



STAFF REPORT

TO: City Council
FROM: Public Works Superintendent
DATE: March 2, 2011
FOR CITY COUNCIL MEETING: March 8, 2011

SUBJECT: Surplus Equipment

RECOMMENDATION: That City Council declare City vehicles and equipment surplus as listed in this report, and approve the sale of this equipment through on-line auction.

ORDER OF PROCEDURE:

Request Staff Report (Jose Nieves presenting)
Council Questions of Staff
Council Discussion
Motion/Second
Discussion of Motion
Call the Question

BACKGROUND:

The vehicles and equipment listed are either out dated or red tagged and are no longer being used by the City.

1. **1988 Chevy flat bed pickup truck.** This vehicle has 138,889 miles, and in December 2008, the vehicle developed a loud engine knock and failed its yearly smog check. The truck was then deemed not safe to operate, and was red tagged out of service.
2. **1989 480LL Case Tractor.** This piece of equipment has 5056 hours and was used to clean roads before and after storms. The tractor was equipped with a front broom attachment for moving heavy dirt off the roadway. This piece of equipment now lacks the horsepower it takes to spin the broom in order to clean the roadways.
3. **1993 L 9000 Ford Water Truck.** This piece of equipment has 939,377 miles and was primarily used for dust control when cleaning the roads and for other special projects. In July 2008, major engine problems accrued and upon further testing it was deemed not to be cost efficient to do the repairs. Since then the department has purchased a newer model water truck.

Review of Staff Report:

City Manager City Attorney City Engineer Department Head

4. **2000 Gearmore Rear Flail ID # GRF79540.** This piece of equipment was replaced with a new side arm flail, a much safer piece of equipment for working on the roads.
5. **1995 Toro 325d Lawn Mower.** This mower has 3252.3 hours, slow reacting hydraulics, a worn mower deck, and lack of horsepower. This unit is used daily and must run at full throttle and have sharp blades in order to work properly, as per the owners manual.
6. **2002 Toro 455d Mower.** This mower has 3844.1 hours, slow hydraulics, a worn mower deck, and some electrical problems. This mower is not recommended for repair.

On-Line Public Surplus Information:

This new on-line system is free to government agencies; the fees are paid by the buyer in addition to the items sale price so there is no charge to the City. We take a photo of the equipment then place it on the web site. We are then able to set a reserve price on the piece of equipment. If we do not reach our reserve price for the equipment there is no sale. We simply push the button and run it through the auction one more time. These options could be a benefit to the City as we are not having to transport all of the equipment at one time to the one day auction and hope that we get a good price for the equipment, in addition to paying the normal 10% on top of the sale price.

FISCAL IMPACT: The use of this on-line system will be evaluated for its effectiveness.



STAFF REPORT

TO: City Council via City Manager
FROM: Community Services Director
DATE: March 2, 2010
FOR COUNCIL MEETING OF: March 8, 2011

SUBJECT: Public Hearing regarding the prioritization for funding of Community Development Block Grant applications for fiscal year 2011-2012 with the following programs and projects:

RECOMMENDATION: The Public Hearing be opened and public comments be received and after consideration of the subcommittee's recommendation and public comments, the City Council approve funding for the fiscal year 2011-2012 Community Development Block Grant Program:

1. San Bernardino County Library Literacy Program	\$7,712
2. Reach Out Morongo Basin	\$10,000
3. Morongo Basin Unity Home	\$10,000
4. Luckie Park Well Project	\$75,000
5. Unprogrammed Funds	\$38,060
6. Senior Home Repair Program (Administered by County)	<u>\$43,974</u>
TOTAL	\$184,746

ORDER OF PROCEDURE:

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

BACKGROUND:

The County of San Bernardino Department of Economic, Community and Housing requested applications for use of Community Development Block Grant Funds (CDBG) for fiscal year 2011-2012 in January of 2011. At the close of the application period in January, the Economic Community and Housing Department staff reviewed the applications and forwarded to the City those applications that are eligible for consideration for funding during fiscal year 2011-2012.

The City of Twentynine Palms will receive a total allocation of \$184,746, with \$43,974 set aside for Senior Home Repair Program, leaving \$140,772 in which to fund the City priorities. The \$43,974 for the Senior Home Repair Program can be used for City CDBG priorities, however at this time the subcommittee is recommending that the funds stay with the program. Of the

remaining \$140,772, the City can allocate a maximum of 15% toward public service programs, \$27,712 thus leaving \$113,060 for construction projects. The City of Twentynine Palms received nine proposals requesting community service program funds for \$166,362 and eight construction projects for \$1,653,622 for a total of seventeen proposals requesting \$1,819,948 in CDBG funding.

The City Council subcommittee of Council Members Jay Corbin and Danny Mintz and staff met to review the applications and develop recommendations for City Council to consider for fiscal year 2011-2012.

The following are the subcommittee recommendations for Community Development Block Grant funding for fiscal year 2011-2012.

PUBLIC SERVICE PROGRAMS

1. San Bernardino County Library Literacy Program	\$7,712
2. Reach Out Morongo Basin	\$10,000
3. Morongo Basin Unity Home	<u>\$10,000</u>
Sub Total	\$27,712

CONSTRUCTION PROJECTS

4. Luckie Park Well Project	\$75,000
5. Unprogrammed Funds	<u>\$38,060</u>
Sub Total	\$113,060

SENIOR HOME REPAIR

6. Senior Home Repair Program (Administered by County)	\$43,974
TOTAL	\$184,746

ALTERNATIVES:

The first option is to approve the recommendations from the subcommittee and the second option is to make changes to the list for approval.

FISCAL IMPACT:

If the City chooses to utilize the CDBG funds for funding projects within the City, it allows the City to complete projects without using City's General Funds, or at best using less.

Therefore, Staff's recommendation is to receive input from the public and subcommittee and then approve the above list of projects for funding within Community Development Block Grant Funds for fiscal year 2011-2012.



**CITY OF TWENTYNINE PALMS
CITY COUNCIL STAFF REPORT**
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 – Fax (760) 367-5400

To: City Council via City Manager
From: Community Development Director
Date Prepared: February 24, 2011
For Council Meeting Of: March 8, 2011

SUBJECT: PC 10-88 – Proposed amendments to the City of Twentynine Palms Municipal Code adopting a Fire Facilities Impact Fee Study.

RECOMMENDATION

Conduct the Public Hearing, consider public comment, determine that PC 10-88 is Exempt from further environmental review and introduce City Ordinance No. 237 adopting a Fire Facilities Impact Fee Study which shall establish the need and uses of a “Fire Facilities Impact Fee”.

ORDER OF PROCEDURE

Request Staff Report (Charles LaClaire presenting)
Council Questions of Staff
Open Public Hearing
Receive Public Testimony
Close Public Hearing
Council Discussion
Motion/Second
Discussion of Motion
Call for the Question

Attachments

**City Council Ordinance No. 237
Conceptual Draft Council Resolution
No. 11-05
Notice of Exemption
Minute Excerpt from Water District
Board meeting of January 26, 2011
Fire Facilities Impact Fee Study Final
Report (Under Separate Cover)**

PROJECT DESCRIPTION

A proposed amendment to the City of Twentynine Palms Municipal Code to adopt a Fire Facilities Impact Fee Study, illustrating the specific need for and use of a Fire Facilities Impact mitigation fee to provide fire protective services within the community, and to review a Council Resolution establishing the amount and uses of such fee. Any fee established shall apply to all new construction within the community, in all zoning districts, citywide.

Background

The City Council may recall that within the relative recent past development of a new hotel within the community initiated a discussion of the future need for fire facilities and equipment within the community. To this end, the City Council authorized a contract with Willdan Financial Services to complete a Fire Facilities Impact Fee Study for the community, identifying the future needs within the Fire District for both facilities and equipment, with a twenty-five (25) years development threshold.

It is noted that the Council is provided, as an attachment to this report, a proposed Ordinance (No. 237) to adopt the Fire Facilities Impact Fee Study (dated February 2, 2011) which establishes the need for a fire fee and identifies the purposes to which any such fee collected

Review of Staff Report:

City Manager

City Attorney

City Engineer

Department Head

shall be spent. The Council may take action to introduce this Ordinance at its meeting of March 8, 2011, with adoption occurring at a later date. Also attached to this report is a "Conceptual Draft" of a Council Resolution that details the terms used in association with the fee, the proposed amount of fee to be collected, who should collect the fee, what development the fee is applied to, exemptions and annual adjustments of the fee. It is not proposed that the Council approve the Council Resolution at the March 8th Public Hearing, any such approval shall occur at or after the adoption of the Ordinance (and only after an agreement has been approved by the Twentynine Palms Water Agency Board of Directors that they are agreeing that the fee is needed, what the fee should be, who collects it and when and what specifically the fee is spent upon). The Conceptual Draft Council Resolution may be modified and adjusted as directed by the Council in its review of the material, with this revised draft Council Resolution presented to the Water District for its consideration.

Twentynine Palms Water District

At its regularly scheduled meeting of January 26, 2011, the Board of Directors of the Twentynine Palms Water District received a report from Willdan Financial Services representative Ms. Sally Van Etten regarding the creation of the Fire Facilities Impact Fee Study. At that meeting, Ms. Van Etten explained the methodology in creating the report and the fees contained therein and addressed questions raised by Board members. Following the conclusion of the presentation and questions from the Board, Director Cisneros moved, seconded by Director Chambers and unanimously approved, a motion to request the City approved the Fire Facilities Impact Fee Study, and that the City's action include an annual inflation adjustment based upon the Engineering News Record (Minute Excerpt attached). It is noted that the Water District's Legal Counsel recommended postponing forwarding a letter to the County of San Bernardino until after the City of Twentynine Palms takes action on adoption of the Fee. The Board agreed with Counsel and will await action from the City of Twentynine Palms before it forwards its recommendation for action (to approve the Fire Facilities Impact Fee Study) to the San Bernardino County Board of Supervisors.

It is noted that although the attached Ordinance would approve the Fire Facilities Impact Fee Study, it would not establish and mandate the collection of the fee identified within the Study. Further, although attached is a Conceptual Draft of a Council Resolution that would establish and mandate the collection of the fee (as well as address the annual inflation adjustment and Engineering News Record), it is not proposed that this Resolution be adopted by the Council until after an agreement has been signed by the Water District regarding the collection and use of the fees.

Analysis

To assure the safe occupancy of all manner of structures within the community, as well as to provide other fire protective services, the City Council authorized the creation of a Fire Facilities Impact Fee Study. That study, attached to this report, illustrates the future community needs for both fire fighting facilities (station{s} or improvements to existing stations) and fire fighting apparatus. Within the Study, it is illustrated that the Fire District anticipates that over the next twenty-five (25) years it shall need to expand the existing Fire District Headquarters, add and equip a third Fire Station and provide for a needed Ladder Truck for the Fire District. The Study also illustrates that anticipated future development of single- and multiple-family residential, commercial, office and industrial development was taken into consideration. Further, the Study acknowledged and included into the calculation of the proposed Fee, that some areas outside the Incorporated City limits, but within the Fire District's boundaries, were examined and included within the material. (The San Bernardino County Board of Supervisors would be responsible to accept the establishment of needed Fire Facilities Fees within the County territory, and establish the appropriate level of those fees.)

In review of the submitted Fire Facilities Impact Fee Study, it may be noted that population

projects for the next twenty-five (25) years (the time threshold of the Study) were based upon Building Permit issuances and not upon General Plan “Build-out” numbers. This number was used as a more conservative approach to estimating the community’s anticipated growth and, therefore, need for future Fire protective services. Further, it is note that the Study utilizes the 2000 National Census as the basis to calculate the number of residents per household within the community (see page 4 “Occupant Densities” of the Study). Like future building estimates, the Census data was used as a more conservative approach to establishing the future anticipated needs of the community. The Council may, in the future, elect to alter the method used to establish the Fire Fee needs, based upon new General Plan assumptions and calculations, and therefore establish an alternate Fee.

It is also noted that under the requirements of Government Code Section 66000 et. Seq., the City may adopt an Ordinance to establish the need for a Fire Facilities’ Fee, but this Ordinance and fee must be based upon a clearly documented future need (with specific details of how the fee was estimated and what facilities/equipment would be provided). Further, although not required by the Government Code, the City may adopt a specific Ordinance or a Resolution to establish the specific fee to be charged to new (and only new) development. Staff recommends, and provides as attached, a Council Resolution (No. 11-05) to establish the identified Fire Facilities Impact Fee.

As a final note, the Study illustrates within Table 10 “Proposed Fire Facilities Impact Fee” (page 11 of the Study), that to provide for the future needs of the Fire District, a fee of \$528 per single-family residential home and \$416 per unit within a multiple-family residential development should be established. Further, the Study illustrates that a fee of \$374 for each 1,000 square feet of Commercial development, \$265 for each 1,000 square feet of Office development and \$147 for each 1,000 square feet of Industrial development should be established. The Council may, of course, establish a lower fee than those suggested, but any such lower fee would not provide sufficient funds to provide the facilities identified and, thus, alternative funds would be needed.

CEQA Environmental Review

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposal has been reviewed for its potential to impact the environment. It is recommended that the City Council determine that the proposal consists of the adoption of an Ordinance that establishes an identified need for, but not approving the development of, future fire protective facilities and apparatus, as well as a Resolution establishing a specific fee for such facilities and apparatus within the City of Twentynine Palms. As the proposal addresses potential future needs, but not actual development, it can be seen with certainty that the proposal will not have an adverse impact upon the environment and under Government Code section 15273 it is, therefore, EXEMPT from further environmental review.

General Plan

Although amendments to the Municipal Code are not mandated to be analyzed for consistency with the City’s adopted General Plan, the proposal has been compared to the Goals and Policies of the current General Plan and has been found to be consistent with both the intent and the letter of these Goals and Policies. The following Goals and Policies are offered for Council consideration and acceptance.

Land Use

Goal #1

A Land Use Plan which provides a desirable City in which to live.

Policy #1.2

Quality standards will be applied to all new developments.

Conservation

Goal #1

The City of Twentynine Palms will be environmentally conscious in administering its responsibility to ensure that resources are protected.

Policy #1.1

Land use decisions by the City will consider long-term impacts to natural resources, and development will occur in a manner which does not unnecessarily damage or reduce the City's resources.

Policy 1.2

Intensity of development will occur in a manner which ensures environmental protection.

Safety

Goal #1

The City of Twentynine Palms will be a safe place to live and visit.

Site Characteristics

The Municipal Code amendment under consideration shall apply to all properties with a wide range of site characteristics, citywide.

Approval Process

The Planning Commission is not a participant in the review of amendments to the Municipal Code, and as such the Commission has not reviewed nor commented upon the proposal. Under the provisions of the Municipal Code, the City Council is the Approval Authority to any change to the Municipal Code.

