

SECTION 4. The City Clerk of the City of Twentynine Palms shall certify to the passage and adoption of this ordinance and shall cause the same to be posted and published in a manner required by law.

APPROVED, ADOPTED AND SIGNED this 23rd day of October, 2007.

ATTEST:

Charlene L. Sherwood CMC, City Clerk of the
City of Twentynine Palms, California

Joel A. Klink, Mayor of the City of
Twentynine Palms, California

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO)ss

CITY OF TWENTYNINE PALMS)

I, Charlene L. Sherwood, City Clerk of the City of Twentynine Palms, California, do hereby certify that Ordinance No. 210 was regularly introduced at the meeting of October 9, 2007, the reading in full thereof unanimously waived, and was adopted by the following vote:

AYES:

NOES:

ABSENT:

Charlene L. Sherwood CMC, City Clerk



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: October 23, 2007

SUBJECT: Adoption of Ordinance No. 211, Adopting the 2007 California Code

RECOMMENDATION: The City Council adopt Ordinance No. 211.

ORDER OF PROCEDURE:

Request Staff Report (Michael Tree Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

Attachments Ordinance No. 211

BACKGROUND: At the October 9, 2007, City Council meeting the Council conducted a public hearing and introduced Ordinance No. 211 directing staff to bring the Ordinance back to the Council at their October 23, 2007 meeting for adoption.

The following is the staff report that was provided to the Council on October 9, 2007:

On July 1, 2007, the State of California published and made available the 2007 Edition of the California Code of Regulations, Title 24, which consists of updates to the following:

1. The California Administrative Code
2. The California Building Code
3. The California Electrical Code
4. The California Mechanical Code
5. The California Plumbing Code
6. The California Energy Code
7. The California Elevator Safety Construction Code
8. The California Historical Building Code
9. The California Fire Code
10. The California Existing Building Code
11. The California Referenced Standards

Review of Staff Report: _____
City Manager City Attorney City Engineer Department Head

Due to conditions in specific communities, local governments may adopt amendments to the abovementioned codes based on local climatic, geological, or topographical conditions. Jurisdictions planning on adopting the California Building Codes and Standards with appendices *and local amendments incorporated* must do so before January 1, 2008, for the code, appendices, and local amendments to be effective on that date.

Attached to this staff report is Ordinance No. 211. This Ordinance adopts by reference the abovementioned California Building Codes and Standards, appendices and amendments.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

ORDINANCE NO. 211

AN ORDINANCE OF THE CITY OF TWENTYNINE PALMS CALIFORNIA, ADOPTING BY REFERENCE AND AMENDING THE CURRENT EDITIONS AS PUBLISHED BY THE INTERNATIONAL CODE COUNCIL RELATING TO THE REGULATION AND GOVERNING THE CONSTRUCTION CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES IN THE CITY OF TWENTYNINE PALMS AS FOLLOWS: CALIFORNIA BUILDING CODE, 2007 EDITION VOLUMES 1, and 2, WITH APPENDIX CHAPTERS 1, F, G, H, I, AND J; INTERNATIONAL PROPERTY MAINTENANCE CODE, 2006 EDITION; CALIFORNIA ELECTRICAL CODE, 2007 EDITION; CALIFORNIA PLUMBING CODE, 2007 EDITION; CALIFORNIA MECHANICAL CODE, 2007 EDITION; CALIFORNIA ENERGY CODE 2007 EDITION.

The City Council of the City of Twentynine Palms does ordain as follows;

SECTION 1. FINDINGS.

(a) Government Code sections 50022.1 et. Seq., provide that ordinances and codes of the federal, state or any agency of either of them may be adopted by reference, provided that prior to such adoption by reference a noticed public hearing has been held.

(b) Copies of these codes and standards were filed with the office of the City Clerk fifteen days prior to the noticed hearing.

(c) A noticed public hearing has been held by the City Council, at which time all interested persons had the opportunity to appear and be heard on the matter of adopting by reference the current editions of certain model codes, as follows;

California Building Code, 2007 Edition, Volumes 1, 2 with Appendix F,G,H,I, J
2006 International Property Maintenance Code
California Electrical Code, 2007 Edition
California Plumbing Code, 2007 Edition
California Mechanical Code, 2007 Edition
California Energy Code 2007 Edition
California Historical Building Code
California Elevator Safety Code
California Existing Building Code
California Referenced Standards
together with all appendices and amendments thereto

SECTION 2. BUILDING CODE ADOPTED. Except as hereinafter provided, the California Building Codes, 2007 Edition Volumes 1, 2, published by the International Codes Council. Including the generic fire-resistive assemblies listed in the Fire Resistance Design Manual, Eighteenth Edition, dated April 2006 and published by the Gypsum Association as referenced in Tables Numbered 720.1(1), 720.1(2) and 720.1(3) and; all California Building Code Appendix Chapters with the exception of Appendix Chapters A,B,C,D, and E; Elevator Safety Code Title 24 part 7 for Elevators and Escalators, Society of Mechanical Engineers; Structural Welding Code-Reinforcing Steel, AWS D1.4-92 (UBC Standard No.19-2); Structural Welding Code-Steel, ANSI/AWS D1.1-84 (UBC Standard No.27-6) and Structural Welding Code-Sheet Steel, ANSI/AWS D1.3-81 (UBC Standard No. 27-13) published by the American Welding Society; as modified or amended in the California Building Code referenced herein; is hereby adopted by reference as the Building

Code of the City of Twentynine Palms for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment use, height area, maintenance of all buildings or structures in the City of Twentynine Palms providing for the issuance of all permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such California Building Code, 2007 Edition, Volumes 1, 2, published by the International Code Council above, except as amended herein, all of which are on file in the office of the City Clerk, City of Twentynine Palms are hereby referred to, adopted and made part hereof as if fully set out in this ordinance.

A copy of the Building Code of the City of Twentynine Palms shall be maintained in the office of the City Clerk in the City of Twentynine Palms, and shall be made available for public inspection while this code is in force.

SECTION 3. BUILDING CODE AMENDED. The 2007 California Building Code as adopted herein is amended as follows:

C.B.C. Chapter 16 Volume 2, Structural Design Requirements Division General Design Requirements add 1604.11

A. Stucco and Drywall

1. Reduce the allowable shear values for Portland cement (stucco) and gypsum sheeting board/gypsum wall board (drywall) permitted under the 2007 C.B.C Table 2306.4.5 as follows:

B. Portland Cement Plaster

1. Reduce allowable shear wall value to 90#/foot
2. Limit ratio "h/d" to 1
3. Required minimum nailing will be limited to 11 (gage) x 1 1/2(length) galvanized nails with lath furred to 1/4 in. Staples and self-furring lath will not be permitted.

C. Gypsum Sheeting and wallboard (1/2 or 5/8 in .thickness)

1. Reduce the maximum shear value to 30#/foot (for both blocked and unblocked shear walls), with nailing at 7 in. maximum spacing.
2. Limit the ratio "h/d" to 1.
3. Wall frame assemblies of Portland cement plaster or gypsum wallboard will not be permitted to carry shear loads at the ground floor of a multi-story building.

D. Plywood

1. Reduce the allowable values for plywood shear walls to 75% of the shear values listed in 2007 CBC Table 2306.4.1 Volume 2
2. Require nominal 3 in. thick boundary and panel edge members for all shear walls with shear values exceeding 300# per foot.
3. Require minimum 1/2 in. edge distance for nailing at the 3X boundary and panel edge members of these shear walls.
4. Limit the shear wall "h/d" ratio to 2:1

E. Hold-down Connectors

1. All bolt-holes shall be 1/16" (max.) oversized at the connection of hold-downs to posts (note on plans inspector to verify)

2. Specify that hold-down connection bolts and nuts shall be torqued 1/2 turn beyond finger tight or as required by the manufacturer. Inspector shall verify by random inspection prior to covering walls.
3. Allowable load on the manufactured hold-downs should be 75% of the value listed in the research report

F. Open/Soft Story Design

1. Column deflection shall be limited to 0.005H, where “H” is story height
2. Use “K-2.1” the buckling factor for cantilevered columns for the design of columns.

G. Plan Requirements

1. Lateral-force resisting system of the structure shall be clearly shown on the plans and calculations.
2. Sufficient elevations and detail references for all shear-walls, frames etc. shall be provided on the plans to clearly show all applicable conditions.

Section 1910 Minimum Slab Provisions

Amended as follows;

The minimum thickness of concrete floor slabs shall be not less than 3 1/2 inches and shall have minimum 6x6x10x10 welded wire mesh reinforcement.

Section 1503 Roof Covering Requirements

Amended as follows;

The roof covering on any structure regulated by this Code shall be Class “A” as classified in Section 1505.

Exception: Repairs of and additions to existing structures which requires the replacement or addition of 25% or less of the total roof area may be made using material matching the existing roof.

