



STAFF REPORT

TO: City Council
FROM: Deputy City Clerk
DATE: April 28, 2011
FOR CITY COUNCIL MEETING: May 10, 2011

BACKGROUND: On April 9, 2011 the City of Twentynine Palms and Burrtec Waste and Recycling sponsored a Buck-A-Bag competition during the Community Clean Up. Burrtec Waste and Recycling Services reported that 30.71 tons of trash was collected at the Community Clean up Day on April 9, 2011. We would like to thank the citizens of our community and all 7 of our Buck-A-Bag team participants for their efforts to keep our City clean.

The City of Twentynine Palms and Burrtec joined efforts to present prize money for this event. Burrtec has generously offered to match the 1st, 2nd, and 3rd place prize money for each group. Prize money will be awarded as follows:

Place	Organization	Points	Prize Money	Total Winnings
18 and Over Groups				
1 st	Reach Out Morongo Basin	467	\$467+\$100+\$100	\$667.00
2 nd	Feathers 'n Fur Rehabilitation	350	\$350+\$75+\$75	\$500.00
3 rd	Sodexo Foundation	111	\$111+\$50+\$50	\$211.00
18 and Under Groups				
1 st	TPHS Boys Basketball Team	352	\$352+\$100+\$100	\$552.00
2 nd	Girl Scout Troop 170	204	\$204+75+75	\$354.00
3 rd	Boy Scout Troop 229	173	\$173+\$50+\$50	\$273.00

The following team did not place but still receive prize money for their participation:

*Elks (90 points)=\$90.00

 City Manager City Attorney City Engineer Finance Dir. Dept. Head



**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
From: Community Development Director
Date: May 2, 2011
For Council Meeting of: May 10, 2011

SUBJECT: Proposed roadway closure, Adobe Road between Gorgonio Drive and Two Mile Road, in association with PC 11-25 Temporary Use Permit for the Annual Twentynine Palms Chamber of Commerce Street Fair.

RECOMMENDATION

That the Council move to approve the temporary street closure of Adobe Road between Gorgonio Drive and Two Mile Road in association with PC 11-25 Temporary Use Permit for the Chamber's annual "Street Fair" event to occur on June 3, 2011.

Attachments:

1. Proposed Conditions of Approval
2. Opposition Letter from Ms. Banks
3. Chamber Correspondence

ORDER OF PROCEDURE

Request Staff Report (Charles LaClaire Presenting)
Commission Questions of Staff
Commission Discussion
Motion/Second
Discussion of Motion
Call the Question

PROJECT DESCRIPTION

Applicant Rob Fleck, of the Twentynine Palms Chamber of Commerce, is requesting City Council approval of the temporary closure of Adobe Road between Gorgonio Drive and Two Mile Road in association with PC 11-25, a Temporary Use Permit for the Twentynine Palms Chamber of Commerce 2011 Annual Street Fair. The one (1) day event will include a street fair, soapbox derby and car show being conducted from approximately 2:00 p.m. to 10:30 p.m. June 3, 2011.

BACKGROUND

On March 15, 2011 the City's Community Development Department received an application from the Chamber of Commerce for an Administrative Temporary Use Permit to allow a street fair to occur within the Adobe Road right-of-way. The application indicated that the Chamber is requesting authorization to utilize a portion of Adobe Road, between Two Mile Road and Gorgonio Drive, between the hours of 2:00 p.m. and 10:30 p.m. necessitating the closure of Adobe Road during this period. The one (1) day event is proposed for June 3, 2011 and shall include areas for a street fair, a soapbox derby, a car show, food vendor tents/booths (currently no food vendors have applied), sanitation facilities, trash receptacles, etc. It is noted that the currently requested Street Fair is proposed at a new location from previous years.