Fiscal Impact

The City of Twentynine Palms funded the fee analysis prepared by Willdan Financial Services, resulting in the Fire Facilities Impact Fee Study, incurring a cost of roughly \$14,000. Additional costs shall be incurred by the City (primarily legal fees) with regard to the agreement that is needed between the City and the Water District to collect and utilize the Fire Facilities Impact Fee. And finally, the agreement should include provisions to allow the City to recapture the expenditures committed to with regard to the ladder truck being provided to the Fire Agency.

CITY OF TWENTYNINE PALMS
CITY COUNCIL
ORDINANCE NO. 237

AN ORDINANCE OF THE CITY OF TWENTYNINE PALMS CALIFORNIA, ADOPTING A FIRE FACILITIES IMPACT FEE STUDY, ILLUSTRATING AND ESTABLISHING THE FUTRE NEED FOR FIRE PROTECTIVE FACILITIES AND APPARATUS WITHIN THE CITY OF TWENTYNINE PALMS.

WHEREAS, appropriate, needed and applicable Fire Facilities and associate fire protective apparatus are needed within the community of Twentynine Palms to assure the protection, public safety and general welfare of the residents and visitors to the community; and

WHEREAS, future development within the City of Twentynine Palms and surrounding area as will result in fire protection facilities requirements in excess of existing capacity, and the City of Twentynine Palms general plan requires such development impacts be mitigated; and

WHEREAS, in the absence of a Fire Facilities Impact mitigation fee imposed upon new development, existing and future anticipated sources of revenue will be inadequate to fund the provision of new fire protection facilities in the City of Twentynine Palms and surrounding areas at a level necessary to avoid unacceptable service levels; and

WHEREAS, a Fire Facilities Impact mitigation fee is a fair and equitable method of distributing the cost of fire protection services and facilities among the new development within the City of Twentynine Palms and surrounding areas which will generate the increase in need and usage; and

WHEREAS, developers of parcels in the involved areas should offset the additional costs and responsibilities imposed upon the Twentynine Palms Fire Protection District to meet the demands for additional fire protection facilities by the payment of Fire Facilities Impact mitigation fees on all new development; and

WHEREAS, Government Code sections 66000 et. seq., provides the procedures and requirements to establish a documented need for future fire protective facilities and apparatus, and that prior to the adoption of any fee for such need the Council must provide a thorough study documenting such need; and

WHEREAS, under the provisions of Government Code sections 66000 et. seq., the Council may, following a noticed Public Hearing, adopt a Fire Facility Impact Fee Study to identify a need for future fire protective facilities and apparatus; and

WHEREAS, unless a Fire Facilities Impact mitigation fee is imposed upon parcels at the time of development, the public safety and general welfare of the citizens, residents and visitors of the City of Twentynine Palms shall be adversely affected; and

WHEREAS, a Fire Facilities Impact Fee imposed upon new development will provide for the construction of new and expanded fire protective facilities, including, but not limited to, the acquisition, installation and equipping of fire protection facilities, to accommodate population growth within the City of Twentynine Palms and surrounding area within the Twentynine Palms Fire Protection District; and

WHEREAS, there is no specific developmental project proposed as part of Municipal Code Amendment PC 10-88, but such amendment identifies the potential for future growth and

need within the community; and

WHEREAS, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), the Municipal Code Amendment proposed has been reviewed for its potential to impact the environment and it has been found that as the proposal consists of the adoption of an Ordinance identifying the need for, but not approving the development of, future fire protective facilities and apparatus, as well as a Resolution establishing a specific fee for such facilities and apparatus within the City of Twentynine Palms, it can be seen with certainty that the proposal will not have an adverse impact upon the environment and under Government Code section 15273 it is, therefore, EXEMPT from further environmental review; and

WHEREAS, the City Council finds that on the basis of the whole of the record before it (including any comments received at the Public Hearing) that there is no substantial evidence that the proposal will have a significant effect on the environment and that the Determination of Exemption reflects the Council's independent judgment and analysis; and

WHEREAS, a copy of the Fire Facilities Impact Fee Study dated February 2, 2011, which is incorporated by reference herein as attachment "A", and which was filed with the office of the City Clerk fifteen (15) days prior to the noticed hearing, copies of which are available for public review within the Community Development Department, and which illustrates the fair share of costs for the construction of new and expanded fire protection facilities for new and expanded development in, and among, the City of Twentynine Palms and the surrounding area within the Twentynine Palms Water District boundaries; and

WHEREAS, the capital improvements and facilities expansion anticipated within the area over the next twenty-five (25) years is illustrated within the Fire Facilities Impact Fee Study dated February 2, 2011 and which identifies the approximate locations, sizes and cost estimates for the fire protection facilities and related apparatus to be financed by the Fire Facility Impact mitigation fee to serve the City of Twentynine Palms and surrounding area; and

WHEREAS, the County of San Bernardino Board of Supervisors is similarly adopting a Fire Facilities Impact mitigation fee for development outside of the incorporation boundaries of the City of Twentynine Palms but within the boundaries of the Twentynine Palms Water District; and

WHEREAS, on both February 13, 2011 and March 3, 2011, Municipal Code Amendment PC 10-88, a Code Amendment adopting a Fire Facilities need Study, with associate Council Ordinance and Council Resolution, associated with new development within the community of Twentynine Palms, was duly noticed in the Desert Trail, a newspaper of general circulation within the City of Twentynine Palms for a City Council Public Hearing of March 8, 2011; and

WHEREAS, on March 8, 2011, a Public Hearing was held by the City Council of the City of Twentynine Palms to amend the City of Twentynine Palms Municipal Code by the adoption of the Fire Facilities Impact mitigation fee Ordinance which imposes said fee upon the privilege of constructing building units within the City of Twentynine Palms and surrounding area, to consider the Fire Facilities Impact Fee Study which describes the acquisition, construction, installation and equipping of fire protection facilities, and fee calculations for each such needed facility based upon the estimated development costs for fire protection facilities within the City of Twentynine Palms and surrounding area; and

WHEREAS, the proposed amendment to the Municipal Code under PC 10-88 is consistent with the Goals and Policies of the City of Twentynine Palms General Plan and shall promote the health, safety and general welfare of the citizens of the Community; and

WHEREAS, at said advertised Public Hearing before the City Council, all interested persons had the opportunity to appear and be heard on the matter of adopting, by reference, certain Fire Facilities Impact Fee Study.

NOW THEREFORE, the City Council of the City of Twentynine Palms, California, does ordain as follows:

Section 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT. That in conformance with the State Guidelines to Implement the California Environmental Quality Act (CEQA), the City Council finds that based upon review of the proposed Municipal Code Amendment PC 10-88, which addresses the adoption of an Ordinance identifying the need for, but not approving the development of, future fire protective facilities and apparatus, as well as a Resolution establishing a specific fee for such facilities and apparatus within the City of Twentynine Palms, will not have an impact upon the environment and under Government Code section 15273, therefore, it is EXEMPT from further environmental review.

Section 2. GENERAL PLAN GOALS & POLICIES. That the City Council finds that the proposed Amendment is consistent with the Goals and Policies of the adopted General Plan as the changes proposed under the Amendment will improve the livability of the City by enhancing the provision of fire protective services within the community.

Section 3. COPY ON FILE. A copy of the Fire facilities Impact Fee Study for the City of Twentynine Palms as referenced herein shall be maintained in the office of the City Clerk in the City of Twentynine Palms, and shall be made available for public inspection during normal business hours while this Ordinance is in force.

Section 4. RELATIONSHIP TO FEE. Based upon the above recitals, and the Fire Facilities Impact Fee Study, there are reasonable relationships between: 1) the use of developer fees, and the type of development projects upon which that developer fee shall be imposed; 2) the need for fire protection facilities, and the types of development upon which the developer fee shall be imposed; and 3) the amount of the Fee and the cost of and/or appropriate portion of the costs for fire protection facilities attributable to the development upon which the developer fee is imposed.

Section 5. APPLICABILITY OF FEE. The Fire Facilities Impact mitigation fee imposed hereby represents the attendant benefit, and associated costs thereto, of providing adequate fire protection facilities for new and expanded development upon parcels of property within the City of Twentynine Palms and designated surrounding area within the unincorporated portions of County of San Bernardino under the jurisdiction of the Twentynine Palms Water Agency.

Section 6. FIRE FACILITY IMPACT FEE STUDY ADOPTED. As provided herein, the City Council of the City of Twentynine Palms adopts, by reference, the Fire Facility Impact Fee Study prepared by Willdan Financial Services, making all parts hereof as if fully set out in this ordinance, establishing the fire facilities needed for fire protective services (facilities and apparatus) within the City of Twentynine Palms.

Section 7. NOTICE OF ADOPTION. The City Clerk shall certify to the passage and adoption of this ordinance by not less than a majority vote of the City Council; shall enter the same in the book of original ordinances of the City of Twentynine Palms; 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 which Ordinance No. 237 shall go into effect thirty days after adoption thereof, but no sooner than _____, 2011, and shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and

published and circulated in the City in a manner permitted by Section 36933 of the Government Code of the State of California.

Section 8. 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 9. EFFECTIVE DATE. Ordinance No. 237 shall become effective on the _____ day of _____, 2011, at least thirty (30) days after its adoption by Council action on the _____ day of _____, 2011.

PASSED, APPROVED AND ADOPTED THIS _____ DAY OF _____, 2011.

James Harris, Mayor

ATTEST:

Charlene L. Sherwood MMC, City Clerk

I hereby certify that the foregoing is a true copy of Ordinance No. 237, introduced on the 8th day of March, 2011 and duly adopted by the City Council of the City of Twentynine Palms in a meeting held on the _____ day of _____, 2011, in Twentynine Palms, California by the following vote, to wit:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

Charlene L. Sherwood MMC, City Clerk

"CONCEPTUAL DRAFT"
CITY OF TWENTYNINE PALMS
CITY COUNCIL
RESOLUTION NO. 11-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, ADOPTING A FIRE FACILITIES IMPACT MITIGATION FEE, PROVIDING FOR THE FUTURE NEED FOR FIRE PROTECTIVE FACILITIES AND APPARATUS WITHIN THE CITY OF TWENTYNINE PALMS.

WHEREAS, in 2010, the City of Twentynine Palms commissioned a Fire Facilities Impact Fee Study, prepared by Willdan Financial Services, that analyzed the City's need for future fire protection facilities and apparatus; and

WHEREAS, the Fire Facilities Impact Fee Study illustrates the community's need for future fire facilities to provide for fire protective services to the future development within the City of Twentynine Palms and the surrounding area encompassed by the Twentynine Palms Water District boundaries; and

WHEREAS, appropriate, needed and applicable Fire Facilities and associate fire protective facilities and apparatus are needed within the community of Twentynine Palms to assure the protection, public safety and general welfare of the residents and visitors to the community; and

WHEREAS, future development within the City of Twentynine Palms and surrounding area will result in fire protection facilities requirements in excess of existing capacity, and the City of Twentynine Palms General Plan requires such development impacts be mitigated; and

WHEREAS, in the absence of a Fire Facilities Impact mitigation fee imposed upon new development, existing and future anticipated sources of revenue will be inadequate to fund the provision of new fire protection facilities in the City of Twentynine Palms and surrounding areas at a level necessary to avoid unacceptable service levels; and

WHEREAS, a Fire Facilities Impact mitigation fee is a fair and equitable method of distributing the cost of fire protection services and facilities among the new development within the City of Twentynine Palms and surrounding areas which will generate the increase in need and usage; and

WHEREAS, developers of parcels in the involved areas should offset the additional costs and responsibilities imposed upon the Twentynine Palms Fire Protection District to meet the demands for additional fire protection facilities by the payment of Fire Facilities Impact mitigation fees on all new development; and

WHEREAS, unless a Fire Facilities Impact mitigation fee is imposed upon parcels at the time of development, the public safety and general welfare of the citizens, residents and visitors of the City of Twentynine Palms shall be adversely affected; and

WHEREAS, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), the Council Resolution proposed has been reviewed for its potential to impact the environment and it has been found that as the proposal consists of the imposition of a fee associated with the adoption of an Ordinance identifying the need for future fire protective facilities and apparatus within the City of Twentynine Palms, it can be seen with certainty that the proposal will not have an adverse impact upon the environment and under Government Code section 15273 it is, therefore, EXEMPT from further environmental review; and

WHEREAS, the City Council finds that on the basis of the whole of the record before it (including any comments received at the Public Hearing) that there is no substantial evidence that the proposal will have a significant effect on the environment and that the Determination of Exemption reflects the Council's independent judgment and analysis; and

WHEREAS, on both February 13, 2011 and March 3, 2011, Municipal Code Amendment PC 10-88, a Council Resolution associated with a Code Amendment adopting a Fire Facilities need Study and Council Ordinance, associated with new development within the community of Twentynine Palms, was duly noticed in the Desert Trail, a newspaper of general circulation within the City of Twentynine Palms for a City Council Public Hearing of Ordinance No. 237 and Resolution No. 11-05 on March 8, 2011; and

WHEREAS, on both _____, 2011 and _____, 2011, Council Resolution No. 11-05 associated with Council Ordinance No. 237, identifying fire facility and apparatus needs associated with new development within the community of Twentynine Palms, was duly noticed in the Desert Trail, a newspaper of general circulation within the City of Twentynine Palms for a City Council Public Hearing of Resolution No. 11-05 on _____, 2011; and

WHEREAS, on March 8, 2011, a Public Hearing was held by the City Council of the City of Twentynine Palms to amend the City of Twentynine Palms Municipal Code by the adoption of the Fire Facilities Impact Fee Study Ordinance and on _____, 2011 a Public Hearing was held regarding Council Resolution No. 11-05 which imposes said fee upon the privilege of constructing building units within the City of Twentynine Palms and surrounding area; and

WHEREAS, at said advertised Public Hearing before the City Council, all interested persons had the opportunity to appear and be heard on the matter of adopting, by reference, certain Fire Facilities Impact mitigation fee.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA as follows:

Section 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT. That in conformance with the State Guidelines to Implement the California Environmental Quality Act (CEQA), the City Council finds that based upon review of the proposed Council Resolution, which addresses the implementation of a Fee associated with the adoption of Ordinance No. 237 identifying the need for future fire protective facilities within the City of Twentynine Palms, that such Resolution will not have an impact upon the environment and under Government Code section 15273 it is, therefore, EXEMPT from further environmental review.