Appendix J Excavation and Grading

Amended as follows;

J104.5 Grading Designation. Grading in excess of 2500 cubic yards shall be preformed in accordance with the approved grading plan prepared by a civil engineer, and shall be designated “engineered grading.” Grading involving less than 2500 cubic yards shall be designated “regular grading” unless the City Engineer determines that special conditions or unusual hazards exist, in which case grading shall conform to the requirements for engineered grading.

J110.1 Erosion Control (a) Slopes. The faces of cut and fill slopes shall be prepared and maintained to control erosion. This control must consist of effective planting as described elsewhere in this section, or other devices satisfactory to the Building Official.

(b) PLANTING. The surface of all cut slopes more than 5 feet in height and fill slopes more than three feet in height shall be protected against damage by erosion by planting with grass or ground cover plants. Slopes exceeding 15 feet in height shall also be planted with shrubs, spaced at not to exceed 10 feet on centers; or trees, spaced at not to exceed 20 feet on centers; or a combination of shrubs and trees at equivalent spacing, in

addition to the grass or ground cover plants. The plants selected and planting methods used shall be suitable for the soil and climate conditions of the site and in accordance with the current City approved publication.

Planting need not be provided for cut slopes rocky in character and not subject to damage by erosion or any slopes protected against erosion damage by other methods when such methods have been specifically recommended by a soils engineer, engineering geologist, or equivalent authority and found to offer erosion protection equal to that provided by the planting specified in this section.

Plant material shall be selected which will produce a coverage of permanent planting effectively controlling erosion. Consideration shall be given to deep rooted plant material needing limited watering, to low maintenance during the lifetime of the project, to high root to shoot ratio (weight of above ground parts versus root system), wind susceptibility and fire-retardant characteristics.

(c) IRRIGATION. Slopes required to be planted by sub-section (b) shall be provided with an approved system of irrigation, designed to cover all portions of the slope and plans therefore shall be submitted and approved prior to installation. A functional test of the system may be required.

For slopes less than 20 feet in vertical height, hose bibs to permit hand watering will be acceptable if such hose bibs are installed at conveniently accessible locations where a hose no longer than 50 feet is necessary for irrigation.

The requirements for permanent irrigation systems may be modified upon specific recommendation of a landscape architect or equivalent authority that because of the type of plants selected, the planting methods used, and the soil and climatic conditions at the site, an irrigation system will not be necessary.

(d) PLANS AND SPECIFICATIONS. Planting and irrigation plans shall be submitted for slopes required to be planted and irrigated by sub-sections (b) and (c). Except when waived by the City Planner for minor grading, the plans for slopes 20 feet or more in vertical height shall be prepared and signed by a civil engineer or landscape architect.

(e) RODENT CONTROL. Fill slopes steeper than two horizontal to one vertical within a grading project located adjacent to undeveloped and unoccupied land determined by the Agricultural Commissioner to be infested by burrowing rodents, shall be protected from potential slope damage by an effective rodent control program.

SOILS AND FOUNDATIONS

SECTION 1802.1.1.1. The City Engineer may require an engineering geology or geotechnical engineering report, or both, where in his opinion such reports are essential for the evaluation of the safety of the site. The engineering geology or geotechnical engineering report, or both shall contain a finding regarding the safety of the building site for the proposed structure against hazard from landslide, settlement, or slippage and a finding regarding the effect that the proposed building or grading construction will have on the geologic stability of property outside the building site. Any engineering geology report shall be prepared by a certified engineering geologist licensed by the State of California. Any geotechnical engineering report shall be prepared by a civil engineer qualified to perform this work, such as a geotechnical engineer experienced in soils mechanics. When both an engineering geology

and geotechnical engineering report are required for the evaluation of the safety of the site, the two reports shall be coordinated before submission to the City Engineer.

SECTION 4, PLUMBING CODE ADOPTED. Except as hereinafter provided, the California Plumbing Code, 2007 Edition, published by the International Association of Plumbing and Mechanical Officials, including the installation standards contained in is hereby adopted by reference as the Plumbing Code of the City of Twenty-nine Palms. A copy of the California Plumbing Code 2007 Edition, including the installation standards V shall be maintained in the office of the City Clerk of the City of Twenty-nine Palms and shall be made available for public inspection while this Code is in force.

SECTION 5. PLUMBING CODE ADMINISTRATIVE PROVISIONS

DELETED. The Administrative provisions of the California Plumbing Code, 2007 Edition, contained in part one of that Code except Sections 101.1, 101.2 101.3 and 101.4 are hereby deleted. The Administrative provisions governing the Plumbing Code, including violation and penalty provisions, shall be as set forth in Section 11 of this ordinance.

SECTION 7. MECHANICAL CODE ADOPTED, except as hereinafter provided, The California Mechanical Code, 2007 Edition, published by the International Association of Plumbing and Mechanical Officials, is hereby adopted by reference as the Mechanical Code of the City of twenty-nine Palms. A copy of the California Mechanical Code, 2007 Edition shall be maintained in the office of the City Clerk of the City of Twenty-nine Palms and shall be made available for public inspection while this Code is in force.

SECTION 8. MECHANICAL CODE ADMINISTRATIVE PROVISIONS DELETED.

The Administrative provisions of the California Mechanical Code, 2007 Edition, contained in Part I except sections 101 and 102 are hereby deleted. The Administrative provisions governing the Mechanical Code, including violation and penalty provisions, shall be as set forth in Section 11 of this ordinance.

SECTION 9 ELECTRICAL CODE ADOPTED, except as hereinafter provided, the California Electrical Code, 2007 Edition, published by the National Fire Protection Association is hereby adopted by reference as the Electrical Code of the City of Twenty-nine Palms. A copy of the California Electrical Code, 2007 Edition, shall be maintained in the office of the City Clerk of the City of Twenty-nine Palms and shall be made available for public inspection while this Code is in force.

SECTION 10, ELECTRICAL CODE ADMINISTRATIVE PROVISIONS. The Administrative Provisions governing the Electrical Code, including violation and penalty provisions shall be as set forth in Section 11 of this ordinance.

SECTION 11, ADMINISTRATIVE CODE ADOPTED. Except as hereinafter provided the California Building Code Appendix Chapter 1 Administration, 2007 Edition, published by the International Code Conference is hereby adopted by reference as the Administrative Code of the City of Twenty-nine Palms. A copy of the California Administrative Code, 2007 Edition shall be maintained in the office of the City Clerk of the City of Twenty-nine Palms and shall be made available for public inspection while this Code is in force.

SECTION 108, FEES. , of the Administrative Code are hereby amended to read as set forth in the most recent resolution of the City Council regarding fees for building, plumbing, mechanical, electrical, elevator and grading permits and plan review.

SECTION 13, LIABILITY. California Building Code Appendix 1 shall be amended as follows

Section 104.8 LIABILITY. The Building Official, or his authorized representative charged with the enforcement of this Code and the technical codes, acting in good faith and without malice in the discharge of his duties, shall not thereby render himself personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of his duties. Any suit brought against the Building Official, agent or employee because of such act or omission performed by him in the enforcement of any provision of such Codes or other pertinent laws or ordinances implemented through the enforcement of this Code or enforced by the code enforcement agency shall be defended by this jurisdiction until final termination of such proceedings, and any judgment resulting there from shall be assumed by this jurisdiction.

The provisions of this section shall apply if the Building Official or his authorized representative are employees of this jurisdiction and shall also apply if the Building Official or his authorized representative are acting under contract as agents of the jurisdiction.

Such Codes shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building, structure or building service equipment therein for any damages to persons or property caused by defects, nor shall the code enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

SECTION 14. VIOLATIONS AND PENALTIES.

Violations and penalties pertaining to the adopted codes shall be by Ordinance No. 211.

SECTION 15. International Property Maintenance Code Except as hereinafter provided the International Property Maintenance Code, 2006 Edition, published by the International Code Council, is hereby adopted by reference as the Housing Code of the City of Twenty-nine Palms. A copy of the International Property Maintenance Code, 2006 Edition, shall be maintained in the office of the City Clerk for public inspection while this Code is in force.

SECTION 16. AMENDMENTS NECESSARY. Pursuant to Section 17958.5 of the Health and Safety Code of the State of California, The City Council of the City of Twenty-nine Palms hereby finds that the amendments of the building standards contained in the California Building Code, Volumes 1, 2, 2007 Edition are necessary do to past earthquakes (Landers 1992, Hector Mine) and the inherent run off problems incurred with severe thunderstorm activity and flooding due to the Towns desert location.

SECTION 17. SEVERABILITY. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this

Ordinance and each and all provisions thereof, irrespective of the fact that any one or more of said provisions may be declared invalid.

SECTION 18. The City Clerk shall certify to the passage and adoption of this ordinance by not less than a four-fifths vote of the City Council; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, go into effect thirty days after adoption thereof, but no sooner than January 1, 2008 cause the same to be published in the manner prescribed by law.