Review of Staff Report:

City Manager City Attorney Finance Director Department Head

Under the provisions of Code Section 19.32.060 “Approval Authority - Administrative Temporary Use Permits”, the Community Development Director may approve a variety of temporary activities such as “circuses, carnivals, concerts, rodeos, parades, car shows/sales, motor sports events, or similar outdoor events or enterprises not to exceed seven (7) calendar days of operation in any calendar year”, as well as “outdoor art and craft shows and exhibits not to exceed five (5) calendar days of operation or exhibition in any calendar year”. Further, the provisions for approving an Administrative Temporary Use Permits, Section 19.32.080 “Findings – Administrative Temporary Use Permits” requires that three (3) specific “Findings” must be made in a positive manner for the Community Development Director to approve the Permit. One of those required Findings allows approval if “Objections are not filed”. With regard to PC 11-25 - Administrative Temporary Use Permit, on April 25, 2011 the Community Development Department received a letter in opposition to the proposed street fair (letter attached). As the required Finding cannot be made by the Director, the Administrative Temporary Use Permit must be submitted to the Planning Commission for review and decision.

The objection letter received April 25, 2011, notes the author’s belief that the proposal is “not a good thing”, that her “business is more important than the festivities that are being planned” and that the “closure of adobe rd, will be a hardship”. The author also notes that there are other locations within the City to hold the event and that due to the nature her business, car sales, that shutting sales down at her location, but not at other vehicle sales locations, would result in loss of customers.

As the City had received an objection to PC 11-25 - Administrative Temporary Use Permit, the permit was converted to PC 11-25 - Temporary Use Permit. This Temporary Use Permit shall be presented to the City’s Planning Commission at its regularly scheduled meeting of May 17, 2011 for action. Under the provisions of Code Section 19.32.070 “Findings – Temporary Use Permit”, the four (4) specific “Findings” must be made in a positive manner to approve the Temporary Use Permit.

To further complicate the issue, under the provisions of Development Code Section 19.40.040 “Approval Authority”, Subsection D “Approval Authority Involving Multiple Actions”, the Code requires that “Where a single project requires approval of multiple permits, all such permits shall be filed and reviewed concurrently” and that “the final decision on the project shall be made by the highest Approval Authority of all the required permits.” In this instance, any street closure requires approval of the City Council and, therefore, the “highest Approval Authority” is the City Council for both the Temporary Use Permit and street closure.

To facilitate the review and final action on this proposal (the Temporary Use Permit involving a street closure), and in consideration of the very limited time frame before the anticipated June 3rd event, staff has divided the review process into three parts. First, Council review of the proposed street closure; for without approval of the street closure, the applicant must find an alternate venue/location for the event. Second, the Temporary Use Permit shall be presented to the Planning Commission at its regularly scheduled meeting of May 17th to allow the Commission to review and forward a recommendation to the Council on the proposal. And third, the Council shall have the opportunity to complete its review of the Temporary Use Permit in light of the Commission’s recommendation at its regularly scheduled meeting of May 24, 2011. This schedule shall give interested individuals three (3) opportunities to address the Commission and/or Council on the proposal. The above schedule also allows the applicant a small amount of additional time to provide the Community Development Department with the additional materials (insurance, alcohol permit and County temporary food permit) needed to complete the Temporary Use Permit application for review by the Commission and Council. *(Please note that issues associated with the Temporary Use Permit application shall be*

analyzed and presented within the Temporary Use Permit reports presented to the Commission and Council. Recommendation on the application shall be based upon the facts as analyzed with these reports.)

ANALYSIS

The City has been asked to approve a Temporary Use Permit to allow the Annual Chamber of Commerce Street Fair. This annual event has been taking place within the community since 2003, and always previously within the State Route 62 right-of-way. To avoid the complexities of receiving State of California Department of Transportation (CalTrans) approval for closure of Highway 62, the Chamber has requested that the Street Fair be allowed within the Adobe Road right-of-way for 2011. Therefore Chamber representatives request that the City Council approve the one day closure of Adobe Road, between Gorgonio Drive and Two Mile Road, on June 3rd from approximately 2:00 p.m. to 10:30 p.m. Any such closure would necessitate the use of barricades, signage, City staff members, COPS, law enforcement personnel and/or representatives from the Chamber to redirect and assist motorists around the street closure. Any and all such rerouting must conform to City requirements and be conducted by, supervised by or approved by City staff. Regarding such matters, the Chamber has conducted such street closures in the past, as noted above, and Chamber representatives are familiar with the City's procedures and requirements necessary for this type of activity.