Section 2. Based upon the "Fire Facilities Impact Fee Study" prepared by Willdan Financial Services, dated February 2, 2011, on-file within the office of the City Clerk for the City of Twentynine Palms, the City Council of the City of Twentynine Palms finds and establishes the following:

A. Future residential, commercial, office and industrial development within the City of Twentynine Palms will result in the need for fire protection facilities and apparatus requirements in excess of existing capacity and that the City of Twentynine Palms General Plan requires such developmental impacts to be mitigated; and

B. Without the revenue that Council Resolution No. 11-05, enacting Ordinance No. 237, will generate, existing and future sources of revenue will be inadequate to fund the facilities needed to provide acceptable fire protection services levels within the City of Twentynine Palms and surrounding area; and

C. The Fire Facilities Impact mitigation fee is a fair and equitable method to distribute the cost of fire protection services, facilities and apparatus among new developments which will generate the increased needs; and

D. The adoption of Council Resolution No. 11-05 complies with the requirements of the Mitigation Fee Act, Government Code section 66,000, et. seq.

Section 3. Council Resolution No. 11-05 hereby further establishes the following:

A. Purpose of this Resolution.

i) The purpose of Council Resolution No. 11-05 it is to implement the goals and policies of the City of Twentynine Palms adopted General Plan with respect to the future development and expansion of the City of Twentynine Palms, which goals and policies promote an equitable distribution of the costs and benefits of governmental actions; promote a distribution of population consistent with Service System capacity and resources availability; seek to maintain a balance between increased intensity of development and the capacity of needed public facilities; and, give priority to upgrading existing public facilities and areas lacking adequate facilities.

ii) To mitigate adverse impacts due to the inadequacy of fire protection facilities and apparatus that might otherwise occur due to new development and expanded development.

iii) To comply with the procedures for adoption of development fees contained in the mitigation fee act, government code section 66000, et. Seq.

B. Definitions.

As used within this Resolution:

“Apparatus” shall mean all mechanical equipment and devices associated with or needed to assist personnel in the activity and function of fighting or preventing fires.

“Appropriated” means authorized by the City of Twentynine Palms City Council of the City of Twentynine palms or the Board of Directors of the Twentynine Palms Water Agency to make expenditures and a current obligations for specific purposes.

“Commercial” means retail, education, hotels/motels, places of religious worship and other similar buildings.

“Industrial” means manufacturing, warehousing and/or similar industrial buildings.

“Fire Protection Facilities” means any and all fire protection facility or apparatus improvements and amenities, the need for which is directly or indirectly generated by a residential, commercial, office and/or industrial development project, including, but not limited to, acquiring, through purchase, lease, lease-purchase, installment purchase or otherwise; improving, constructing, altering, repairing, of managing, equipping and furnishing real property, buildings and other structures, equipment and materials for fire protection services: and all other auxiliary work which may be required to carry out that work, such as administrative, engineering, architectural and legal work performed in connection with establishing, implementing and monitoring such projects, indirect costs, and other incidental expenses in providing those fire protection facilities, or all or any combination thereof.

“Fire Facilities Impact Fee area” shall mean all properties and/or parcels within the City of Twentynine Palms and all properties and/or parcels within the County of San Bernardino within the Twentynine Palms Water Agency boundaries.

“Mitigation Fee” means a monetary exaction other than a tax or special assessment that is collected under the terms of Ordinance No. 237 of the City of Twentynine Palms Municipal Code to provide funds for fire protection facilities related to residential, commercial, office and/or industrial development projects.

“Multi-Family” means attached single-family dwellings, multiple unit apartment buildings, condominiums and similar multi-family residential buildings.

“New Development Project(s)” means any activity which requires approval by the City of Twentynine Palms resulting in the issuance of grading, building, plumbing, mechanical or electrical permits, or certificates of occupancy to construct or change the use of a building, or property for residential, commercial, office and/or residential uses.

“Office” means general, professional or medical office building development.

“Single-family” means-detached single family dwelling units, duplexes, condominiums, town houses and similar residential uses designed for occupancy by individual families.

C. Establishment of Fire Facilities Impact mitigation fee.

1. There is hereby established a Fire Facilities Impact mitigation fee. The amount of the fee to be imposed on all new residential, commercial, office and/or industrial development project is based upon the findings and conclusions set forth in the City of Twentynine Palms City Council Ordinance No. 237, and shall not exceed the established reasonable cost of providing fire protection facilities for such residential, commercial, office and/or industrial development projects.

2. The Fire Facilities Impact mitigation fee shall be a uniform fee within all areas of the community based upon the estimated cost of providing the projected fire protection facility needs within the City of Twentynine Palms, as follows:

Per single family dwelling unit	\$528
Per Multi-Family dwelling unit	\$416
Per 1,000 square feet of commercial space	\$374
Per 1,000 square feet of office space	\$265
Per 1,000 square feet of industrial	\$147

Areas less than 1,000 square feet in size shall provide a proportionate share of that 1,000 square foot fee.

C. Annual review of fee.

1. The amount of the fee established by Council Resolution No. 11-05 shall be reviewed annually by the City Council of the City of Twentynine Palms, in consultation with the Twentynine Palms Fire Protection District and Twentynine Palms Water Agency Board of Directors. On July 1st of each year, the fee in Council Resolution No. 11-05 shall be adjusted as follows: calculate the percentage movement between April 1st of the previous year and March 31st of the current year in the Engineering News Record - Building Construction Cost Index, adjusting the fee for the Fire Facilities Impact mitigation fee by said percentage amount as rounded to the nearest dollar. No adjustment shall result in a fee that is greater than the

amount necessary to recover the cost of providing the applicable fire protection facilities.

2. If it is determined that the reasonable amount necessary to recover the cost of providing the fire protection facilities exceeds the fee as adjusted by subsection "C-1" above, the City of Twentynine Palms Finance Director shall present an alternative fee proposal to the City Council for consideration. Such alternative fee proposal may reflect changes in the actual cost of completed fire protection facilities projects or, if such projects have not been completed, than the estimated cost of the proposed fire protection facilities. The proposal may also reflect changes in the fire protection facilities proposed as well as the availability or lack of other funds with which to provide such facilities.

3. The City of Twentynine Palms Finance Director may also present an alternative fee proposal to the City Council for approval as may be necessary to ensure that the Fire Facilities Impact mitigation fee is a fair and equitable method of distributing the cost of the fire protection facilities necessary to accommodate the fire protective service needs generated by the development of land in the incorporated areas of the City of Twentynine Palms and surrounding County of San Bernardino unincorporated areas within the Twentynine Palms Water Agency boundaries.

D. Applicability.

1. The provisions of this Council Resolution shall apply to all new development projects which, as of the effective date of the Resolution approved herewith, are yet to receive final discretionary approval and/or the issuance of a Building Permit or other development right. The Fire Facilities Impact mitigation fee provided in this Resolution shall also be imposed upon a previously improved lot or parcel when a Building Permit is issued to add one thousand (1,000) square feet, or more, to an existing building unit upon such lot or parcel.

2. No tract map, parcel map, conditional use permit, building permit or other land use permit/approval, or other entitlement for a new development project as defined in this Resolution, shall be approved unless payment of the Fire Facilities Impact mitigation fee is made a Condition of Approval for any such entitlement.

3. Additionally, the fees provided for in this Resolution shall be imposed upon a parcel which has been previously improved with a building unit whenever a Building Permit is issued for a new building unit on and adjoining parcel under common ownership and which new unit constitutes, in effect, an addition of one thousand (1,000) square feet, or more, when constructed, or an expansion of use of the previously improved parcel. Such fee shall be calculated based upon the total square footage of new construction and paid by every person, or entity, to which a Building Permit is issued thereafter.

E. Time of payment of fee.

1. No Building or similar Permit for any new development project as defined within this Resolution shall be issued until the applicant has paid the applicable Fire Facilities Impact mitigation fee to the City of Twentynine Palms. In the event that an applicant desires to proceed only with development of a portion of the development project, the applicant may obtain a Building Permit(s) for that portion of a project after paying a proportional share of the total Fire Facilities Impact mitigation fee to the project to the satisfaction of the Finance Director of the City of Twentynine Palms.

2. Notwithstanding the provisions of subsection "E-1" above, payment of the Fire Facilities Impact mitigation fee for a single-family or multi-family development project shall not be required prior to the date of the final inspection or the date the certificate of occupancy is

issued for the first unit in the development, whichever occurs first, unless the Twentynine Palms Water District and/or Twentynine Palms Fire Protection District has previously adopted a Capital Improvement Plan or proposed construction schedule and has established an account of appropriate funds for the fire protection facilities to be financed by the fee, or unless the fee is intended to reimburse the City of Twentynine Palms for expenditures already made. Additionally, notwithstanding the provisions of subsection "E-1" above, payment of the Fire Facilities Impact mitigation fee for projects for occupancy by lower income households meeting the criteria set forth in Government Code section 66007(b)(2)(A) shall not be required prior to the date of the final inspection or the date the certificate of occupancy is issued for the first unit in the development, whichever occurs first. Where payment of the fees may only be collected on the date of final inspection or the date the certificate of occupancy is issued as provided in this subsection, execution of an agreement to pay the required fee or applicable portion thereof within the time specified herein shall be a condition of issuance of the applicable Building or similar Permit. Such agreement shall constitute a lien for the payment of the Fire Facilities Impact mitigation fee and shall be enforceable as provided in Government Code section 66007.

F. Exemption from fee.

The following shall be exempt from the provisions of this resolution:

1. Notwithstanding the provisions of subsection "D-1" above, additions to residential structures that are less than two thousand (2,000) square feet in size shall not be subject to the fees otherwise required by this Resolution.

2. No fee imposed by this Resolution shall be imposed upon the issuance of a Building Permit for the restoration of existing buildings, or buildings damaged by fire, or natural disasters such as an earthquake, wind or flood, where the replaced building, or portion thereof, does not exceed the original gross floor area or the original building. For purposes of this section, "gross floor area" shall be determined by the City of Twentynine Palms Building Official, or his/her designee, and excludes accessory structures such as decks, patios, barns, sheds and kiosks.

G. Deposit and use of fees collected.

All Fire Facilities Impact mitigation fees received by the City of Twentynine Palms shall be deposited within a special Fire Facilities Impact mitigation fee fund and expended, by the Twentynine Palms Water Agency, solely for the purposes for which the fee was collected. All funds from the imposition of fees provided herein shall be deposited into such accounts to be used exclusively for the purposes of land acquisition, engineering, construction, installation, purchasing or any other direct costs of providing fire protection facilities as detailed herein, and for no other purpose. All interest income earned shall be credited to the Fire Facilities Impact mitigation fee fund, and shall be used solely for the purposes for which the fee was collected.

H. Consideration in lieu of Fee.

1. The Twentynine Palms Water Agency Board of Directors may accept substitute consideration in lieu of the Fire Facilities Impact mitigation fee required pursuant to this Resolution, provided the Board of Directors finds that the proposed substitute consideration:

a. Has a value equal to or greater than the applicable Fire Facilities Impact mitigation fee otherwise due;

b. Is in a form acceptable to the Twentynine Palms Water Agency Board of Directors; and

c. Is within the scope of the acceptable fire protection facilities project(s).

2. The Twentynine Palms Water Agency Board of Directors may accept substitute consideration in lieu of a portion of the Fire Facilities Impact mitigation fee required pursuant to this Resolution where the Board finds that the substitute consideration proposed is less than the value of the required fee but is in a form acceptable to the Board of Directors and is within the scope of the applicable Fire Facilities Impact project(s). Such substitute consideration may be accepted by the Twentynine Palms Water Agency Board of Directors only after payment of an amount equal to the difference between the value of the substitute consideration, as solely determined by the Twentynine Palms Water Agency Board of Directors, and the amount of the otherwise required fee.

I. Reimbursement.

The provisions of subsection "Consideration in Lieu of Fee" above shall not prevent the execution of a reimbursement agreement between the City of Twentynine Palms and a developer for that portion of the cost of fire protection facilities paid by the developer which exceeds the need for the fire protection facilities attributable to and reasonably related to the development.

J. Alternative method.

This Resolution is intended to establish an alternative method for the financing of public Fire Facilities, the need for which is generated directly, or indirectly, by new development project(s). The provisions of this Resolution shall not be construed to limit the power of the City of Twentynine Palms or the Twentynine Palms Water Agency to utilize any other method for accomplishing this purpose, but shall be in addition to any other fees or requirements which the City Council of the City of Twentynine Palms or the Board of Directors of the Twentynine Palms Water Agency are authorized to impose as a condition of approving new development pursuant to State and local laws.

Section 4. Pursuant to Government Code section 66017(a) this Council Resolution shall become effective sixty (60) days after adoption.

Section 5. COPY ON FILE. A copy of the Fire facilities Impact Fee Study for the City of Twentynine Palms as referenced herein shall be maintained in the office of the City Clerk in the City of Twentynine Palms, and shall be made available for public inspection during normal business hours while said Ordinance is in force.

Section 6. APPLICABILITY OF FEE. The Fire Facilities Impact mitigation fee imposed hereby represents the attendant benefit, and associated costs thereto, of providing adequate fire protection facilities for new and expanded development upon parcels of property within the City of Twentynine Palms and designated surrounding area within the unincorporated portions of County of San Bernardino under the jurisdiction of the Twentynine Palms Water Agency.

Section 7. NOTICE OF ADOPTION. The City Clerk shall certify to the passage and adoption of this Resolution by not less than a majority vote of the City Council; shall enter the same in the book of original ordinances of the City of Twentynine Palms; 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 which Council Resolution No. 11-05 shall go into effect no less than sixty (60) days after adoption thereof, but no sooner than _____, 2011, and shall certify to the adoption of this resolution and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted by Section 36933 of the Government Code of the State of California.

Section 8. SEVERABILITY. If any section, subsection, sentence, clause, phrase or word of this resolution 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 Resolution. The City Council hereby declares that it would have passed and adopted this Resolution and each and all provisions thereof, irrespective of the fact that any one or more of said provisions may be declared invalid.

Section 9. EFFECTIVE DATE. Resolution No. 11-05 shall become effective on the _____ day of _____, 2011, at least sixty (60) days after its adoption by Council action on the _____ day of _____, 2011.

PASSED, APPROVED AND ADOPTED THIS _____ DAY OF _____, 2011.

James Harris, Mayor

ATTEST:

Charlene L. Sherwood MMC, City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. 11-05, adopted by majority vote of the City Council of the City of Twentynine Palms in a meeting held on the _____ day of _____, 2011, in Twentynine Palms, California by the following vote, to wit:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

Charlene L. Sherwood MMC, City Clerk



NOTICE OF EXEMPTION

City of Twentynine Palms
Community Development Department
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 - Fax (760) 367-5400

TO: County of San Bernardino, Clerk of the Board of Supervisors
385 North Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92415-0130

Office of Planning and Research (OPR)
P.O. Box 3044
Sacramento, CA 95812-3044

FROM: Community Development
Department
City of Twentynine Palms
6136 Adobe Road
Twentynine Palms, CA 92277

Project Title: PC 10-88 Municipal Code Amendment

Project Location - Specific: The project, an Amendment to the Municipal Code, is applicable to all zoning districts throughout the City of Twentynine Palms.