APPROVED, ADOPTED AND SIGNED this 23rd day of October, 2007.

ATTEST:

Charlene L. Sherwood CMC, City Clerk of the
City of Twentynine Palms, California

Joel A. Klink, Mayor of the City of
Twentynine Palms, California

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO)ss

CITY OF TWENTYNINE PALMS)

I, Charlene L. Sherwood, City Clerk of the City of Twentynine Palms, California, do hereby certify that Ordinance No. 211 was regularly introduced at the meeting of October 9, 2007, the reading in full thereof unanimously waived, and was adopted by the following vote:

AYES:

NOES:

ABSENT:

Charlene L. Sherwood CMC, City Clerk



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: October 23, 2007

SUBJECT: Authorization for Additional Services by RSG for the Conducting of Public Workshops in an Effort to Obtain Public Comment on the General Plan

RECOMMENDATION: That the City Council authorize the City Manager to sign a contract amendment with the firm of Rosenow Spevacek Group (RSG) in an amount not to exceed \$25,000 for the development and conducting of public workshops to seek input from residents on the current General Plan.

ORDER OF PROCEDURE:

Request Staff Report (Michael Tree Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

BACKGROUND: At the October 9, 2007, City Council meeting the City Manager was given direction to contract with RSG for an amount not to exceed \$25,000 for the purpose of accomplishing the following tasks in regard to seeking public input on the current General Plan:

Task 1

RSG will focus on gathering information throughout an approximate 30-45 day research effort. During this time RSG will conduct necessary site visits, review land use and zoning information, gather development data, and perform other research activities to gain a complete understanding of the City's development and land use issues in relation to the General Plan.

Task 2

The next step will be to interact with the City Council through a workshop(s) and other meetings as needed. Staff envisions the workshop to include:

- Review of land use goals and policies, development regulations, and zoning ordinances
- Presentation of data related to conforming and non-conforming land uses, breakdowns of developed areas by land use and zoning categories, and an analysis of vacant land
- Review of development and build-out scenarios based on current zoning and land use

Review of Staff Report:

City Manager

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designations.

- Focus on land use balance in relation to existing and proposed commercial development
- Discussion with Council members on the General Plan and long term goals

The overall goal of the workshop(s) will be to gain a comprehensive understanding of how Council members view development trends in the City, their understanding of long range planning goals, their vision for future growth and preservation, and Council perception of the effectiveness of current land use planning policies.

Task 3

Following the opportunity to work with the City Council, RSG proposes a series of three workshops or charrettes. The workshops would include a review of the General Plan with workshop participants in an effort to gain meaningful discussion and input.

Task 4

The culmination of work will include a presentation of recommendations for moving forward in a summary report to the City Council and staff.

DISCUSSION: The City Manager seeks authorization to sign a contract amendment with RSG in an amount not to exceed \$25,000 for the development and conducting of public workshops to seek input from residents on the current General Plan.

ALTERNATIVES: N/A

FISCAL IMPACT: This work is currently not in the FY 2007/08 City Budget. If approved the contract amendment would need to be ratified and included in the budget during the mid-term budget review.



STAFF REPORT

TO: City Council
FROM: City Engineer via City Manager
DATE: October 23, 2007

SUBJECT: Slurry Seal Program: In House Compared to Contracting Out

RECOMMENDATION: That the City Council directs staff to continue with the current program by contracting to provide slurry seal services on an annual basis.

ORDER OF PROCEDURE:

Request Staff Report (Richard Pedersen Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

SUMMARY: As part of the City Council's goals and strategies for FY 2007/08, the City Manager requested that staff look in to the feasibility of providing, in house, slurry sealing services by utilizing the City's maintenance crew to slurry seal city streets.

BACKGROUND: Last summer staff provided the Council with a report explaining the different street maintenance tools outlined in the City's Pavement Management System that are used to keep our streets in a good condition. Specifically, staff reviewed with the Council the importance of the City's slurry seal program and how the program can both efficiently and effectively keep roads in optimal condition.

Over the last three years that City has slurry sealed 53 miles of City streets, including 23 miles in FY 2006/07.

The slurry emulsion used to seal our roads lasts between approximately 5 years. The ideal maintenance program for a city is to create 5 areas within the city and slurry seal one area each year over a 5 year period. When slurry seal companies come to the city to provide this service it cost the city about \$.11/sq.ft., which includes the cost of the slurry (asphalt emulsion, water and ionized rock), labor, and equipment. It takes the slurry seal crews about 3 weeks to seal 25 miles of road. There are approximately 104 miles of paved roadway in the City.

Review of Staff Report:

City Manager

City Attorney

City Engineer

Department Head

DISCUSSION: The following are some factors considered in reaching staff's recommendation:

- The time it would take the crew to slurry seal one of the five areas within the City would be three weeks per year. Once these streets are sealed, the crew would not need to seal streets for another 12 weeks or 11 months.
- As mentioned, the City has already slurry sealed approximately 50 miles of streets in recent years. The remaining streets, to be slurry sealed, are approximately 50 miles. The crew could slurry seal the remaining streets in 6 weeks and then not have any more to do until 2009. Purchased equipment would not be utilized for several years.
- A slurry seal truck and related equipment cost approximately \$250,000, and would spend most of its time not being utilized.
- The City would not save money on materials, which is the bulk of the transaction costs when contracting.
- It is possible to rent the equipment.
- If the city went "in-house", the city funds spent on labor would stay in Twentynine Palms.

What would be the cost savings?

An easy way to conceptualize the cost benefit or lack thereof is to consider the following:

If City personnel slurry sealed the entire city in one year, over a 15 week period, the city would most likely realize an approximate \$25,000 in savings for owning its own equipment, if the city were to slurry seal these streets every 7 years, it would take 10 cycles at \$25k/cycle or 70 years to pay for the equipment with the realized savings. This would not take into consideration the cost to maintain the equipment.

Down time on daily operations for the City's crew

The City's crew currently has a scheduled daily workload that includes sign replacement, pothole repair, clearing of storm debris, shoulder and curb and gutter maintenance, and other required tasks. If the City crew were to be pulled from these tasks, for several weeks, the daily workload would create additional strain on the citywide maintenance program. Hiring additional staff for a short time period for the purpose of coverage during the slurry seal cycle would be time consuming and difficult to manage.

Training

Though renting equipment may be much more cost effective than owning equipment, the city crew will need to be trained in applying the seal coat. Often times even the experienced slurry seal companies are required to come back and redo sections of streets because the materials may not have been within the narrow tolerances and the asphalt emulsion may separate causing "bleeding" of the asphalt. This is done at the contractor's expense. A less experienced crew most likely will have more issues relating to quality control that would increase overall costs.

ALTERNATIVES: Provide alternative direction to staff.

FISCAL IMPACT: N/A



STAFF REPORT

TO: City Council
FROM: Code Enforcement Officer via City Manager
DATE: October 23, 2007

SUBJECT: PC 07-78 City Council confirmation of the costs of abating the public nuisance at 75348 Alta Loma Drive (APN 0624-201-10), and adoption of **Resolution No. 07-32** directing the recordation of a Nuisance Abatement Lien against the property to recover the City's cost of abatement.

RECOMMENDATION: Conduct the Public Hearing, consider public comment, and confirm costs of abatement of 75348 Alta Loma Drive in the amount of \$8,504.00, and adopt **Resolution No. 07-32** directing the recordation of a Nuisance Abatement Lien in the amount of \$8,504.00 against the property to recover the City's costs of abatement.

ORDER OF PROCEDURE:

Request Staff Report (Alex Meyerhoff Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

BACKGROUND: Timothy Murphy and Tina Murphy own 75348 Alta Loma Drive and 7188 Woodward Avenue, which are two adjacent parcels. Both parcels had residential structures on them.

On December 21, 2006, the house at 75348 Alta Loma Drive was burned in a house fire, and was uninhabitable. The property contained a large quantity of junk and rubbish.

The City's Code Enforcement Division has attempted to have the owners remove the junk and rubbish from both properties for a long period of time, without success. The property owners did not have the ability to remove the junk, rubbish, mobile home remnants, and the burned out house, and entered into an agreement with the City where the property owners would waive their rights to due process under the Fourth Amendment, would consent to the City abating the

Attachments

- Locator Map
- June 20, 2006 letter
- February 28, 2007 letter
- March 7, 2007 letter
- June 26, 2007 Consent to abate
- July 11, 2007, pre-abatement photos
- July 24, 2007 post-abatement photos
- Record of abatement costs
- September 19, 2007 letter of City Council hearing
- Resolution 07-32

Review of Staff Report: _____

City Manager

City Attorney

City Engineer

Department Head

property. In this agreement, the property owners also consented to the City recording a Nuisance Abatement Lien against the two properties to recover the costs of abatement at some point in the future when the title is transferred.