If the Council approves the street closure, the Planning Commission will then have the opportunity to review and forward a recommendation regarding the Street Fair's Temporary Use Permit, at its meeting of May 17, 2011. Following the Commission hearing, the Council shall then review and take final action on the Temporary Use Permit. Regardless of the issues that may arise from the proposed Street Fair, the current request before the Council is the temporary closure of Adobe Road. Although the Chamber is experienced in this type of activity, any closure must conform to and be approved by the City. A street closure such as the one requested, if conducted consistent with City standards, should not prove to be detrimental to the community and the annual Chamber Street Fair has been both a financial and social benefit to the community in the past. This benefit, however, must be weighed against the potential impact that closing the street may have upon the community and more directly the business that would be immediately affected by the closure (see attached protest letter). While it is arguable that access to some business shall be restricted during the period of the road closure, these same businesses shall receive extensive exposure to those individuals attending the Chamber Street Fair which may, by this exposure, be beneficial to those businesses. Weighing the alternatives, it is believed that the Street Fair, and associated roadway closure, shall result in an overall positive benefit to the community.

To assist the organizers in running the event well, staff is suggesting specific Conditions to address the concerns noted herein. The recommended Conditions of Approval are attached for review and possible adoption as conditions of the road closure approval, if granted.

CEQA Environmental Review

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposed street closure (and future Temporary Use Permit) consist of a short-term community activity within an existing, improved public right-of-way involving a private entertainment event, without construction of new, permanent facilities and with the requirement to return all public and private property to its pre-event state, can be seen with certainty to not have the potential to have a negative impact upon the environment and, therefore, the proposal is Exempt from further environmental review.

Zoning

As the request is proposed within a public right-of-way, the property in question does not have an official zoning designation, it is identified within the City's adopted Circulation Element as an Arterial roadway. Further, the properties adjacent to this portion of Adobe Road are designated as General Commercial (except for the City Hall, Veterans Park and County Library properties designated "Public"). These zoning designations will not be adversely effected by a short term private entertainment fair event, which is allowed if approved by the City under a Temporary Use Permit.

Findings for Approval

No specific "Findings" are required to approve a temporary street closure. When the Commission and Council review the requested Temporary Use Permit for the Street Fair, Development Code Section 19.32.070 "Findings - Temporary Use Permits" requires that prior to approving any such Permit the City must make specific "Findings" in a positive manner. The Findings listed within 19.32.070 are presented below. Comment to address each shall be provided within both the Commission and Council reports regarding the Temporary Use Permit for Commission and Council consideration and possible adoption if both bodies elect to support/approve the request.

19.32.070 Findings - Temporary Use Permits.

- A. The operation will not jeopardize, endanger, or otherwise constitute a risk to public health, safety, or welfare; and
- B. The proposed site will accommodate the temporary use without being materially detrimental to the use and enjoyment of other properties in the vicinity; and
- C. The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the traffic that the temporary use will or could reasonably be expected to generate; and
- D. Adequate temporary parking will be available either on-site or at an acceptable alternate location.

Approval Authority

Under the provisions of the Development Code, The Community Development Director is the approval authority for an Administrative Temporary Use Permit, unless all Findings cannot be made in a positive manner. Under such circumstances, the Permit request can be forwarded to the Planning Commission for action. Although the Planning Commission is normally the Approval Authority for a Temporary Use Permit, as the Fair also involves a street closure multiple City approvals are required. Under Development Code Section 19.40.040 "Approval Authority", Subsection D "Approval Authority Involving Multiple Actions", multiple approvals must be approved by the City Council.

Conditions of Approval

CITY OF TWENTYNINE PALMS
CONDITIONS OF APPROVAL

Adobe Road Street Closure

Applicant: Twentynine Palms Chamber of Commerce

Project: Temporary Street Closure – Adobe Road between Gorgonio Drive and Two Mile Road for a Chamber Street Fair event to occur on June 3, 2011.