Project Location - City: City of Twentynine Palms

Project Location - County: County of San Bernardino

Description of Nature, Purpose, and Beneficiaries of Project: The proposal is an amendment to the City of Twentynine Palms Municipal Code, relating to the adoption of an Ordinance that establishes an identified need for, but not approving the development of, future fire protective facilities and apparatus, as well as a Resolution establishing a specific fee for such facilities and apparatus within the City of Twentynine Palms. Beneficiaries are all community residents and visitors by potentially improved fire protective services.

Name of Public Agency Approving Project: Twentynine Palms City Council

Name of Person or Agency Carrying Out Project: City of Twentynine Palms Community Development Department

Exempt Status (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080 (b)(4); 15269(b)(c));
- Categorical Exemption. State type and Section Number: No possibility to effect the environment. Section 15321
- Statutory Exemption. State Code Number: _____

Reasons why project is exempt: Pursuant to Section 15273 of the California Environmental Quality Act (CEQA) Guidelines, the project, an amendment to the Municipal Code establishing an identified need for, but not approving the development of, future fire protective facilities and apparatus, as well as a Resolution establishing a specific fee for such facilities and apparatus within the City of Twentynine Palms is exempt from further environmental review.

Lead Agency Contact:

Charles K. LaClaire
Community Development Director
City of Twentynine Palms
6136 Adobe Road
Twentynine Palms, CA 92277

Telephone: (760) 367-6799
Fax: (760) 367-5400
E-mail: claclaire@29palms.org

Signature

Community Development Director
Title

/ /2010
Date

Date Received for Filing and Posting at OPR: _____

Minute Excerpt

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE TWENTYNINE PALMS WATER DISTRICT 72401 HATCH ROAD, TWENTYNINE PALMS, CA 92277

JANUARY 26, 2011

FIRE DEPARTMENT BUSINESS

Call to Order and Roll Call

President Cisneros called the meeting to order at 6:00 p.m., 72401 Hatch Road, Twentynine Palms, California. Those responding to roll call were Directors Nick Bourikas, Chancey Chambers, Philip Cisneros, Sam Moore and Roger Shinaver. Also present were Fire Chief Jim Thompson, Financial Consultant Wayne Jones and District Secretary Paula Rogers.

Pledge of Allegiance

Director Cisneros led the pledge.

Additions/Deletions to the Agenda

Chief Thompson stated the representative from Willdan Financial Services was delayed. Director Cisneros stated the Board would begin with Agenda Item #2 and go back to Item #1 when the representative from Willdan Financial Services was present.

Public Comments

None

1. Fire Facilities Impact Fee Study Draft Report

1.1 Presentation by Willdan Financial Services

Sally Van Etten, a representative from Willdan Financial Services, presented the Board with an in-depth overview of the results from a Fire Facilities Impact Fee Study prepared for the City of Twentynine Palms. Ms. Van Etten stated Impact Fees are not taxes nor are they on-going fees charged to residents or businesses. Ms. Van Etten stated impact fees are one time fees charged to a developer, usually at the time of building permit application. Ms. Van Etten emphasized impact fees are used to fund facilities needed for new development only and are not for operation and maintenance costs or for the share of facilities that serve existing development. Ms. Van Etten explained there are two cost calculations used for impact fees, the Existing Inventory Method and the System Plan Method. Ms. Van Etten stated the Existing Inventory Method is based on existing facilities and existing service population, while the System Plan Method is based on existing plus planned facilities and existing plus new service population. Ms. Van Etten said the Fire Facilities Impact Fee Study prepared by

Willdan Financial Services was done based on the Existing Inventory Method. Ms. Van Etten additionally provided a detailed explanation of Tables 1 through 10 contained in the draft Study dated January 20, 2011. Ms. Van Etten noted that impact fee funds should be kept as separate funds and also emphasized the importance of the District developing a Capital Improvement Plan. Ms. Van Etten stated the City of Twentynine Palms would have to adopt and implement the Impact Fees by first conducting a public hearing and then the Impact Fees could take effect 60 days after adoption. Ms. Van Etten responded to questions from the Board.

1.2 Discuss and Provide Direction to Staff on Potential Courses of Action Related to Fire Facilities Impact Fee Study Draft Report

Following discussion and with recommendation of legal counsel, Director Cisneros made a motion for Staff to draft a letter to the City of Twentynine Palms requesting the City approve and adopt the Fire Facilities Impact Fee Study prepared by Willdan Financial Services, to include an annual inflation adjustment and that the Engineering News Record construction index be the source used to calculate the inflation adjustment. Seconded by Director Chambers and approved by the following roll call vote:

Ayes: Directors Bourikas, Chambers, Cisneros, Moore and Shinaver
Noes: None

The Board also discussed sending a similar letter to the County of San Bernardino for the unincorporated portion of Twentynine Palms. District legal counsel, Jeff Ferre, recommended postponing forwarding a letter to the County until after the City of Twentynine Palms takes action on adoption of Impact Fees.

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8. Adjournment

On motion by Director Shinaver, seconded by Director Bourikas and approved by the Board, the meeting was adjourned at 7:32 p.m.

Philip C. Cisneros, President
Board of Directors

Attest:

Mike Wright, Board Secretary
Twentynine Palms Water District



CITY OF TWENTYNINE PALMS
CITY COUNCIL REPORT
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 – Fax (760) 367-5400

To: City Council
From: Community Development Director
Date: February 28, 2011
For Council Meeting of: March 8, 2011

SUBJECT: PC 11-11 – An appeal of the Planning Commission’s determination of a Public Nuisance regarding the commercial property located at 5025 Adobe Road (APN 0621-221-09).

RECOMMENDATION

That the City Council receive a staff presentation, open the Public Hearing, consider public comment and as progress is being made at resolving the identified Public Nuisance, continue the Public Hearing until April 12, 2011 for the commercial property located at 5025 Adobe Road (APN 0621-221-09).

Attachments	
1.	Appeal request
2.	Aerial
3.	Minute Excerpts from Commission meeting of January 4, 2011
4.	Notice of Determination

ORDER OF PROCEDURE:

- Request Staff Report (Charles LaClaire Presenting)
- Council Questions of Staff
- Open Public Hearing
- Receive Public Comment
- Close Public Hearing
- Council Discussion
- Motion/Second
- Discussion of Motion
- Call the Question (roll call vote)

PROJECT DESCRIPTION

The appellant for PC 10-84, Sanchez Family Entertainment, Inc., is appealing the Planning Commission’s January 4, 2011 declaration of a Public Nuisance with its adoption of Planning Commission Resolution No. 10-25. The Planning Commission’s action in adopting Resolution No. 10-25 regarding the commercial property located at 5025 Adobe Road (APN 0621-221-09) declared that the property is unsightly, substandard and a public nuisance and included an order directing the property owner to remove all of the junk, rubbish, debris, old tires, dead brush and scrap metal and wood from the site.

BACKGROUND

Pursuant to the provisions and requirements of Development Code Section 19.92 “Nuisance Abatement” and Council policy regarding Code Enforcement based upon community complaints, the Code Enforcement staff responded to a complaint and identified the property at 5025 Adobe Road (APN 0621-221-09) as a potential Public Nuisance, providing the property owner with a letter requesting that they address the unsightly conditions of the property. As the property owner had not completed the requested clean-up as specified within the Code Enforce-

ment letters, Community Development staff informed the Planning Commission of this situation and the Commission conducted an advertised Public Hearing to review the issues with the property. At a Public Hearing on January 4, 2011, the Planning Commission, upon review of the relevant facts as presented by staff, declared the property unsightly, substandard and a Public Nuisance by adoption of Commission Resolution No. 10-25. In declaring the property a Public Nuisance, the Commission directed the property owner to remove all of the junk, rubbish, debris, old tires, dead brush and scrap metal and wood from the site. The Resolution also noted that all costs of the abatement, including inspection fees, clean up labor, legal fees, supplies, equipment rental, moving expenses, dump fees and a warrant fee may be presented to the City Council at a Public Hearing where the City may authorize the collection of these costs by a Special Assessment or a Nuisance Abatement Lien against the property.

Following the declaration of a Public Nuisance, staff contacted the property owner with the above information, upon receipt of which two actions were taken; first, the applicant appealed the Planning Commission's determination of a Public Nuisance, and second, steps have been taken to clear the property of the items the Commission declared to be the basis for determining the Public Nuisance. As of the writing of this report, the property owner, or his/her representatives, have made progress at cleaning the junk, rubbish, debris, old tires, dead brush and scrap metal and wood from the site, but significant material still remains.

As noted within the Public Hearing report presented to the Planning Commission at its regularly scheduled meeting of January 4, 2011, the Commission was reminded that at its meeting of December 7, 2010, it received a report regarding a possible Public Nuisance located at 5025 Adobe Road. At the Public Hearing, staff informed the Commission that it had received a letter from Mr. Ed Meyer, Business Manager for the property owner alleging a variety of issues that staff wished to investigate before the Commission proceeded with the Hearing (that letter was provided to the Commission on December 7, 2010). As requested by staff, the Commission opened and continued the Public Hearing to the Commission's regularly scheduled meeting of January 4, 2011.

Field investigations prior to the January 4th Commission hearing, between December 7 and December 22, 2010, revealed that the mobile home on site had been removed, that the boards used to board up the windows have been painted as required by Code, that the trash within the metal shed had been removed and that the weeds and debris have been removed from the north side of the commercial building and around the metal on the site (results of a February 24th inspection are noted below). The December 7 and December 22, 2010, field inspections, however, revealed that that portion of the lot to the rear of the property (generally not clearly visible from the public street) is still overgrown with weeds, still has a large collection of debris and junk, and that scrap wood, metal and tires are strewn about.

This Service Commercial (CS) property consists of approximately 4.5 acres that is approximately 1,250 feet deep and 169 feet wide. The property has a quantity of junk and rubbish inclusive of dead brush, scrap wood and tires scattered around. Additionally on-site are a commercial building of approximately 1,200 square feet in size, a small steel shed full of trash and a small wooden shed. There is also an old, singlewide manufactured home, placed upon the site without benefit of any City approvals, parked east of the commercial building.

The depth of the property extends approximately 609 feet east of the fenced area of the vacant business. The east end of the property drops steeply into a flat area where there are numerous tires, wood and metal debris and a number of large white objects that look like "nose-cones". These may have been used in paint ball combat. Only part of this flat plain belongs to the subject property, half of this material is on another property owner's property. Additionally, this

flat area cannot be seen from the public right-of-way, but may be seen from adjacent and adjoining properties.

This property was once occupied by a miniature golf course and a go-kart race track business with batting cages and video arcade inside the building. Following the closure of this commercial operation, the go-karts and batting cages were removed from the site. The property then became a paint ball combat area, which eventually also closed. During one of these business operations, a singlewide manufactured home was placed on the property without permits or Development Code required Planning Commission approval.

On July 27, 2010 the City's Code Enforcement Division received a complaint regarding the building being open, junk on the property and that an old manufactured home was on the property. A field inspection confirmed that the rear of the commercial building was open, and that the sheds were open with junk and rubbish visible inside. In addition to the above, the property also had scrap wood, tires, junk, rubbish, dead brush as well as two (2) abandoned vehicles in clear view. Additionally, the manufactured home on the property was open and had broken windows. The manufactured home had been brought onto the property without the Code required Minor Use Permit and without a Building Permit. A site inspection revealed that the breaker box on the commercial building had bare wires and parts had been removed, thus the breaker box appeared to be unsafe and potentially an attractive nuisance. On August 5, 2010 the Code Enforcement Division formally requested that Southern California Edison remove/terminate the electrical power to the property at the utility pole, and as a result, the service was removed shortly thereafter.

On August 5, 2010 a letter was sent to the property owner, Mr. Samuel Sanchez, concerning the potential violations on the property, requesting that the property owner remove the junk and rubbish from the grounds and from inside the building and sheds, secure the building and sheds, remove the abandoned vehicle and manufactured home from the property within thirty (30) days.

An inspection on September 20, 2010 (roughly forty-five {45} days after the August 5th letter) revealed that one shed and the commercial building were boarded up, but the lumber used for the boarding up had not been painted as required by the Development Code (see Code Citations below). Two (2) vehicles on the property had been removed but the junk and rubbish had not been cleaned up. The manufactured home had not been removed at that time, although it had been moved directly behind the commercial building and was boarded up. A second letter was sent to the owner again requesting that he bring the property into compliance, warning him that if the issues were not addressed within two weeks a Notice of Pendency would be recorded against the property and this matter would be brought before the Planning Commission where the manner of its abatement would be determined.

On October 20, 2010 a third field inspection revealed that the property was not brought into the requested compliance.

On November 2, 2010 a letter was sent by certified mail (return receipt requested) to the property owner, Mr. Samuel Sanchez, and to others that may have an interest in the property. The letter advised Mr. Sanchez that a Public Hearing before the City's Planning Commission was scheduled for December 7, 2010, where the Commission will hear evidence and public comment as to whether the property is unsightly, substandard and a public nuisance. If the Commission determines that the property is a Public Nuisance, the Commission shall determine the manner of its abatement. The letter also advised the property owner that the City will record a Notice of Pendency against the property ten (10) days after the date of the letter unless the

owner appealed the recordation to the Community Development Director within that ten (10) day period.

At the time of the preparation of the Commission's January 4, 2011 Public Hearing report, the property was believed to be in violation of the following Codes:

- Chapter 19.92.030, A, B, 5 of the City's Development Code (Junk, rubbish and weeds).
- Chapter 19.92.030, A, B, 21 of the City's Development Code (...board up lumber shall be painted the same color as the building...).
- Chapter 19.92.020, A, 12 of the City's Development Code. (Abandoned or vacated building [manufactured home] so dilapidated and deteriorated that it is an attractive nuisance to children, vagrants or homeless).
- Chapter 19.92.020, A, 13 of the City's Development Code (Building [manufactured home] unfit for human habitation due to inadequate maintenance and decay).
- Chapter 19.92.030, A, B, 2 of the City's Development Code (Unightly, deteriorated building [manufactured home] that will cause a decrease in the values of surrounding properties).
- Chapter 19.12 of the City's Development Code (Manufactured structure requires a Minor Use Permit and a Building Permit).

Photos of the property were taken on November 30, 2010 and were included herein the Commission's report for reference.