On June 26, 2007, the owners signed the Consent to Abate, and between July 1, 2007 and July 31, 2007, a contractor hired by the City removed the burned out structure and the junk and rubbish from 75348 Alta Loma Drive for a cost of \$8,100.00. City fees of \$285.00 for investigation and inspections, and a recording fee of \$119.00, bring the costs for the abatement of this property to a total of \$8,504.00.

ALTERNATIVES: The City Council may take the following actions: (a) Take no action on 75348 Alta Loma Drive; (b) Approve the total abatement cost of \$8,504.00 for the abatement of 75348 Alta Loma Drive and adopt Resolution No. 07-32 directing the recordation of a Nuisance Abatement Lien against the property for the cost of abatement; or (c) Make an adjustment in the cost of abatement and adopt Resolution No. 07-32 directing the recordation of a Nuisance Abatement Lien against 75348 Alta Loma Drive for the adjusted cost of abatement.

FISCAL IMPACT: Expenditure of \$8,100.00 for the abatement of 75348 Alta Loma Drive. The total abatement cost of \$8,504.00, which includes City fees, will be recovered when the property is sold.



STAFF REPORT

TO: City Council
FROM: Code Enforcement Officer via City Manager
DATE: October 23, 2007

SUBJECT: PC 07-79 City Council confirmation of the costs for the abatement of the public nuisance at 7188 Woodward Avenue (APN 0624-201-09), and adoption of **Resolution No. 07-33** directing the recordation of a Nuisance Abatement Lien against the property to recover the City's cost of abatement.

RECOMMENDATION: Conduct the Public Hearing, consider public comment, and confirm costs of abatement of 7188 Woodward Avenue in the amount of \$2,204.00, and adopt Resolution No. 07-33 directing the recordation of a Nuisance Abatement Lien against the property to recover the City's costs of abatement.

ORDER OF PROCEDURE:

Request Staff Report (Alex Meyerhoff Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

BACKGROUND: Timothy Murphy and Tina Murphy own 75348 Alta Loma Drive and 7188 Woodward Avenue, which are two adjacent parcels. Both parcels had residential structures on them.

Attachments

- Locator Map
- March 7, 2007 letter
- June 26, 2007 Consent to Abate
- Record of abatement costs
- July 11, 2007 Pre-abatement photos
- September 13, 2007 Post-abatement photos
- September 19, 2007 letter of City Council hearing
- Resolution 07-33

The owner unlawfully attached a large mobile home to the back of his residence at 75348 Alta Loma Drive, which Code Enforcement directed him to remove from the property. The mobile home was brought to the west side of 7188 Woodward Avenue where the owner demolished it, leaving the remnants on the frame and on the ground.

The City's Code Enforcement Division has attempted to have the owners remove the junk and rubbish from both properties for a long period of time, without success. The property owners did not have the ability to remove the junk, rubbish, and the mobile home remnants, and entered into

Review of Staff Report: _____

City Manager

City Attorney

City Engineer

Department Head

an agreement with the City where the property owners would waive their rights to due process under the Fourth Amendment, would consent to the City abating the property. In this agreement, the property owners also consented to the City recording a Nuisance Abatement Lien against the two properties to recover the costs of abatement at some point in the future when the title is transferred.

Between July 1, 2007 and July 31, 2007, a contractor hired by the City removed the junk, rubbish, and mobile home remnants from 7188 Woodward Avenue for a cost of \$1,800.00. City fees of \$285.00 for investigation and inspections, and a recording fee of \$119.00, bring the total for the abatement of this property to \$2,204.00.

ALTERNATIVES: The City Council may take the following actions: (a) Take no action on 7188 Woodward Avenue; (b) Approve the total abatement cost of \$2,204.00 for the abatement of 7188 Woodward Avenue and adopt Resolution No. 07-33 directing the recordation of a Nuisance Abatement Lien against the property for the cost of abatement; or (c) Make an adjustment in the cost of abatement and adopt Resolution No. 07-33 directing the recordation of a Nuisance Abatement Lien against the property for the adjusted cost of abatement.

FISCAL IMPACT: Expenditure of \$1,800.00 for the abatement of 7188 Woodward Avenue. The total abatement cost of \$2,204.00, which includes City fees, will be recovered when the property is sold.



STAFF REPORT

TO: City Council via City Manager
FROM: Community Development Director
DATE: October 23, 2007

SUBJECT: PC 05-81 - An appeal by Brooks Bauer on behalf of Judy Beltz, of the Planning Commission's denial of a General Plan Amendment and Change of Zone from RL-1 (Rural Living) to CG (General Commercial), Conditional Use Permit to construct a 26,576 square foot mini-storage facility, and a Variance to the CG zone standards to eliminate the side yard setbacks, on approximately 2.39 acres at 73441 Indian Trail, west of Bullion Avenue and east of Desert Queen Avenue, on APN #0620-121-04, T1N, R9E, Section 8.

RECOMMENDATION: That the City Council conduct the public hearing, consider all oral and written testimony, adopt Resolution 07-37 (attached) and deny the appeal.

ORDER OF PROCEDURE:

Request Staff Report (Meyerhoff Presenting)
Request Public Comment
Council Questions of Staff
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (Roll Call vote)

Attachments

1. Resolution 07-37
2. Appeal
3. Staff Reports
4. Meeting Minutes
5. Correspondence
6. Site Plan

SUMMARY:

At the request of the applicant, this public hearing was continued from the meeting of October 9, 2007. At that meeting, a contractor represented that they had an active business license at the location in question.

Staff has reviewed the matter, and found that while Clark Construction Company had applied for a business license at this location (73441 Indian Trail), the application for a business license was subsequently denied on April 18, 2002, following Planning Commission consideration of a Temporary Use Permit. On December 18, 2001, the Planning Commission directed the applicant to apply for a General Plan Amendment within sixty days. When the applicant failed to apply for the General Plan amendment, the application for a business license was subsequently denied.

The project site is located on approximately 2.39 acres at 73441 Indian Trail, west of Bullion Avenue and east of Desert Queen Avenue. The application includes a request to amend the General Plan Land Use Designation and Change the Zone from RL-1 (Rural Living) to CG (General Commercial), and a Conditional Use Permit to construct a 26,576 square foot mini-storage facility, which would include a 1,320 square foot office and managers residence. The application also requests approval of a Variance to the CG zone side yard setback standards, which require a minimum ten foot side yard setback, to eliminate the side yard setbacks and

Review of Staff Report: _____

City Manager

City Attorney

City Engineer

Department Head

allow construction of the project to occur on the side yard property lines. This is also referred to as “Zero-lot line construction”, and is commonly found in densely urbanized areas, such as the Downtown and Historic Plaza.

BACKGROUND:

On January 20, 2004, the Planning Commission conducted a Public Hearing on a related application for a General Plan Amendment and Change of Zone for this project site from Rural Living (RL-1) to General Commercial (CG). At that meeting the Planning Commission recommended approval of the proposed amendment.

On February 10, 2004 the City Council held a Public Hearing on this project. At that meeting the City Council requested that the applicant file an application for a Conditional Use Permit for the mini-storage project.

An application for a Conditional Use Permit was received and deemed incomplete in 2005. The application was revised in 2006.

On May 15, 2007, the Planning Commission voted 4-1 (Opposed - Rinkes) to recommend that the City Council approve the project. On June 12, 2007, following a public hearing, the City Council referred the case back to the Planning Commission for further review. The Council was concerned about land use compatibility and the history of the parcel.

San Bernardino County has provided additional background information on the history of parcel. The parcel was designated M-1 (Limited Manufacturing District) by San Bernardino County until 1977. In 1977, the zoning was changed to A1 – 2 ½ -T (Limited Agricultural District). Under the M1 zone, a number of manufacturing uses, including “Contractors equipment storage yard”, were permitted. The applicant recalls that the property was utilized as an equipment storage yard when they purchased the property in 1976. Some area residents have a different recollection of the history of the site.

Business licenses for the land use date back to 1991. A license for K&J's Truck Rental expired in 2004, and a license for Beltz Portable Toilet expired in 2001. Currently, there are no active business licenses on this site. The site is presently used as a construction and equipment storage yard.

FINDINGS:

On September 4, 2007, the Planning Commission voted 5-0 to deny the application. The applicant has subsequently appealed the Planning Commission’s denial of the application and related project. The denial of the General Plan Amendment and Change of Zone was based upon the following facts:

1. The location is a rural, low-density residential area.
2. Approval of the application constitutes impermissible spot zoning.
3. The area is not presently served by commercial uses.
4. The proposed land use is incompatible with existing uses in the vicinity.
5. There is an abundant supply of commercially zoned land city-wide which would better accommodate the proposed use.
6. The last Business License at the site expired in 2004.