Analysis:

Under the provisions of Development Code Chapter 19.92 "Nuisance Abatement", the City has the obligation and opportunity to address the maintenance and condition of properties within the community for the health, safety and general welfare of the citizens, residents and visitors to the City of Twentynine Palms. Acting upon a complaint, the City's Code Enforcement Division investigated the condition of the property located at 5025 Adobe Road and found that for a number of reasons the Code Enforcement Officer felt the property was in violation of several provisions of the Development Code and that the property may constitute a Public Nuisance. Following the procedures established for Code Enforcement, the Code Enforcement Officer contacted the property owner, identified the property deficiencies and provided adequate time for the owner to contact the City or address the problems by performing a variety of property maintenance tasks. Without satisfactorily completing the requested property maintenance, the City informed the property owner that the Planning Commission would conduct a Public Hearing to consider declaring the property a Public Nuisance and that if so declared, the property owner would be ordered to clean the property or that the City would have the clean-up work performed and that a lien would be filed against the property.

At its regularly scheduled meeting of January 4, 2011, the Planning Commission conducted the advertised Public Hearing for the identified property and following a staff presentation, the opportunity for the public to address the Commission and Commissioner discussion, a motion was offered, seconded and approved to declare the property a Public Nuisance. Subsequent that determination, staff informed the property owner of the Commission's action, following which the property owner appealed that determination to the City Council. Applicant comments on the Appeal form are provided below. It is important to note that staff has performed a number of field inspections of the property since the January 4th Commission determination. The latest inspection, conducted on February 24, 2011, revealed that the property owner has taken steps to remove and/or address the items of concern and clear the property of weeds and debris, however, the needed work is not yet complete. The February 24th inspection identified that material within the property's "fenced-in" area is being neatly stacked (for what appears to

be retention) and other materials are being stacked together for what appears to be easy removal. As the required clean-up work appears to be progressing at a reasonable pace, staff believes that the property owner may have addressed all of the issues leading to the Commission's declaration of a Public Nuisance within approximately thirty (30) days.

Staff has attempted to contact the appellant with regard to the progress being made in cleaning up the property, the intent behind the piles being created and to request comment or agreement regarding a continuance of their appeal, however, staff has been unable to make direct contact (messages left with answering service) by the time of writing this report.

Applicant Statement

Attached is a copy of the Appeal Application filed with the City. The applicant notes that it is his opinion that "The City is illegally using selective enforcement, and not enforcing the same standards against all properties." The City employees a "reactive" Code Enforcement policy with regard to signs, property maintenance, vehicles and disturbances. This commonly used enforcement policy allows the City to best utilize its limited Code Enforcement resources by address community issues only once those issue (through a complaint) are brought to the City's attention.

Public Notification

In compliance with City Development Code Chapter 19.92 "Nuisance Abatement", and State law, a Public Notice was published in the February 17, 2011 issue of the *Desert Trail* newspaper, regarding the March 8, 2011 City Council's consideration of an appeal of the Planning Commission's determination of a Public Nuisance.

CEQA Environmental Review

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) the proposal involves the potential to clean-up and remove waste and debris from a commercial property, the result of which shall improve the physical state of the property. As such, it can be seen with certainty that the proposal shall not have a direct or indirect adverse impact upon the environment and, therefore, the proposal is Exempt from further environmental review.

ALTERNATIVES

In consideration of the information that has been provided under "Background" above, the Council may wish to proceed with the Public Nuisance Public Hearing or consider possible alternative actions. The Council may take any of the following actions: (a) Take no action on Appeal PC 11-11; (b) Following a staff presentation and public comments, determine that the property is not a Public Nuisance and overturn the Commission's determination of a Public Nuisance; (c) Continue the hearing to a later date (*Staff's recommendation, with a rehearing date of April 12, 2011*); (d) Following the presentation and public comments, determine that the entire property is unsightly, substandard and a Public Nuisance in violation of some or all of the listed Codes and uphold the Planning Commission's determination of a Public Nuisance as declared in Commission Resolution No. PC 10-25.

It is noted that the Commission's adopted Resolution orders the property owner to remove all junk, rubbish, dead brush, tires, scrap wood and metal from the property. The Resolution also has the provision that if the property owner fails to completely comply with the Planning Commission's order within the time limit specified by the Commission, Code Enforcement will be directed to obtain an Abatement Warrant from the California Superior Court in Joshua Tree and remove all junk, rubbish, weeds, tires, scrap wood and metal. Alternatively, the City Council may choose to direct the Code Enforcement Division to abate the property as stated above in section (d) except for removing the junk and rubbish from the lower flat area at the east end of

the property because it cannot be seen from the public right-of-way.

APPROVAL AUTHORITY

At its meeting of January 4, 2011, the Commission moved and unanimously approved, on a four-to-one (4-1) vote, a motion to determine that the property located at 5025 Adobe road was a Public Nuisance. Under the provisions of the Development Code, specifically Subsection 19.46.050 "Appeal Authority", paragraph "B" "The City Council shall be the Appeal Authority for any action appealed to them in accordance with this Chapter and shall be authorized to approve, conditionally approve, or deny the Appeal." The Council may elect to uphold the Commission's determination of a Public Nuisance, continue the Public Hearing or the Council may elect to determine that the property, having been sufficiently maintained (cleared of weeds, debris and with structures maintained), may remove the Commission's determination of a Public Nuisance.



Aerial of Site
Assessor Parcel Number
0621-221-09



PC 11-11
(Appeal of PC 10-84)
March 8, 2011

Minute Excerpt

TWENTYNINE PALMS PLANNING COMMISSION
CITY COUNCIL CHAMBER, 6136 ADOBE ROAD
TWENTYNINE PALMS
TUESDAY, JANUARY 4, 2011
6:00 P.M.

MINUTES

- 1.0 CALL TO ORDER-** Chair Rinkes called the meeting to order at 6:01 p.m.
PLEDGE OF ALLEGIANCE- Chair Rinkes led the Pledge of Allegiance.
ROLL CALL- The following Commissioners were present: Alderson, Caplinger, Easter and Rinkes.

>>>>>>

7.0 PUBLIC HEARINGS

- 7.3 PC 10-84 - 5025 Adobe Road (APN 0621-221-09). Possible determination that a commercial property is a public nuisance due to junk, rubbish and dead brush, an un-permitted manufactured home behind the commercial building and building board up lumber that was not painted as is required by the Development Code.

RECOMMENDATION: Conduct the open, continued Public Hearing, consider public comment, find the project Categorically Exempt pursuant to CEQA and adopt Planning Commission Resolution 10-25 determining that the property at 5025 Adobe Road is a Public Nuisance and directing staff to abate that Nuisance.

Director LaClaire presented a staff report to the Planning Commission.

Vice Chair Alderson asked how much is it going to cost the City now versus what little cleanup the property owners had done.

Director LaClaire responded the previous estimate was just short of \$9,000 and the current estimate is about \$4,500 to clean up the property.

Chair Rinkes opened the Public Hearing.

Code Enforcement Officer Blackman said the shed was emptied of trash, the boarded up lumber had been painted and the mobile home had been drug out to the street and the word "Free" had been painted on it and it was gone within an hour. He said the property that would be abated would be within the fence line.

Chair Rinkes closed the Public Hearing.

Vice Chair Alderson asked if staff wanted a time frame to get the abatement completed.

Code Enforcement Officer Blackman responded the Planning Commission could choose the time.

Consensus of the Planning Commission was to direct the property owner to remove all junk, rubbish, debris, old tires, dead brush and scrap metal and wood on the property within ten (10) days.

ACTION: On a motion made by Vice Chair Alderson, seconded by Commissioner Caplinger and carried with a 4-0 roll call vote, the Planning Commission found the project Categorical Exempt pursuant to CEQA and adopted Planning Commission Resolution 10-25 determining that the property at 5025 Adobe Road is a Public Nuisance and directed staff to abate that Nuisance in ten (10) days.

12.0 ADJOURNMENT- Chair Rinkes adjourned the meeting at 7:31 p.m.

Respectfully Submitted,

Jacqueline Palmer, Deputy City Clerk



NOTICE OF DETERMINATION

City of Twentynine Palms
Community Development Department
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 - Fax (760) 367-5400

TO: County of San Bernardino, Clerk of
the Board of Supervisors
385 North Arrowhead Avenue 2nd Floor
San Bernardino, CA 92415-0130

FROM: Community Development Department
City of Twentynine Palms
6136 Adobe Road
Twentynine Palms, CA 92277

Office of Planning and Research (OPR)
P.O. Box 3044
Sacramento, CA 95812-3044

Project Title: PC 10-84 – Determination of Public Nuisance

Project Location: APN 0621-221-09;
5025 Adobe Road
Twentynine Palms, San Bernardino County

Description of nature, purpose and beneficiaries of Project: Planning Commission consideration of the determination of a Public Nuisance for a property in non-compliance with a variety of Development and Building Codes on a 4.5 acre property within the Service Commercial zoning district.

Public Agency approving Project: Twentynine Palms Planning Commission

Name of Person Carrying Out Project: City of Twentynine Palms

Exempt Status (check one):

- Ministerial (Sec. 15073)
- Declared Emergency [Sec. 15071 (a)]
- Emergency Project [Sec. 15071 (b) and (c)]
- Categorical Type/Sec. 15332**

Reason(s) Project is Exempt: Pursuant to Section 15332, In-Fill Development Projects, of the State Guidelines to Implement the California Environmental Quality Act (CEQA) the proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounded by urban uses and is Categorically Exempt from further environmental review under state law.

For information, contact Charles K. LaClaire, Community Development Director, City of Twentynine Palms. (760) 367-6799.

Signature

Date

Community Development Director
Title



CITY OF TWENTYNINE PALMS
CITY COUNCIL REPORT
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 – Fax (760) 367-5400

To: City Council
From: Community Development Director
Date: March 1, 2011
For Council Meeting of: March 8, 2011

SUBJECT: Adoption of City Non-motorized Transportation Plan (NMTP) for inclusion within the County of San Bernardino's Non-motorized Transportation Plan; applicable city-wide.

RECOMMENDATION

That the City Council receive a staff presentation, public comment and approve the City's Non-motorized Transportation Plan (inclusive of a bicycle trail priority list illustrated in Table 3) and direct staff to submit the Plan to SANBAG for inclusion within the Countywide Non-motorized Transportation Plan.

Attachments

1. Notice of Determination
2. City of Twentynine Palms Non-motorized transportation Plan

ORDER OF PROCEDURE:

Request Staff Report (Charles LaClaire Presenting)
Council Questions of Staff
Receive Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question

PROJECT DESCRIPTION

Council review of the City's Non-motorized transportation Plan (NMTP) update, verifying the accuracy of the information contained within the report, accepting the prioritization of future bicycle paths and authorizing the submission of the Plan to SANBAG for inclusion within the County of San Bernardino Non-motorized Transportation Plan, and essential part of SANBAG's application for Bicycle Transportation Account (BTA) funds.

BACKGROUND

In early February, the City was contacted by representatives of SANBAG requesting an update to the City's Non-motorized Transportation Plan. The updated material, once approved by the City Council, shall be included within the overall County of San Bernardino Non-motorized Transportation Plan, which will then be used by SANBAG as part of its submission materials for Bicycle Transportation Account funds. Approximately every two (2) to three (3) years the City is requested to update its Non-motorized Transportation Plan (NMTP), with the essential information being the bicycle path improvements installed during the interim period and what changes, if any, to the priority list of future bike paths.

Analysis

Staff is working with representatives of SANBAG to update the County's Non-motorized Transportation Plan (NMTP) that is an essential part of the materials needed to apply for

Review of Staff Report:

City Manager City Attorney City Engineer Department Head

“Bicycle Transportation Account” (BTA) funds. As noted by Mr. Ryan Graham with SANBAG, the Countywide NMTP must be adopted by SANBAG and the inclusive jurisdictions by the end of March 2011 as the basis for applications for Bicycle Transportation Account (BTA) funds, application for which are due on March 18, 2011.

Attached is the draft “City Plan” for the City of Twentynine Palms for Council review. The City Plan shall be incorporated into the County of San Bernardino’s Non-motorized Transportation Plan, a full copy (365 pages) of which is available within the Community Development Department on compact disk. The City’s proposed Plan is similar to that previously adopted by the Council, with updates to the “Existing Conditions” listed within Table 1 and most importantly, and updated priority list illustrated within Table 3 “Priority Improvements”.

In review and approval of the City’s Plan, the Council is establishing its priority list for the development of bicycle paths within the community. Although this list sets specific priorities, the City is not permanently tied to this sequence and if, in the future, the opportunity presents itself to install a bicycle path at a location not on the list, or not in sequence of the list, the Council may authorize that pathway without affecting the Non-motorized Transportation Plan, nor any SANBAG application for State or Federal funds (although, clearly, if State and/or Federal funds are approved for specific pathways, those funds would be restricted to those individual pathways).

It is noted that due to the extremely short period of time needed to have the City’s updated Non-motorized Transportation Plan provided to SANBAG for inclusion within the County’s Plan, and for adoption by the SANBAG Board, “collision” data has not been provided by SANBAG and has not been placed within the appropriate Tables within the Plan. SANBAG staff assures the City that these statistics are being compiled from the SANBAG collision database and will be added prior to submission to the Board for adoption of the Plan.

CEQA Environmental Review

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) the proposal involves a feasibility and/or planning study for possible future actions which the Council has not yet approved, adopted or funded and therefore, under Section 15262 of the California Code of Regulations, adoption of the City’s Non-motorized Transportation Plan shall not have a direct or indirect effect upon the environment and, therefore, adoption of the Plan is Exempt from further environmental review.

ALTERNATIVES

In consideration of the information that has been provided above, the Council may take any of the following actions: (a) Take no action to approve the update to the City’s Non-motorized Transportation Plan (resulting in the City’s previous Plan remaining within the County’s overall Non-motorized Transportation Plan); (b) Modify the priority list contained within the proposed City Non-motorized transportation Plan, then approve the modified Plan for inclusion within the County’s overall Non-motorized Transportation Plan; (c) Continue the review of the Plan to a later date (resulting in the retention of the City’s previous Plan remaining within the County’s overall Non-motorized Transportation Plan, as a revised/updated Plan must be submitted by March 18th for inclusion within the County’s Plan); or (d) approved the submitted revised/updated City of Twentynine Palms Non-motorized Transportation Plan with its identified Priority List.



NOTICE OF DETERMINATION

City of Twentynine Palms
Community Development Department
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 - Fax (760) 367-5400

TO: County of San Bernardino, Clerk of
the Board of Supervisors
385 North Arrowhead Avenue 2nd Floor
San Bernardino, CA 92415-0130

FROM: Community Development Department
City of Twentynine Palms
6136 Adobe Road
Twentynine Palms, CA 92277

Office of Planning and Research (OPR)
P.O. Box 3044
Sacramento, CA 95812-3044

Project Title: City of Twentynine Palms Non-motorized Transportation Plan

Project Location: City-wide
Twentynine Palms, San Bernardino County

Description of nature, purpose and beneficiaries of Project: The City's Non-motorized Transportation Plan identifies the bicycle paths and other community efforts at providing non-motorized transportation within the community, benefiting all citizens and visitors to the community.