The Planning Commission's denial of the Conditional Use Permit application was based upon the following facts:

- A. That the proposed design and location of the conditional use and the conditions under which it would be operated are not in accordance with the purpose of the Development Code, the zoning regulations applicable to the site, the City of Twentynine Palms General Plan, and other applicable development policies and standards of the City; and
- B. That the proposed design and location of the conditional use and the conditions under which it would be operated will be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity; and
- C. That the proposed site would not accommodate the use and integrate it with the existing and planned uses in the vicinity.
- D. Appeal of the project would allow for the intrusion of commercial uses in the rural residential neighborhood;
- E. The project is not consistent with development in the vicinity.
- F. The project would have growth inducing impacts and stimulate additional commercial development in the vicinity uncharacteristic of the rural residential area.

The Planning Commission's denial of the Variance application was based upon the following facts:

- A. That, because of special circumstances applicable to the property, (size, shape, topography, location or surroundings) or the intended use of the property, the strict application of the Development Code does not deprive the property of privileges enjoyed by other properties in the vicinity under identical zoning classification; and
- B. That granting the Variance is not necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zoning classification; and
- C. That granting the Variance will be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements; and
- D. That granting of the Variance does constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning classification in which the property is located; and
- E. That granting the Variance does allow a use or activity which is prohibited by the zoning regulation governing the parcel; and
- F. That granting the Variance will be inconsistent with the City of Twentynine Palms General Plan and the Development Code.
- G. The property has no unique characteristics that would justify approval of a Variance.
- H. The intended use would not justify approval of the Variance.
- I. No properties in the vicinity and under identical zoning enjoy the privilege of zero lot line development.

- J. No properties in the vicinity, and under identical zoning classification, enjoy the property right of zero lot line development.

APPEAL:

The applicant requests that the City Council overturn the Planning Commission's denial and approve the project. In the appeal, the appellant states that the Planning Commission "based (their) decision not knowing whether or not a permit is active for the Indian Trail property."

Pursuant to Section 19.46.060 (Appeal Review) of the Development Code, Appeals shall be set for hearing before the Appeal Authority within 30 days of the application being received and deemed complete. If the Appeal Authority finds that the Approval Authority did not misinterpret any policy or ordinance or did not err in exercising its discretion, the Appeal shall be denied. If the Appeal Authority finds that the Approval Authority did misinterpret a policy or ordinance and/or err in exercising its discretion, the Appeal Authority shall provide written findings for their decision prior to taking action to approve the Appeal. Any such action of the Planning Commission shall be final if not appealed in accordance with this Chapter. City Council action on an Appeal shall be final.

Therefore, in order to approve the appeal, the City Council must find that the Planning Commission:

- Misinterpreted a policy or ordinance: or
- Erred in exercising its discretion.

If the City Council can not make this finding, the City Council must deny the appeal.

NEIGHBORHOOD CONCERNS:

At previous public hearings on this topic, correspondence and oral testimony has been received from neighbors in opposition to the project. The opposition is based on the following themes:

- Development pattern in area is very low density, single family rural residential;
- Proposed project is incompatible with existing low density residential land uses;
- Property has a history of non-compliance with City regulations; and
- Community aesthetics.

ALTERNATIVES:

The City Council may take any of the following actions:

- Take no action (Planning Commission action stands);
- Approve the appeal, overturn the Planning Commission's action and approve the project;
- Approve a portion of the appeal, overturn the Planning Commission's action and approve a portion of the project; or
- Deny the appeal and uphold the Planning Commission's action.

FISCAL IMPACT: None.

CITY OF TWENTYNINE PALMS
CITY COUNCIL
RESOLUTION NO. 07-37

A RESOLUTION OF CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DENIAL OF PC 05-81 – A GENERAL PLAN AMENDMENT AND CHANGE OF ZONE FROM RURAL LIVING (RL-1) TO GENERAL COMMERCIAL (CG), AND DENYING A CONDITIONAL USE PERMIT FOR A MINI-STORAGE FACILITY, AND DENYING A VARIANCE FOR THE ELIMINATION OF SIDE YARD SETBACKS, LOCATED AT 73441 INDIAN TRAIL, WEST OF BULLION ROAD AND EAST OF DESERT QUEEN AVENUE, APN #0620-121-04, T1N, R9E, SECTION 8.

WHEREAS, an application for a General Plan Amendment from Rural Living (RL-1) to General Commercial (CG) was received from Judy Beltz; and

WHEREAS, the applicant also seeks approval of a Conditional Use Permit for a 26,576 square foot mini-storage facility, including 1,320 square foot office and managers residence, and a Variance to eliminate the side yard setback, and to construct buildings on the side yard property line, on approximately 2.39 acres at 73441 Indian Trail, west of Bullion Avenue and east of Desert Queen Avenue; and

WHEREAS, an investigation of the business license history of the project site indicates that the site has not had an active business license since December 31, 2004; and

WHEREAS, Pursuant to the California Environmental Quality Act (CEQA), an Initial Study and Negative Declaration of environmental impact have been prepared; and

WHEREAS, a public hearing notice for the Planning Commission Public Hearing was published in a newspaper of record and notice was mailed to all property owners located within 300 feet of the project site; and

WHEREAS, Public Hearings were held by the Planning Commission on May 15, 2007 and September 4, 2007; and

WHEREAS, the City Council conducted a public hearing on this project on June 12, 2007, and referred the matter back to the Planning Commission; and

WHEREAS, the Planning Commission conducted a public hearing on this project on September 4, 2007, and following consideration of the staff report, public hearing, and all written and oral testimony, voted to recommend that the City Council deny the application; and

WHEREAS, on September 12, 2007, Brooks Bauer, on behalf of Judy Beltz, filed an appeal of the Planning Commission's action; and

WHEREAS, on October 9, and 23, 2007, the City Council conducted a duly noticed public hearing on this matter; and

WHEREAS, in regards to the appeal of the Planning Commission's September 4, 2007 denial action, the City Council finds:

- A. Pursuant to Section 19.46.060 (Appeal Review) of the Development Code, the public hearing on this appeal was set for hearing before the Appeal Authority within 30 days of the application being received and deemed complete.
- B. The City Council finds that the Planning Commission did not misinterpret any policy or ordinance.
- C. The City Council finds that the Planning Commission did not err in exercising its discretion.
- D. That because the Planning Commission did not misinterpret any policy or ordinance and did not err in exercising its discretion, the Appeal must be denied.

WHEREAS, pursuant to Section 19.20.070 of the Development Code, which sets forth the required Findings for General Plan Amendments, the City Council hereby finds:

- A. That the amendment is not consistent with the intent of the goals and policies of the General Plan as a whole; and
- B. That the amendment does not prescribe reasonable controls and standards for affected land uses to ensure compatibility and integrity of those uses with other established uses; and
- C. That the amendment would not provide reasonable property development rights while protecting environmentally sensitive land uses and species; and
- K. That the amendment does not provide for the protection of the general health, safety, or welfare of the community because:
 - 1. The location is a rural, low-density residential area.
 - 2. Approval of the application constitutes impermissible spot zoning.
 - 3. The area is not presently served by commercial uses.
 - 4. The proposed land use is incompatible with existing uses in the vicinity.
 - 5. There is an abundant supply of commercially zoned land city-wide which would better accommodate the proposed use.
 - 6. The last Business License at the site expired in 2004.

WHEREAS, pursuant to Section 19.30.060 of the Development Code, which sets forth the required findings for Conditional Use Permits, the City Council hereby finds:

- A. That the proposed design and location of the conditional use and the conditions under which it would be operated are not in accordance with the purpose of the Development Code, the zoning regulations applicable to the site, the City of Twentynine Palms General Plan, and other applicable development policies and standards of the City; and
- B. That the proposed design and location of the conditional use and the conditions under which it would be operated will be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity; and

- G. That the proposed site would not accommodate the use and integrate it with the existing and planned uses in the vicinity.
- H. Appeal of the project would allow for the intrusion of commercial uses in the rural residential neighborhood;
- I. The project is not consistent with development in the vicinity.
- J. The project would have growth inducing impacts and stimulate additional commercial development in the vicinity uncharacteristic of the rural residential area.

WHEREAS, pursuant to Section 19.34.050 of the Development Code, which sets forth the required Findings for Variances, the City Council hereby finds:

- A. That, because of special circumstances applicable to the property, (size, shape, topography, location or surroundings) or the intended use of the property, the strict application of the Development Code does not deprive the property of privileges enjoyed by other properties in the vicinity under identical zoning classification; and
- B. That granting the Variance is not necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zoning classification; and
- C. That granting the Variance will be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements; and
- D. That granting of the Variance does constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning classification in which the property is located; and
- L. That granting the Variance does allow a use or activity which is prohibited by the zoning regulation governing the parcel; and
- M. That granting the Variance will be inconsistent with the City of Twentynine Palms General Plan and the Development Code.
- N. The property has no unique characteristics that would justify approval of a Variance.
- O. The intended use would not justify approval of the Variance.
- P. No properties in the vicinity and under identical zoning enjoy the privilege of zero lot line development.
- Q. No properties in the vicinity, under identical zoning classification enjoy the property right of zero lot line development.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Twentynine Palms following the public hearing, consideration of public testimony, and all written materials and correspondence, and hereby denies the appeal of the Planning Commission's action, upholds the Planning Commission's action and denies the General Plan Amendment, Change of Zone, Conditional Use Permit and Variance applications.