Public Agency approving Project: Twentynine Palms Planning Commission

Name of Person Carrying Out Project: City of Twentynine Palms

Exempt Status (check one):

- Ministerial (Sec. 15073)
- Declared Emergency [Sec. 15071 (a)]
- Emergency Project [Sec. 15071 (b) and (c)]
- Statutory Type/Sec. 15262**

Reason(s) Project is Exempt: Pursuant to Section 15262 of the California Code of Regulations, the proposal involves a feasibility and/or planning study for possible future actions which the Council has not yet approved, adopted or funded and therefore, under this Section, adoption of the City's Non-motorized Transportation Plan shall not have a direct or indirect effect upon the environment and, therefore, adoption of the Plan is Exempt from further environmental review.

For information, contact Charles K. LaClaire, Community Development Director, City of Twentynine Palms. (760) 367-6799.

Signature

Date

Community Development Director
Title

City of Twentynine Palms Non-Motorized Transportation Plan

Population

30,649

City Overview

The City of Twentynine Palms, encompassing 58.4 square miles, is located in the Morongo Basin which forms the southwestern corner of the Mojave Desert. This basin includes Joshua Tree National Park to the south and the Marine Corps Air Ground Combat Center (MCAGCC) to the north, which visitors pass through Twentynine Palms to reach. The Mojave Desert is separated from the Sonoran Desert to the south by the Little San Bernardino and Eagle Mountains, which are extensions of the Transverse Ranges. The western Mojave Desert is a flat, sparsely vegetated region that is interspersed with mountain ranges and dry lakes. The area is part of the high desert, large portions of which are at elevations between 2,500 and 4,000 feet above mean sea level.

Land Use

Twentynine Palms has historically been a rural desert residential community. The area's original inhabitants were the Serrano and Chemehuevi Indians, followed by gold miners, then World War I veterans, who were the first modern settlers of the City in the 1920's.

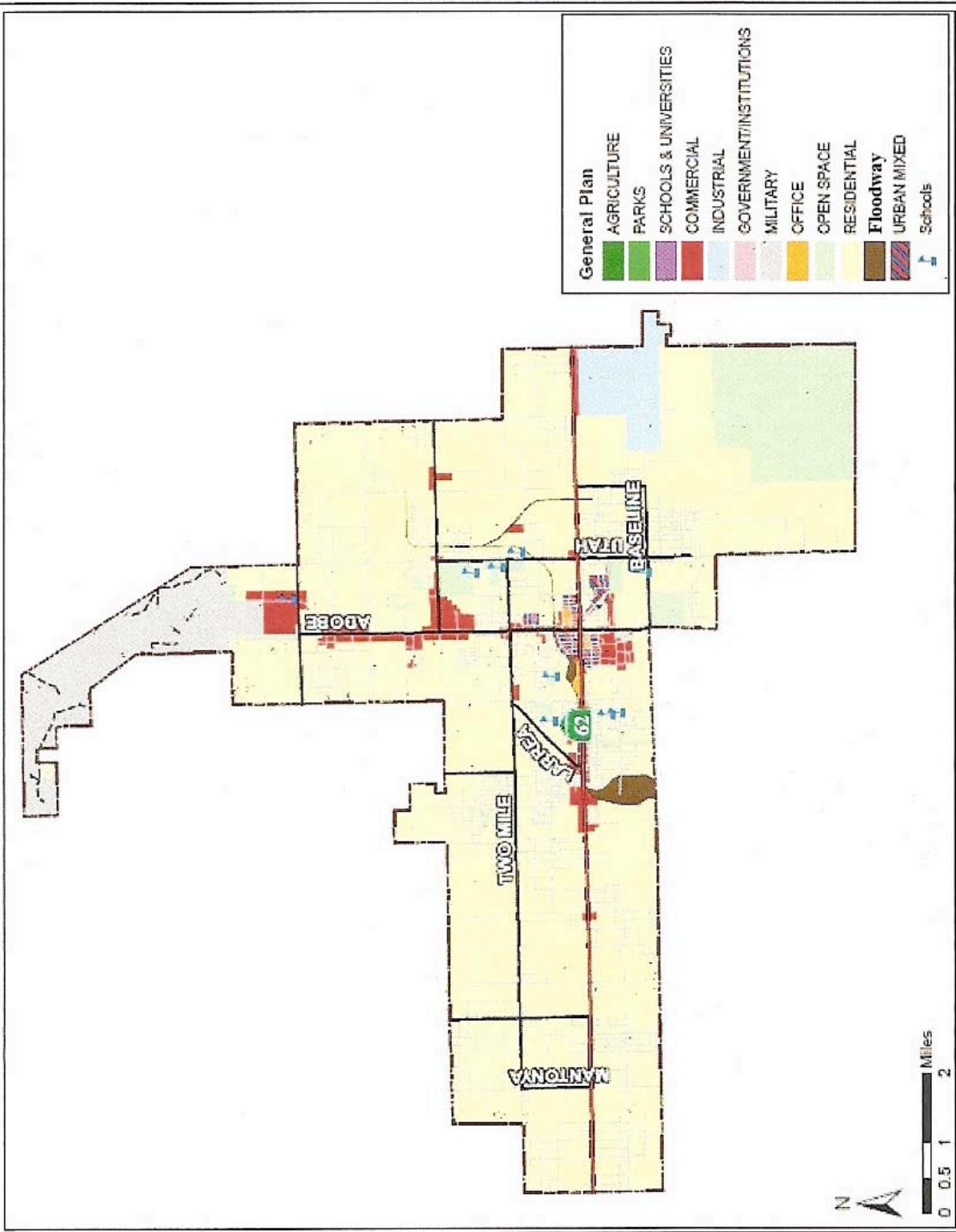
Development in Twentynine Palms has consisted primarily of residential development, mostly within the central core of the City. In recent years there has been an increase in the amount of commercial development in the City, most focused along Twentynine Palms Highway, west of Downtown. Conversely, there has been limited industrial development in the City.

Existing Conditions:

Twentynine Palms' non-motorized bicycle network has expanded significantly since the last update to the Non-Motorized Transportation Plan. The City contains several sections of Class I bikeway along Mesquite Springs Road and Two Mile Road for a total of 2.89 miles.

The City has also constructed one approximately 4 mile stretch of Class II bike lane along Utah Trail from State Route 62 to the entrance of the Joshua Tree National Park.

General Plan Land Use City of Twentynine Palms



Bicycle Facilities City of Twentynine Palms

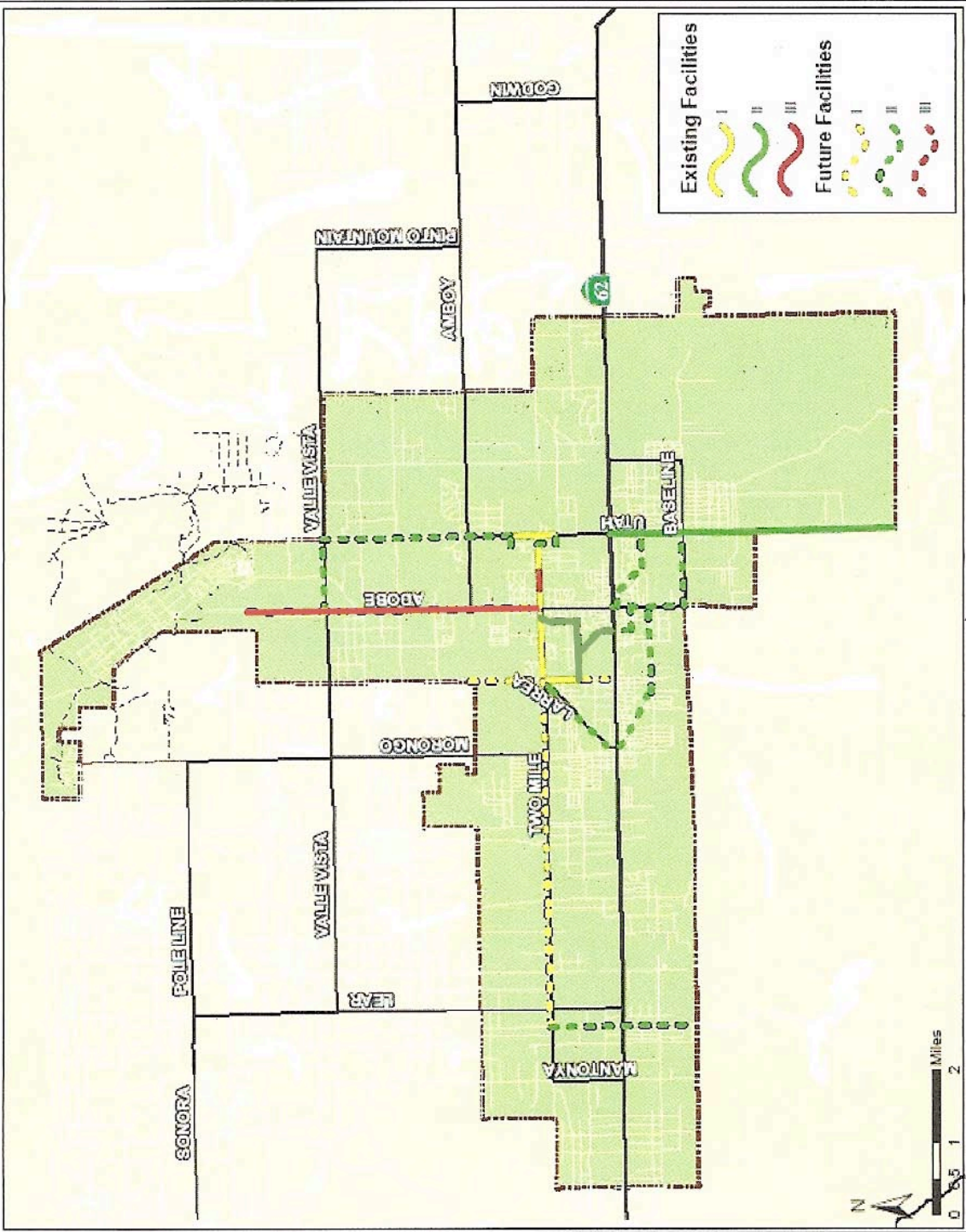


Table 1
Twentynine Palms Existing Conditions

Street/Path	From	To	Class	Mileage	Cost
Adobe Rd.	MCAGCC	Two Mile Rd.	I	4.1	\$176,840
Baseline Rd.	Utah Tr.	1,000' west of Utah Tr.	II	0.20	\$26,000
El Paseo Dr.	Mesquite Springs Rd.	Bagley Ave.	II	0.81	\$40,500
Joe Davis Dr.	Luckie Ave.	Utah Tr.	II	0.13	\$6,500
Luckie Ave.	Two Mile Rd.	Joe Davis Dr.	II	0.25	\$12,500
Mesquite Springs Rd.	Two Mile Rd.	Wildcat Wy.	I	0.57	\$570,000
Split Rock Ave.	Buena Vista Dr.	El Paseo Dr.	I	0.5	\$100,000
Two Mile Rd.	Adobe Rd.	Aztec Ave.	I	0.25	\$250,000
Two Mile Rd.	Aztec Ave.	Desert Knoll Dr.	III	0.25	\$3,750
Two Mile Rd.	Desert Knoll Ave.	Utah Tr.	I	0.50	\$500,000
Two Mile Rd.	Mesquite Springs Rd.	Howard Wy.	I	0.94	\$940,000
Utah Tr.	Aztec Ave.	Joe Davis Dr.	I	0.63	\$630,000
Utah Tr.	SR-62	Joshua Tree Entrance	II	3.96	\$198,000
			Total	12.99	\$ 3,454,090

Growth/Past investment in system

Since the San Bernardino County Non-Motorized Transportation Plan was first prepared in 2001, the City of Twentynine Palms has constructed 7.49 miles of Class I, 5.35 miles of Class II and 0.25 miles of Class III facilities at a rate of 1.31 miles per year.

Past Investment in Non-Motorized Infrastructure

The improvements included in Table 1 above constitute a significant investment into the non-motorized transportation infrastructure of Twentynine Palms. Based on planning level estimates, the value of the improvements implemented throughout the City is \$3,454,090.

Proposed Improvements

Future improvements to the non-motorized network for the City of Twentynine Palms will continue along the major transportation corridors throughout the City. All future improvements focus on further development of additional Class II facilities. A table of future improvements is included in Table 2 below.

The City of Twentynine Palms has not identified any priority improvements. When complete, the City will have constructed an additional 26.2 miles of Class I, Class II and Class III, providing internal connectivity to the residents of Twentynine Palms and establishing connections to the roadway networks of the unincorporated Morongo Basin and State highway system.

Table 2
 Twentynine Palms Future Improvements

Street/Path	From	To	Class	Mileage	Cost
Adobe Rd.	SR-62	Baseline Rd.	II	1.00	\$50,000
Amboy Rd.	Utah Tr.	Adobe Rd.	II	1.0	\$50,000
Baseline	Utah Tr.	1,000' west of Utah Tr.	II	0.80	\$51,000
Cactus Dr.	Adobe Rd.	National Park Dr.	II	0.18	\$9,000
Hatch Rd.	Manzanita Ave.	Stardune Ave.	II	0.87	\$43,500
Indian Cove Rd./Lear Avenue	Two Mile Rd.	Joshua Tree National Park	II	2.25	\$113,000
Larrea Ave.	Two Mile Rd.	SR-62	II	1.37	\$68,500
Lupine Ave.	Two Mile Rd.	Sunnyslope Dr.	II	0.25	\$12,500
Mesquite Springs Rd.	Amboy Rd.	Two Mile Rd.	I	1.01	\$250,000
Mesquite Springs Rd.	Wild Cat Wy.	SR-62	I	0.43	\$430,000
National Park Dr.	Cactus Dr.	Utah Tr.	II	1.48	\$74,000
Cactus Rd.	Split Rock Ave.	Adobe Rd.	II	0.33	\$16,500
Sullivan Rd.	Stardune Ave.	Adobe Rd.	II	1.18	\$59,000
Two Mile Rd.	Lear Rd.	Mesquite Springs Rd.	I	4.89	\$1,250,000
Two Mile Rd.	Mesquite Springs Rd.	Lupine/Encilia Ave.	II	1.5	\$75,000
Utah Tr.	Joe Davis Dr.	SR-62	II	0.5	\$25,000
Utah Tr.	Valle Vista Rd.	Aztec Ave.	II	2.64	\$132,000
Utah Tr.	Aztec Ave.	Amboy Rd.	II	0.25	\$12,500
Valle Vista Rd.	Adobe Rd.	Utah Tr.	II	1.00	\$50,000
			Total	22.93	\$2,771,500

Table 3
Priority Improvements

Street/Path	From	To	Class	Mileage	Est. Cost
Larrea Ave.	Two Mile Rd.	SR-62	II	1.37	\$68,500
Utah Tr.	Joe Davis Rd.	SR-62	II	0.5	\$25,000
Utah Tr.	Aztec Ave.	Amboy Rd.	II	0.25	\$12,500
Amboy Rd.	Utah Tr.	Adobe Rd.	II	1.0	\$50,000
Mesquite Springs	Wild Cat Way	SR-62	I	0.43	\$430,000
Two Mile	Mesquite Springs Rd.	Lupine/Encilia Ave.	II	1.5	\$75,000
Lupine Ave.	Two Mile Rd.	Sunnyslope Dr.	II	0.25	\$12,500
			Total	5.30	\$673,500

Municipal Code

Although the Municipal Code for the City of Twentynine Palms does not currently include the mandatory requirement for the inclusion of non-motorized transportation serving infrastructure as part of the site design process, such standards are being considered for inclusion within the update to the City's General Plan and may be included within the update to the City's Development Code.