APPROVED AND ADOPTED THIS 23RD DAY OF OCTOBER, 2007.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Joel A. Klink, Mayor

ATTEST:

Charlene L. Sherwood, City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. _____ duly adopted by the City Council of the City of Twentynine Palms in a meeting held on the _____ day of _____, _____, in Twentynine Palms, California.
Dated this _____ day of _____, _____.

Charlene L. Sherwood, City Clerk



STAFF REPORT

TO: City Council
FROM: Community Development Director via City Manager
DATE: October 23, 2007

SUBJECT: PC 07-71 – Zoning Ordinance Amendment amending Chapters 19.10 and 19.96 of the Development Code.

RECOMMENDATION: Conduct the Public Hearing, consider public comment, adopt a Categorical Exemption pursuant to CEQA, approve the Zoning Ordinance Amendments and introduce Ordinance No. 209 by title only.

ORDER OF PROCEDURE:

Request Staff Report (Meyerhoff Presenting)
Request Public Comment
Council Questions of Staff
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

- | Attachments | |
|-------------|--|
| 1. | Planning Commission Staff Report, Sept. 18, 2007 |
| 2. | Draft redline/strikeout Development Code Chapter 19.10 Chapter 19.96 |
| 3. | Ordinance 209 |
| 4. | Minutes, Planning Commission Meeting September 18, 2007 |

BACKGROUND:

The proposed Zoning Ordinance Amendment has two elements, including Sections:

- 19.10 (Commercial Districts); and
- 19.96 (General Subdivision Standards).

On September 18, 2007 the Planning Commission conducted a public hearing on this matter. No public comment was received and the Planning Commission voted to recommend that the City Council approve the amendments.

The Planning Commission has conducted a series of study sessions regarding land uses in the Commercial Zoning districts (Section 19.10, Commercial Districts). This amendment is the culmination of those efforts.

The proposed amendment also includes the clarification language regarding two points of paved access for subdivisions (Section 19.96 General Subdivision Standards). The City Council had asked for clarification of the language that specifies that the two points of access be subject to review and approval by the City Engineer.

Review of Staff Report: _____
City Manager City Attorney City Engineer Department Head

California Environmental Quality Act

The proposed zoning code amendments are not defined as a project under CEQA, and are therefore exempt from further environmental review under state law.

Approval Authority

The Planning Commission is the Review Authority and the City Council is the Approval Authority for this Zoning Ordinance Amendment.

ALTERNATIVES:

In taking action on this application, the City Council may:

- Take no action;
- Approve the amendments;
- Approve portions of the amendments; or
- Deny the amendments.

FISCAL IMPACT:

None.

ORDINANCE NO. 209

AN ORDINANCE OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, AMENDING THE SECTION 19.10 AND 19.96 OF THE CITY OF TWENTYNINE PALMS DEVELOPMENT CODE.

The City of Twentynine Palms makes the following findings:

WHEREAS, the Planning Commission conducted a series of study sessions regarding land uses in the Commercial Zoning districts (Section 19.10, Commercial Districts).

WHEREAS, the proposed amendment also includes clarification language regarding two points of paved access for subdivisions (Section 19.96 General Subdivision Standards). The City Council had asked for clarification language that specifies that the two points of access be subject to review and approval by the City Engineer.

WHEREAS, the City Council finds that the Planning Commission conducted duly a notice public hearing, provided an opportunity for but received no testimony regarding the proposed amendments, and recommended approval of the Development Code amendments, and the City Council has considered the recommendation of the Planning Commission before taking action.

WHEREAS, the City Council conducted duly notice public hearings on October 23, 2007, and received testimony regarding the proposed amendments, and the City Council finds that opportunity has been extended to citizens wishing to review and comment upon the projects.

WHEREAS, the City Council finds that the review process has provided opportunity for all interested agencies to consider and comment on the proposals.

WHEREAS, the City Council finds that the proposed action will not result in an adverse effect on wildlife resources or the public health safety and welfare.

WHEREAS, the City Council finds that the proposed action is consistent with the City's adopted General Plan.

NOW, THEREFORE, the City Council of the City of Twentynine Palms hereby ordains as follows:

SECTION 1: That on October 23, 2007, the City Council adopted a Categorical Exemption pursuant to the California Environmental Quality Act (CEQA), because the proposed zoning code amendments are not defined as a project under CEQA, and are therefore exempt from further environmental review under state law.

SECTION 2: That Section 19.10 and 19.96 of the Development Code be amended as follows in Attachment 1.

SECTION 3: This Ordinance shall be effective 30 days from the date of its adoption and the City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published as required by law.

PASSED AND ADOPTED THIS 13TH DAY OF NOVEMBER, 2007

Joel A. Klink, Mayor

CERTIFICATION:

I, Charlene L. Sherwood, City Clerk of the City of Twentynine Palms, do hereby certify that the foregoing Ordinance No. 209 was introduced and placed upon first reading at a regular meeting of the City Council on the 23rd day of October, 2007. That thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 13th day of November, 2007, by the following vote, to wit:

AYES: COUNCIL MEMBER:
NOES: COUNCIL MEMBER:
ABSENT: COUNCIL MEMBER:
ABSTAIN: COUNCIL MEMBER:

Charlene L. Sherwood CMC, City Clerk



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: February 13, 2007

SUBJECT: Demolition of Abandoned Buildings

RECOMMENDATION

That the City Council approve the demolition of the former Knott's Sky Park Motel, located in the City's Knott's Sky Park, and five buildings located on City property that will become Pioneer Park at the corner of Adobe and Sullivan.

BACKGROUND

Knott's Sky Park Motel

The former Knott's Sky Park Motel was used by the Knott family as a retreat to enjoy the rural desert climate. The property once included at that time an active private airstrip and was planted with various types of horticulture.

Currently, the property surrounding the former Knott's Sky Park Motel is developed as a public park, with a baseball diamond and covered picnic/barbeque area, as well as abundant grass landscaping. The airstrip and most of the preexisting landscaping has been removed or replaced.

The Knott's Sky Park Motel is boarded up and in complete disarray. It has been vandalized both inside and out and the property has visible evidence of rodent and other pest infestation. There is evidence of dry rot and possible compromised structural elements including the foundation/slab. It is evident the building has had renovation and repairs that have altered the original fabric of the construction over the years. The building does not appear to be ADA compliant or meet current standard building codes.

RDK Consulting, Inc. estimates the conservative budget to restore the building at \$982,400.00. Over the past two years staff has attempted to locate funding for the restoration of the building but has not been successful.

The Twentynine Palms Historical Society have expressed that they have no plans to restore the building, and would not be opposed to its removal.

Due to the condition of the building, the lack of monies or designated purpose for its restoration, and its location in a park surrounded by a residential neighborhood, the Park Task Force recommends the demolition of the building.

Attachments

1. Picture of Knott's Sky Park Motel
2. Picture of buildings at Adobe and Sullivan

Buildings at Planned Pioneer Park

The buildings at the southwest corner of Adobe and Sullivan appear to have been a rural gas station and country store built in approximately 1929. As explained to City staff, the last known use of the buildings was as a bar. There are other structures that appear to have been constructed at different times and do not really relate to the original primary structures.

Currently, the structures are boarded up and abandoned. The property on which the buildings reside has acquired by the City for the construction of Pioneer Park.

The structures appear to have been renovated and repaired, which has somewhat altered the original fabric of the construction. The buildings do not appear to be ADA compliant or meet current standard building codes. The main building encroaches into the future street right of way and reduces sight visibility at the intersection, which are major impediments to any reuse.

RDK Consulting, Inc. estimates the conservative budget to restore the building at \$1,177,800. The location of funding for the restoration of these buildings has unsuccessful.

The Twentynine Palms Historical Society has been contacted in regard to these buildings and they have expressed that they have no plans to restore the building, and would not be opposed to their removal.

Due to the condition and location of the buildings, the lack of monies or purpose for their restoration, and their location in a future public park, the Park Task Force recommends demolition of the buildings.

FISCAL IMPACT

Staff estimates the cost of demolition for the aforementioned buildings to be the following (if the buildings are burned by fire department to reduce tonnage of material going to dump):

Knott's Sky Park Motel	\$40,000
Buildings at Adobe & Sullivan	<u>\$45,000</u>
Total	\$90,000

Staff recommends that the City budget for the demolition of the buildings in fiscal year 2007/08. If sufficient funding is not available for the demolition of buildings at both sites during fiscal year 2007/08, staff recommends the demolition of Knott's Sky Park Motel in fiscal year 2007/08, with demolition of the buildings at Adobe and Sullivan in fiscal year 2008/09.