End of Trip Facilities

The City of Twentynine Palms has bike racks dispersed throughout the City, typically at retail centers, schools and multi-unit housing complexes.

Multimodal Connectivity

Table 4
Location of Multi-Modal Connections

Facility	Facility Type	Facility Location
City-wide Bus Stops	Bus Stops	Throughout City

Collisions Involving Bicyclists

Table 5
Data for Collisions Involving Bicyclists

Parameter	Collision Rate
Total # of Bicycle Collisions from 2003-2008	(To be provided by SANBAG)
Total # of Bicycle Fatalities from 2003-2008	(To be provided by SANBAG)
Average # of Bicycle Collisions Per Year	(To be provided by SANBAG)
Average Bicycle Collision Rate per 1000/year ¹	(To be provided by SANBAG)
Index (relative to statewide average of ___/1000 ²)	(To be provided by SANBAG)

Notes:

1. Rate is calculated using SWITRS collision data and population figures by the California Department of Finance
2. The index is based on the ratio of the local collision rate and the statewide collision rate. An index greater than one (1.0) indicates that the local accident rate is higher than the state average.

Safety and Education Programs

The City of Twentynine Palms does not currently participate in any bicycle safety or education programs.



STAFF REPORT

TO: City Council via City Manager
FROM: Community Services Director
DATE: February 25, 2011
FOR COUNCIL MEETING OF: March 8, 2011

SUBJECT: Submission of Community Improvement Funds (CIF) Grant Applications for Fiscal Year 2011-2012.

RECOMMENDATION: The City Council approve the submission of projects for the CIF Grants for Fiscal Year 2011-2012. The project priorities are:

1. Swimming Pool Filtration System	\$85,000
2. Resurface Basketball Courts	\$35,000
3. Electrical Master Plan Knott's	\$80,000
4. Well Knott's	\$120,000
5. Irrigation and Grass Knott's	\$50,000
6. Outdoor Exercise Equipment	<u>\$30,000</u>
Total	\$400,000

Attachment

CIF Grant Applications

ORDER OF PROCEDURE:

Request Staff Report (Randy Council)

Request Public Comment

Council Questions of Staff

Council Discussion

Motion/Second

Discussion of Motion

Call the Question

BACKGROUND:

The County of San Bernardino Department of Economic, Community and Housing requested applications for use of Community Development Block Grant Funds (CDBG) for fiscal year 2011-2012 in January of 2011. At the close of the application period in January, the Economic Community and Housing Department staff reviewed the applications and forwarded to the City those applications that are eligible for consideration for funding during fiscal year 2011-2012.

This year as part of the new changes with Community Development Block Grant funding, the County Board of Supervisors that all their CDBG funds would be concentrated on one or two major construction projects and not to award CDBG fund request to non-profits and City's. In late November and early December of 2010, it was discussed as an alternative the County

would consider the using of each Supervisor District discretionary/policy funding to supplement or back fill the lack of CDBG funding by each Supervisorial District.

On February 24th, the City was informed verbally that the County was still looking into the backfilling of CDBG funds with other County General Fund Dollars, with an email following up the next day with the new Community Improvement Funds (CIF) Grant proposal applications but no guidelines. The deadline for the submission is March 21, 2011.

Staff has completed two CIF Grant applications, the first being for Luckie Park for \$150,000, with the replacement of the swimming pool filtration system as the top priority, followed by the resurfacing of the basketball courts, and the installation of outdoor exercise equipment. The second application was for Knott's Sky Park for \$250,000, with the electrical master plan being first, followed by a new well and lastly the irrigation and grass seed for the open space.

ALTERNATIVES:

The first option is to approve the Community Improvement Fund (CIF) Grant applications submission with the swimming pool filtration system as the top priority, and the second option is to not approve the submission, which would eliminate the City of possibly receiving any funds.

FISCAL IMPACT:

If the City chooses to utilize the CIF Grant funds for funding projects within the City, it allows the City to complete projects without using City's General Funds, or at best using less.

Therefore, Staff's recommendation is to approve the submission of two Community Improvement Fund grant proposals for fiscal year 2011-2012, with the City's priorities being the swimming pool filtration for \$80,000 as the number project followed by resurface of the basketball courts, electrical master plan for Knott's, a new well at Knott's, irrigation and grass at Knott's, and outdoor exercise equipment being the final project.



STAFF REPORT

TO: City Council via City Manager
FROM: Community Services Director
DATE: March 1, 2011
FOR COUNCIL MEETING OF: March 8, 2011

SUBJECT: Visitors Center Operating Agreement for Services between the Twentynine Palms Chamber of Commerce and the City of Twentynine Palms for fiscal year 2011-2012.

RECOMMENDATION: That City Council approve the Chamber Agreement with staff's recommendations for the Operating of the Visitor Center for 2011-2012 for an increase of \$7,280 for a total of \$27,872 for the next fiscal year, and change the contract to renewal annually and coincide with the City's fiscal year.

ORDER OF PROCEDURE:

Request Staff Report (Randy Council)

Request Public Comment

Council Questions of Staff

Council Discussion

Motion/Second

Discussion of Motion

Call the Question

Attachment

Agreement with Chamber request and staff comments

2011-2012 Visitors Center Operation Agreement

Lease Agreement

BACKGROUND:

In February of last year, the City of Twentynine Palms and the Twentynine Palms Chambers of Commerce entered into an agreement for the operating of the new Visitors Center. As part of the agreement, the Visitors Center Operating Agreement/contract is to be reviewed each year by both entities, and approved by City Council. Staff has met with the Chamber on two different occasions to discuss changes the Chamber would like to see in the agreement. Attached is a copy of the request by the Chamber of Commerce with their request for changes in red, and staff recommendation in blue, along with the Visitors Center Operation Agreement for fiscal year 2011-2012.

In staffs meetings with the Chamber, the Chamber has requested several changes in the contract, some minor and some major or key changes. The minor changes, which include the adding of a City representative besides the City Manager as a person to contact, have been changed in the final draft. Staff has added the Community Services Director, Recreation Superintendent, and the Recreation Supervisor as those allowed making minor changes or day

to day changes as needed, with any major changes still needing Council's approval. The last minor change is to change the renewal date to coincide with the fiscal year.

Key changes that the Chamber has requested but not recommended by staff in the final agreement, include the closing for all federal holidays, going to summer hours, closing for lunch, and increasing the \$5.50 per hour to \$11.00 per hour for the Monday through Friday person. The cost for closing for Federal Holidays and summer hours are minimal as the numbers show in staff responses, but these are the key times when visitors should be visiting our community. The most important change the Chamber is requesting in this agreement the increase of the pay from \$5.50 to \$11.00 per hour for the Monday through Friday position. Staff has taken the stance that the number of visitors coming into the Center at this time does not warrant an \$11 increase. The individual working during the week is still doing Chamber work. However, the reality is if the City had to operate the Visitors Center it would take two individuals at approximately \$9 per hour and a lot of staff time in oversight in training. Therefore staff is recommending increasing the rate to the \$9 for the week day individual at a cost to the City of \$7,280 for the fiscal year. From staffs view point the City is still getting a good bang for the dollar. The total cost for this agreement is \$27,872 for the next fiscal year.

Staff recommendation is to open the discussion and review the areas of concern with the Chamber of Commerce, and approve the Visitors Center Operating Agreement for fiscal year 2011-2012.

VISITOR CENTER OPERATING AGREEMENT FOR SERVICES BETWEEN
THE TWENTYNINE PALMS CHAMBER OF COMMERCE AND
THE CITY OF TWENTYNINE PALMS

THIS AGREEMENT, made and entered into this 9th day of February, 2010, by and between the City of Twentynine Palms, a municipal corporation hereinafter designated as "City" and the Twentynine Palms Chamber of Commerce, a nonprofit corporation hereinafter designated as "Chamber".

WITNESSETH

WHEREAS, the City recognizes that tourism is a significant industry within the City and is critical to its economic stability; and

WHEREAS, the City deems it necessary and appropriate, and in the furtherance of the public good, to ensure specific services exist to educate the public about and otherwise promote those business and services which are tied to tourism, such as museums, gift shops, inns, hotels, restaurants and other similar businesses; and

WHEREAS, the City has constructed a Visitor Center to provide the forgoing services; and

WHEREAS, the City has entered a lease with the Chamber to allow it to utilize portions of the Visitor Center for its operations; and

WHEREAS, the Chamber is duly organized and constituted, and has represented that it has the resources and skill to operate the City's Visitor Center; and

WHEREAS, in light of the fact the Chamber will be utilizing the Visitor Center pursuant to its lease, the City Council has determined it is in the public interest to enter into this Agreement.

NOW, THEREFORE, In consideration of the following terms and conditions, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties agree as follows:

1. The term of the Agreement shall commence on March 1, 2010, and shall terminate on February 28, 2011, with the option of the City to extend two additional one-year periods. A review of services to be provided by the City and Chamber prior to February 28th of each year. **Reword to review every year.** **The term of the agreement shall commence on July 1, of each year, and shall be subject to review annually by either party, and submitted to council for approval. This will coincide with the City's annual fiscal budget and year.**

2. The Chamber will, and does hereby undertake to carry on certain activities in cooperation with, and on behalf of the City and particularly to render those services set forth in Attachment "A" (Scope of Services).
3. In consideration for services performed by the Chamber, the City agrees to compensate the Chamber as set forth in Attachment "A", upon receipt of a billing with written summary of pertinent activities as well as an accounting of applicable revenues and expenditures. Approved invoices will be paid within 30 days of receipt pursuant to this agreement.
4. The records and books of Chamber relating to the scope of terms of this Agreement shall be open to inspection and audit by City, its employees or representatives, at all times during the term of this Agreement and for a reasonable time thereafter, or as may be required by law.
5. The City or Chamber, upon at least sixty (60) days written notice, may terminate this Agreement. In addition, should the Chamber's lease with the City for its use of the City's Visitor Center for Chamber operations be terminated for any reason, this Agreement shall terminate on the same date as the lease agreement is deemed to have been terminated.
6. Chamber will perform the services set out in this Agreement or will cause performance of said services to occur, as contemplated herein, in accordance with the generally accepted standards for performing similar services within the State.
7. The failure of the City to insist upon the strict performance of any of the provisions of this Agreement, or failure to exercise any other right, option, or remedy hereby reserved or as determined by law, shall not be construed as a waiver for the future of any such provisions, right, option, or remedy, or as a waiver of any subsequent breach thereof.
8. Chamber shall defend (with an attorney approved by City), hold harmless and indemnify the City, its officers, officials, employees, volunteers and agents against any and all liability (whether bodily injury, including death, and/or property damage) and against any other losses, claims, damages, actions, or judgments, or any type or nature, whether related to bodily injury, death, property damage, or other injury, arising or alleged to arise out of any acts or omission of Chamber or its officers, agents, employees, volunteers, subcontractors or representatives in the performance of this Agreement.
9. Chamber shall procure from an admitted insurer acceptable to the City and shall maintain at its cost comprehensive general liability and property damage insurance, including owned or non-owned automobile insurance, covering any and all claims for injury or death to persons or damage to property resulting from Chamber's acts or omission arising out of or related to Chamber's performance under this Agreement. Chamber shall also carry

workers compensation insurance in the statutory amount prescribed under State Workers Compensation Laws. Unless otherwise approved by City in writing, all of the required policies of insurance shall: (i) be kept in effect during the term of this Agreement (ii) contain a provision, or be endorsed to require that they not be subject to reduction in coverage, cancellation or termination without thirty (30) days prior written notice having given to the City, (iii) name the City and its officers, officials, employees and volunteers as additional insureds, and (iv) be primary and not contributing with other insurance available to City. A certificate or certificates evidencing the foregoing and naming City as an additional insured on the liability insurance shall be delivered to and approved by City prior to commencement of the services hereunder. The procuring of such insurance or the delivery of policies or certificates evidencing the same shall not be construed as a limitation of Chamber's obligation to indemnify City as required by this agreement. The amount of insurance required hereunder for personal injury, general liability, professional liability, automobile liability and property damage shall be no less than One Million Dollars (\$1,000,000) per occurrence. Chamber shall obtain a contractors bond in the minimum amount as required by state law.

10. Chamber shall act as an independent contractor when providing services under this Agreement and shall not under any circumstances be considered employees of the City. The Chamber, its agents or employees will perform the services required herein, as contracted services under Attachment "A" (Scope of Services).
11. No officer, official, or employee of the City shall be personally liable to the Chamber or any successor in interest, in the event of any default or breach by the City for any amount which may become due to the Chamber or its successor, or for breach of any obligation of the terms of this Agreement.
12. All notices to be given hereunder shall be in writing and shall be deemed to have been given when delivered, if delivered in person, or two business days after mailing if properly addressed and mailed by first class mail.

Notice to the City shall be sent to:

City of Twentynine Palms
6136 Adobe Road
Twentynine Palms, CA 92277
Attn: City Manager

Notice to the Chamber shall be sent to:

Twentynine Palms Chamber of Commerce
73484 Twentynine Palms Hwy
Twentynine Palms, CA 92277

Attn: President

13. Should any section of any part of this Agreement be rendered void, invalid or unenforceable by any court of law, any such final determination shall not render void, invalid or unenforceable any other sections or portions of this Agreement unless the City determines in writing that its purpose cannot be accomplished by the remaining provision not so invalidated.
14. This Agreement has been made and entered into in the State of California, and the laws of the State of California shall govern the validity and interpretation hereof and the performance hereunder.
15. This Agreement contains the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties hereto relating to the subject matter hereof. Any prior understanding or agreement of the parties shall not be binding unless set forth herein, and, except to the extent expressly provided for herein, no amendments of this Agreement may be made without the written consent of both parties hereto.
16. Should litigation occur between the parties hereto relating to the provisions of this Agreement, all reasonable litigation expenses and costs, including reasonable attorneys' fees incurred by the prevailing party shall be paid by the non-prevailing party to the prevailing party.
17. Chamber shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin. Chamber shall take appropriate action to ensure that applicants are employed and that employees are treated during their employment without regard to their race, religion, color, sex, age or national origin.
18. Both parties hereby admit that they have read each and every clause in this agreement and fully understand the meaning of the same, and hereby agree that they will comply with all the terms, covenants, and conditions herein set forth.
19. This Agreement shall not be assigned without the written consent of the City. It may be amended or modified only by written agreement of the parties.