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: October 23, 2007

SUBJECT: Establishment of a Rewards Program for Identification of Graffiti Vandals

RECOMMENDATION: That the City Council receives staff report and approves reward program.

ORDER OF PROCEDURE:

- Request Staff Report (Michael Tree Presenting)
- Council Questions of Staff
- Request Public Comment
- Council Discussion
- Motion/Second
- Discussion of Motion
- Call the Question (roll call vote)

BACKGROUND: Over the past year the City has received graffiti vandalism on various occasions resulting in an estimated \$20,000 to \$30,000 in damages.

Staff has been successful in recovering through the courts the costs for damages from graffiti vandals who have been identified and prosecuted. However, many graffiti vandals have not been identified.

DISCUSSION: The City Council has as one of its FY 2007/08 goals and strategies the creation of rewards program to reduce the amount of graffiti vandalism.

The Council has budgeted \$2,500 towards this program and staff recommends that the City Council take action to establish a reward of \$500 for the person who identifies a graffiti vandal who is then arrested and successfully prosecuted for a specific graffiti crime.

Staff anticipates providing a public awareness campaign that will successfully advertise the program, and the City's tough stand on prosecuting such criminals. A report as to the success of the program to the Council would be provided on an annual basis.

ALTERNATIVES: City Council can modify program as appropriate.

FISCAL IMPACT: Staff has budgeted \$2,500 in general funds for the program.

Review of Staff Report: _____
City Manager City Attorney City Engineer Department Head



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: October 23, 2007

SUBJECT: Beautification of the City Welcome Sign

RECOMMENDATION: Staff recommends that the City Council receive staff report and provide direction to staff as appropriate.

ORDER OF PROCEDURE:

Request Staff Report (Michael Tree Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion & Direction

Attachments

1. Artist Rendition of City Welcome Sign

BACKGROUND: The City Council budgeted \$7,500 in FY 2007/08 for the improvement of the City's Welcome Sign at the southeast corner of Elk Drive and HWY 62.

The Park Task Force is recommending, and the Public Arts Action Council and Soroptomist are concurring, that the City improves the Welcome Sign by adding palm trees and other small desert plants and rock. Attached is an artist conceptual design of the envisioned project.

Staff is seeking input from the Council before finalizing the planning documents for construction. It is anticipated that the project will be within the spending authority of the City Manager and that the project will be completed before the City's 20th Anniversary.

ALTERNATIVES: N/A

FISCAL IMPACT: Staff estimates that the City Welcome Sign project will cost approximately \$7,500.

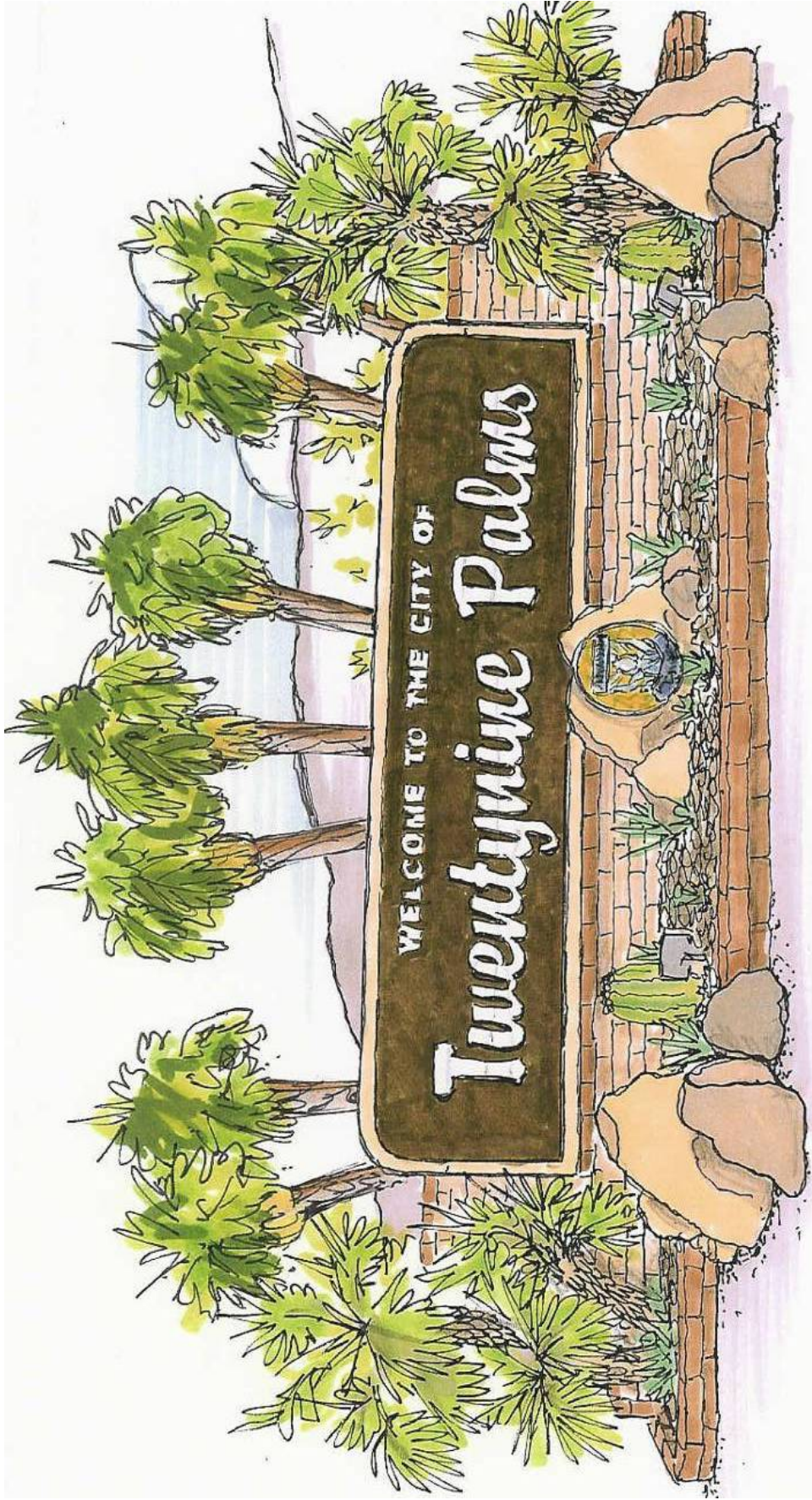
Review of Staff Report:

_____ City Manager

_____ City Attorney

_____ City Engineer

_____ Department Head





STAFF REPORT

TO: City Council
FROM: City Manager
DATE: October 23, 2007

SUBJECT: Vacation of easement for the current alignment of Diamond Bar Road

RECOMMENDATION:

1. Approve the proposed realignment of the Diamond Bar Road.

2. Require the applicant to execute and record a new road easement for the new alignment; and construct the realigned Diamond Bar Road to the City's half-width local street standards.

3. Upon approval of the newly constructed road, direct staff to bring back the necessary resolution to vacate the current alignment for submission to the Planning Commission.

When the Planning Commission finds the proposed vacation to be consistent with the General Plan, direct staff to bring the resolution to a future City Council meeting in order to make the finding that the existing road easement for Diamond Bar Road has been superseded by relocation.

Attachments

1. Locator Map
2. Assessors Map
3. Original RV Project Conditions of Approval
4. City/Talley Agreement
5. Map Showing Realignment of Diamond Bar Road

ORDER OF PROCEDURE:

Request Staff Report (Richard Pedersen Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

SUMMARY

Staff received a request from Mr. Bill Talley, owner of the Twentynine Palms RV Resort (RV Park) to relocate an existing 60' wide road easement, Diamond Bar Road, within his property. Currently, Diamond Bar Road is an unimproved dirt road, which provides access from Desert

Review of Staff Report:

_____ City Manager

_____ City Attorney

_____ City Engineer

_____ Department Head

Knoll Avenue to a recorded housing tract, Tract Map 6826, east of Desert Knoll Avenue. Mr. Talley has proposed to realign the roadway to the north property line of his land because the existing alignment bisects his property into two portions.

The current road easement on Diamond Bar Road may be summarily vacated under the provisions of Section 8330(a) of the Streets and Highway Code because the street “has been superseded by relocation.” Because Diamond Bar Road is currently being used as a dirt road by the public, it is necessary, at a minimum, to construct a new road within the new relocated easement in order to make the finding that it has “*been* superseded by relocation”, therefore, in staff’s opinion it is required that prior to vacating the current alignment, that a new road be constructed within the proposed new road easement. With Council’s approval of the proposed realignment, Mr. Talley can invest in the construction of the new alignment with an assurance that the Council will vacate the original alignment at a future Council Meeting.