Dated: _____

Dated: _____

City of Twentynine Palms

Twentynine Palms Chamber of Commerce

By: _____

By: _____

Steve Flock, Mayor

Gary Daigneault, President

Attest:

By: _____
Char Sherwood, Clerk

Approved as to Form:

By: _____
Patrick Munoz, City Attorney

ATTACHMENT "A"
SCOPE OF SERVICES

1. City Visitor Center to be opened to public Monday thru Friday from 9 A.M. to 5 P.M. **Summer Hours, Mid June – End September 9-3???** **Closed Mondays?** Staffs recommendation is to leave it as is. The amount of reduced time would be approximately 120 hours for a savings of \$660 (at \$5.50 per hour), or \$1,320 (at \$11.00 per hour). For the amount of cost savings, it's not worth the closing and the possibility of losing visitors.
2. City Visitor Center to be opened to public Saturday and Sunday from 10 A.M. to 4 P.M. **Summer Hours 9-3??** **No change in expense to the City and could be changed.**
3. The City reserves the right to modify the City's Visitor Center days and hours of operation as necessary. Temporary modifications to City's Visitor Center days and hours of operation to be approved by the City Manager **and/or the City manager's representative.** Permanent modifications to the City's Visitor Center days and hours of operation to be approved by the City Council. **It allows staff to work directly with the Chamber on days were their staffing is limited, closing for lunch for a ½ hour etc., without having to go to the City Manager. Staff would be the Community Services Director Randy Councill, or Recreation Supervisor Kevin Cole.**
4. City agrees to pay \$5.50 per hour for each hour during which City's Visitor Center is open during weekday hours of operation, and \$11.00 per hour for each hour during which the City's Visitor Center is open during weekend hours of operation (regardless of how many volunteers and/or employees are present). **Requesting that it is a flat \$11 an hour that the Visitor Center is open. Temporary closing for lunch?** Temporary closing for lunch daily for a ½ hour would not be recommended by staff. For one the lunch time closing would have to be monitored, and secondly, if someone is visiting, we don't want them to leave and have to come back.

As for the Chamber requesting to be reimbursed for a flat fee of \$11 per hour for all hours worked is a complicated issue. Samantha is the primary person responsible for greeting the visitors that visit the center. When she is not greeting visitors she is doing Chamber work. However over time the number of visitors to the Center should increase. Therefore, Staff's recommendation is to raise the hourly rate to \$9 per hour. It makes sense to cover the cost of what it would cost the City to hire a person at minimum wage and associated cost which is approximately \$9 per hour. Staff believes the City is still getting a good deal with the Chamber operating the Visitors Center. The increase cost to the contract would be \$7,280.

5. City's Visitor Center will be closed on the following holidays: New Year's, Easter, Thanksgiving, and Christmas. City and Chamber agree that no payment will be forthcoming to Chamber for hours that City's Visitor Center is not open. **Close on all Federal Holidays, An additional 7 days throughout the year.** The cost savings would be either \$308 at \$5.50 an hour or at \$11 per hour \$616, depending on reimbursement for the work week individual and which day the holiday fell on. Staff's recommendation is to stay open for all holidays except the four listed. This allows visitors the full opportunity to partake in the visitor's center experience.
6. Chamber shall maintain a guest book/log of all visitors and contacts that shall be in a form approved by the City Manager /**Representative** that is contemplated to include guest/visitor addresses or other contact information and areas of interest to be used by City for information purposes and follow-up contact. The guest book/log shall be available to City staff and Council for its inspection and use at all times. **See item #3.**
7. City Manager/ **Rep.** shall approve **Not approve, but has the right to remove any Chamber exhibit** all Chamber exhibits, informational display materials, and other items visible from within or without the City's Visitor Center to ensure compatibility. **Staff agrees with this recommendation so that anytime the Chamber wants to add information, they don't have to ask for permission. It still gives the City the right to have them remove it if necessary.**
8. **Remove** City shall retain all rights to utilize the art gallery wall, and it is anticipated that City will display exhibits upon such wall that have been recommended to the City Manager for such display by the Public Arts Advisory Committee. **This item should remain, with the wording to include the City's Representative behind the City Manager. Staff in this case would be the Community Services Director Randy Councill, or Recreation Superintendent Larry Bowden, who works directly with the PAAC and all art exhibits.**
9. **Remove, See attachment B** When art displayed on the Art Gallery wall is offered for sale, such sales will be handled by the Chamber, and unless otherwise agreed, 70% of sales proceeds from such sales will be remitted to the artist, 20% of such sales proceeds will be remitted to the City (with the intent that they will be allocated by the City to the Public Arts Advisory Committee for its use), and 10% of such proceeds shall be kept by the Chamber for handling of the sale. Sales tax to be collected and remitted to the State of California by the Chamber, and the Chamber shall be responsible to maintain all licenses, registrations, and other approvals as may be needed to conduct retail sales. **See Attachment B. The Chamber will be responsible for taking all proceeds including appropriate taxes, and deposit them with the City. In return the Chamber will receive 10% of the gross sales, the artist 75%, and the City 15%, and the City will remit the sales tax to the State.**

10. The Chamber may solicit volunteers to assist in operation of the City's Visitor Center as it deems appropriate, and subject to City's ongoing approval; however, during operating hours of the City's Visitor Center a paid Chamber staff member will always be present.
11. Chamber staff working in the City's Visitor Center shall attend quarterly training sessions to be provided by City related to information required to be provided to visitors.
12. Chamber staff shall notify the City Manager or his/her designee of the need to replenish supplies and make repair of City Visitor Center equipment.
13. Chamber staff and/its volunteers shall monitor the City's Visitor Center internet access terminals and enforce City policies related to internet use at terminals.
14. In addition to regular janitorial maintenance provided after hours (the cost of which is to be shared jointly by City and Chamber pursuant to their lease agreement), the Chamber shall monitor the restrooms and restroom supplies at the Visitor Center during the course of each day, and shall inspect the restrooms not less than once every two hours, and shall be responsible to clean and otherwise maintain the restrooms so as to ensure they are at all times kept in a neat and clean condition.
15. Chamber staff and or volunteers shall answer City's Visitor Center phone lines and greet walk in patrons in a professional and courteous manner, and shall provide visitors with information about the City and responding to visitor inquiries. **Do we still need a separate line??? One line, share cost?** Staff recommendation is to leave the phone in place as is. If the Chamber ever decides to leave the Visitors Center, they can take their phone number and the City will still have their own. Also, when the City phone rings, the Chamber is to answer with the Visitors Center greeting. Staff is also starting to advertise the Visitors Center with its own number.
16. Chamber will continue paying their portion of the Chamber web site host by the City.
17. The Chamber will continue paying their portion for the lease of the Visitors Center building. See Attachment #

VISITOR CENTER OPERATING AGREEMENT FOR SERVICES BETWEEN
THE TWENTYNINE PALMS CHAMBER OF COMMERCE AND
THE CITY OF TWENTYNINE PALMS

THIS AGREEMENT, made and entered into this 9th day of February, 2010, by and between the City of Twentynine Palms, a municipal corporation hereinafter designated as "City" and the Twentynine Palms Chamber of Commerce, a nonprofit corporation hereinafter designated as "Chamber".

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WHEREAS, the City recognizes that tourism is a significant industry within the City and is critical to its economic stability; and

WHEREAS, the City deems it necessary and appropriate, and in the furtherance of the public good, to ensure specific services exist to educate the public about and otherwise promote those business and services which are tied to tourism, such as museums, gift shops, inns, hotels, restaurants and other similar businesses; and

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WHEREAS, the Chamber is duly organized and constituted, and has represented that it has the resources and skill to operate the City's Visitor Center; and

WHEREAS, in light of the fact the Chamber will be utilizing the Visitor Center pursuant to its lease, the City Council has determined it is in the public interest to enter into this Agreement.

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3. In consideration for services performed by the Chamber, the City agrees to compensate the Chamber as set forth in Attachment "A", upon receipt of a billing with written summary of pertinent activities as well as an accounting of applicable revenues and expenditures. Approved invoices will be paid within 30 days of receipt pursuant to this agreement.
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5. The City or Chamber, upon at least sixty (60) days written notice, may terminate this Agreement. In addition, should the Chamber's lease with the City for its use of the City's Visitor Center for Chamber operations be terminated for any reason, this Agreement shall terminate on the same date as the lease agreement is deemed to have been terminated.
6. Chamber will perform the services set out in this Agreement or will cause performance of said services to occur, as contemplated herein, in accordance with the generally accepted standards for performing similar services within the State.
7. The failure of the City to insist upon the strict performance of any of the provisions of this Agreement, or failure to exercise any other right, option, or remedy hereby reserved or as determined by law, shall not be construed as a waiver for the future of any such provisions, right, option, or remedy, or as a waiver of any subsequent breach thereof.
8. Chamber shall defend (with an attorney approved by City), hold harmless and indemnify the City, its officers, officials, employees, volunteers and agents against any and all liability (whether bodily injury, including death, and/or property damage) and against any other losses, claims, damages, actions, or judgments, or any type or nature, whether related to bodily injury, death, property damage, or other injury, arising or alleged to arise out of any acts or omission of Chamber or its officers, agents, employees, volunteers, subcontractors or representatives in the performance of this Agreement.
9. Chamber shall procure from an admitted insurer acceptable to the City and shall maintain at its cost comprehensive general liability and property damage insurance, including owned or non-owned automobile insurance, covering any and all claims for injury or death to persons or damage to property resulting from Chamber's acts or omission arising out of or related to Chamber's performance under this Agreement. Chamber shall also carry workers compensation insurance in the statutory amount prescribed under State Workers Compensation Laws. Unless otherwise approved by City in writing, all of the required policies of insurance shall: (i) be kept in effect during the term of this Agreement (ii) contain a provision, or be endorsed to

require that they not be subject to reduction in coverage, cancellation or termination without thirty (30) days prior written notice having given to the City, (iii) name the City and its officers, officials, employees and volunteers as additional insureds, and (iv) be primary and not contributing with other insurance available to City. A certificate or certificates evidencing the foregoing and naming City as an additional insured on the liability insurance shall be delivered to and approved by City prior to commencement of the services hereunder. The procuring of such insurance or the delivery of policies or certificates evidencing the same shall not be construed as a limitation of Chamber's obligation to indemnify City as required by this agreement. The amount of insurance required hereunder for personal injury, general liability, professional liability, automobile liability and property damage shall be no less than One Million Dollars (\$1,000,000) per occurrence. Chamber shall obtain a contractors bond in the minimum amount as required by state law.

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Twentynine Palms, CA 92277
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13. Should any section of any part of this Agreement be rendered void, invalid or unenforceable by any court of law, any such final determination shall not

render void, invalid or unenforceable any other sections or portions of this Agreement unless the City determines in writing that its purpose cannot be accomplished by the remaining provision not so invalidated.

14. This Agreement has been made and entered into in the State of California, and the laws of the State of California shall govern the validity and interpretation hereof and the performance hereunder.
15. This Agreement contains the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties hereto relating to the subject matter hereof. Any prior understanding or agreement of the parties shall not be binding unless set forth herein, and, except to the extent expressly provided for herein, no amendments of this Agreement may be made without the written consent of both parties hereto.
16. Should litigation occur between the parties hereto relating to the provisions of this Agreement, all reasonable litigation expenses and costs, including reasonable attorneys' fees incurred by the prevailing party shall be paid by the non-prevailing party to the prevailing party.
17. Chamber shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin. Chamber shall take appropriate action to ensure that applicants are employed and that employees are treated during their employment without regard to their race, religion, color, sex, age or national origin.
18. Both parties hereby admit that they have read each and every clause in this agreement and fully understand the meaning of the same, and hereby agree that they will comply with all the terms, covenants, and conditions herein set forth.
19. This Agreement shall not be assigned without the written consent of the City. It may be amended or modified only by written agreement of the parties.

Dated: _____

Dated: _____

City of Twentynine Palms

Twentynine Palms Chamber of Commerce

By: _____
Steve Flock, Mayor

By: _____
Gary Daigneault, President

Attest:

By: _____
Char Sherwood, Clerk

Approved as to Form:

By: _____
Patrick Munoz, City Attorney

ATTACHMENT "A"
SCOPE OF SERVICES

1. City Visitor Center to be opened to public Monday thru Friday from 9 A.M. to 5 P.M.
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4. City agrees to pay \$9 per hour for each hour during which City's Visitor Center is open during weekday hours of operation, and \$11.00 per hour for each hour during which the City's Visitor Center is open during weekend hours of operation (regardless of how many volunteers and/or employees are present
5. City's Visitor Center will be closed on the following holidays: New Year's, Easter, Thanksgiving, and Christmas. City and Chamber agree that no payment will be forthcoming to Chamber for hours that City's Visitor Center is not open.
6. Chamber shall maintain a guest book/log of all visitors and contacts that shall be in a form approved by the City Manager or representative that is contemplated to include guest/visitor addresses or other contact information and areas of interest to be used by City for information purposes and follow-up contact. The guest book/log shall be available to City staff and Council for its inspection and use at all times. (#1)
7. City Manager or representative has the right to remove any Chamber exhibit informational display materials, and other items visible from within or without the City's Visitor Center to ensure compatibility.
8. City shall retain all rights to utilize the art gallery wall, and it is anticipated that City will display exhibits upon such wall that have been recommended to the City Manager or representative for such display by the Public Arts Advisory Committee. (#2)

9. See Attachment B. The Chamber will be responsible for taking all proceeds including appropriate taxes, and deposit them with the City. In return the Chamber will receive 10% of the gross sales, the artist 75%, and the City 15%, and the City will remit the sales tax to the State.
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16. Chamber will continue paying their portion of the Chamber web site host by the City.
17. The Chamber will continue paying their portion for the lease of the Visitors Center building. See Attachment Lease Agreement.

Notes

#1. Staff would be the Community Services Director Randy Councill, or Recreation Supervisor Kevin Cole.

#2. Staff would be the Community Services Director Randy Councill or Recreation Superintendent Larry Bowden.