Paved vs. Dirt Road

Because the road is currently a dirt road staff could have supported the relocation of a dirt road into the new alignment if no other issues regarding this road existed. However, because Mr. Talley was required to construct a half-width paved road standard as part of the approval of the project south of the current road alignment, Council may want to enforce the condition of approval, requiring half-width street improvements, at this time.

BACKGROUND:

In 2004, 29 Palms Park, LLC and Red Brick Partners, LLC (Mr. Talley) entered into a purchase agreement with 29 Palms RV LLC to acquire 4949 Desert Knoll Drive (APN 0621-241-81), which is where the Twentynine Palms RV Resort (RV Park) is located. An assessor’s map is included as the first attachment to this staff report.

In connection with the original approval of the RV Park by the County, the previous owner, Mr. Ficara, was conditioned to construct certain public improvements, including public streets, curbs, gutters, street lights, and driveway approaches. Upon incorporation, these conditions of approval were adopted by the City. Attached are the conditions of approval for Council’s information. Please note conditions #47 and #48 regarding these improvement requirements.

In October, 2004, three years ago, the City and Mr. Talley executed a Lien Agreement, to which the City agreed to defer the completion of the public improvements for 270 days after the closing of escrow (See attached agreement, page 2). Staff believes that the original intent of the Agreement was to have the public improvements completed that relate to the RV Park Project, located entirely, and only south of the current Diamond Bar Road alignment. Staff anticipates requiring the construction of the north half of Diamond Bar Road at the time when the applicant applies for a permit to develop the land north of the current Diamond Bar Road alignment. The only reason full-width improvements were not required at the time the project south of the alignment was approved, was because the portion of the land north of the property was not being proposed nor approved for development.

Half-Width vs. Full-Width Street improvements

In the 2004 agreement, Mr. Talley requested that the City defer remaining required public improvements that had not been completed by Mr. Ficara, after the closing of the escrow, in

order to accommodate certain modifications to the Diamond Bar Road improvements, that Mr. Talley desired to propose to the City. As a result, it is Mr. Talley's understanding that only half-width improvements are the only improvements he is required to construct when the road is located to the north property line. He cites the statement in the agreement, in section D., allowing the deferral of the "remaining required public improvements" as defined in Exhibit "B". Exhibit "B" states the following:

"1. The half-width improvement of Diamond Bar Road to the City's local standard along the northerly portion of the Property."

Staff interprets the requirement that the Mr. Talley construct Diamond Bar Road to the half-width improvement along the northerly portion of the property as meaning the northerly portion of the property abutting the current alignment of Diamond Bar Road or the northerly portion of the *project* that was permitted for the RV Park by the County. At the time Mr. Talley decides to develop the land north of the current alignment he will have to come before the Planning Commission and/or Council and staff will recommend the construction of the north half of Diamond Bar Road. This understanding remains regardless of the location of Diamond Bar Road. Therefore, staff recommends in order to clarify this issue, that the Council require as a condition of the realignment of Diamond Bar Road that the road be constructed to the full-width local street standard, at the time any of the property south of the proposed alignment and north of the current alignment is developed.

ALTERNATIVES: Amend recommendation.

FISCAL IMPACT: The applicant has paid the required fees for processing this vacation. There is no financial impact to the City.



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: October 23, 2007

SUBJECT: Authorization for Additional Engineering Services Related to Joint-Use Wastewater Study

RECOMMENDATION: That the City Council authorize the City Manager to sign a contract with Winnzler & Kelly Consulting Engineers in the amount of \$20,318, pending final review of the contract by City Attorney.

ORDER OF PROCEDURE:

Request Staff Report (Michael Tree Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

<p style="text-align: center;"><i>Attachments</i></p> <ol style="list-style-type: none">1. Scope of Work2. Contract
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BACKGROUND: The U.S. Navy is currently funding a joint-use study that will investigate and provide comparisons between alternatives for a joint-use wastewater system and separate-use wastewater systems. The study will also provide strategy and recommended courses of actions, to include planning estimates and documentation required to initiate project programming.

DISCUSSION: City and Water District staff believe that there is a task which should be performed, that is not currently in the contract with Winnzler & Kelly Consulting Engineers, which will facilitate future discussion and agreements with the Colorado Regional Water Quality Control Board (CRWQCB), and facilitate the long range planning for a potential central wastewater facility.

The recommended task is the evaluation of the historic and projected nitrate levels within the City of Twentynine Palms based data maintained by the Twentynine Palms Water District and the planning documents of the City of Twentynine Palms.

A scope of work by Winnzler & Kelly for the performance of the abovementioned task is included as the first attachment to this staff report. The timeline for performing this task will coincide with the timeline for the ongoing joint-use wastewater study.

Review of Staff Report: _____
City Manager City Attorney City Engineer Department Head

ALTERNATIVES: The City Council can modify the contract with Winnzler & Kelly as appropriate.

FISCAL IMPACT: The cost of the proposed services as outline in the Scope of Work is \$20,318. Staff recommendation is that the City Council approve the expenditure and that staff be directed to bring back an amendment to the budget during the mid-year review to account for and ratify the decision made by the Council.

The Twentynine Palms Water District staff is supportive of the proposal, and plans to recommend to their Board at their October 24th meeting that the Water District participate financially in the study by paying for half the costs.

SCOPE OF WORK

CITY OF TWENTYNINE PALMS ADDITIONAL ENGINEERING SERVICES RELATED TO JOINT-USE WASTEWATER STUDY

BACKGROUND

The U.S. Navy is funding a joint-use study to evaluate the potential for a combined wastewater system that would serve both the MCAGCC and the City of Twentynine Palms. As a part of that study, we will also be evaluating three alternatives for separate use by the City of Twentynine Palms, in addition to the joint use alternatives. The details of these alternatives are described in a separate memorandum. There are two tasks that are not included in that Scope of Work that will be of value to the City and Twentynine Palms Water District (Water District). These include coordination with and presentations before the City Council and Water District Board to provide some assistance to both parties in evaluating the potential that nitrate contamination of the groundwater could reach a point where wastewater treatment will be mandated by the state. The following is a more detailed listing of these Tasks.

TASK 1

In this Task, we would schedule two presentations before the City Council and Water District Board, and also have two meetings with City, Water District Board and the City's wastewater task force. It is assumed that the presentations will be as a study session, and will occur when we are on site to make presentations to the base after completion of the 30% and pre final (100%) studies. This will save on travel expenses. The meetings with staff are assumed to take place either by teleconference or in our office in San Diego.

During the first presentation (30%), we will provide the assumptions, or design criteria made in order to develop the alternatives, including WWTP location, type and areas to be sewerred.

TASK 2

Assemble and review information regarding groundwater. In this Task, we will assemble available documents, including water testing data that is available for the Twentynine Palms Basin. We will then provide a review of all of this information and summarize our findings in a technical memorandum to the City and Water District. The focus of this effort will be on nitrate levels and groundwater depletion. No drilling or sampling is assumed to occur as a part of this effort. We will make recommendations regarding any additional data requirements that we feel are needed. Our findings will be presented in a technical memorandum.

SCHEDULE

This work will be done concurrently with the Joint Use Study. It is estimated that the first presentation to the City Council and Water District will take place during mid-January, 2008, and that the final presentation will take place during April or May of 2008. The technical memorandum regarding the groundwater issues will be provided by December 25, 2007.

COMPENSATION

We propose to provide these services for a lump-sum fee of \$20,318. We will invoice for our services on the percentage completed on a monthly basis and payments are due within 30 days of the date of invoice. Late payments will be subject to an interest of 1.5% per month.

PROJECT NAME: Additional Engineering Services, related to Joint-Use WWTP Study

CLIENT: City of Twentynine Palms

PREPARED BY: Neal Carnam

PROJECT MANAGER: Maggie Witt
PHONE NUMBER: (858) 244-0440
CONTACT: Michael Tree
PHONE NUMBER: (760) 367-6799
DATE: 10/15/2007

TOTAL FEE PROPOSAL \$20,318



LABOR COSTS

		PM	PRIN	STAFF ENGR	CAD	CLER	TOTAL HOURS	Direct Costs \$6/hour	TOTAL COST
Task 1	Meetings and Presentations	16 \$2,480	16 \$3,360	24 \$2,880	12 \$1,020	4 \$260	72	\$432	\$10,432.00
Task 2	Nitrate Research	8 \$1,240	12 \$2,520	32 \$3,840	2 \$170	4 \$260	58	\$348	\$8,378.00
Task 3	Project Management	4 \$620	4 \$840	0	0	0	8	\$48	\$1,508.00
Task 4	not used								
Task 5	not used								
Task 6	not used								

PROPOSED TOTAL FEE \$4,340 \$6,720 \$6,720 \$1,190 \$520 \$828 \$20,318.00