Location: A portion of Adobe Road between Gorgonio Drive and Two Mile Road as illustrated upon the Temporary Use Permit (PC 11-25) approved by the City Council.

Approved (Street Closure): June 3, 2011

Expire: June 4, 2011

The following Conditions of Approval shall be applicable and shall be applicable throughout the event as approved by the City Council for the Chamber Street Fair.

1. The date of the street closure shall be June 3, 2011.
2. The road closure shall be limited to that area described as Adobe Road between Gorgonio Drive and Two Mile Road presented to the Council at the May 10, 2011 hearing.
3. The applicant shall defend, at its sole expense (with attorneys approved by the City), and indemnify the City against any claim, action, or proceeding brought by any third party against the City, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the City, its agents, officers or employees for any judgment, court costs and attorney's fees, which the City, its agents, officers or employees may be required to pay as a result of such claim, action, or proceeding. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.
4. Detours, detour signage and appropriate barricades shall be approved by the County's Sheriff's Office, City's Public Works Superintendent and the City Engineer at least ten (10) days prior to the event. Said detours, detour signage and barricades shall be in place prior to the commencement of the event on June 3, 2011 and shall be removed within three (3) hours following the conclusion of the event on June 3, 2011. Contact Public works Supervisor Jose Nieves at 367-7623 to coordinate placement of barricades and detour signs for the event.
5. Contact San Bernardino County Sheriff's Department regarding traffic control during the event. Deputies, COPS and authorized others shall be utilized to assist with traffic control for all routes that may be affected by the event as prescribed and required by the Sheriff's Office.
6. Streets closed to thru traffic shall be posted twenty-four (24) hours in advance of event.
7. Clear signage warning of the Detour shall be placed as directed by the San Bernardino County Sheriff's Department or the City Engineer prior to the event and shall be removed within three (3) hours following the conclusion of the event.

8. Temporary closure of any portion of Adobe Road between Gorgonio Drive and Two Mile Road approved by the City shall not interfere with emergency access to the site or surrounding properties and shall be limited to only that portion necessary for the conduct of the event and only during the event activities.
9. The Applicant shall ascertain and comply with requirements of all State, County and Local agencies as are applicable to the event proposal.
10. The event organizer shall keep the property neat, clean and in good physical condition including open spaces, sidewalks, lighting, driveways, parking areas and landscaping at all times. To assure conformance to this Condition, the applicant/event organizer shall place on deposit with the City of Twentynine Palms Finance Department a sum sufficient (as determined by the Finance Director) to reimburse the City for costs that it may incur if the City must return the property to its pre-event state. This deposit may be used by the City to return the property to a neat, clean and in good physical condition including open spaces, sidewalks, lighting, driveways, parking areas and landscaping. Such deposit shall be placed with the City's Finance Department at least five (5) days prior to the event and shall be returned to the applicant/event organizer at least ten (10) days following the event if not expended for its deposited purpose.

The undersigned applicant verifies that he/she has read the Conditions of Approval, understands each Condition, and agrees to adhere to the Conditions of Approval.

Applicant (Mr. Rob Fleck, Representative for the
City of Twentynine Palms Chamber of Commerce)

Date

SYNDI BANKS

THE AUTO SHOPPE
5972 ADOBE RD.
29 PALMS CA. 92277

RECEIVED
APR 25 2011
PLANNING

April 26, 2011

CITY HALL 29 PALMS

To Whom it Concerns,

I am writing this today in regards to the letter I received today from the 29 palms chamber of commerce. They are stating that the road closure for Friday June 3rd from 2:00 to 10:00 pm for a soapbox derby, annual street fair and car show. I feel that this is not a good thing. My business is more important than the festivities that are being planned. The closure of adobe rd., will be a hardship for me. I believe that the festivities could be done at different places around 29 Palms and not disturbing our businesses. People driving down to say McDonalds for lunch or dinner would drive by my establishment and maybe see a vehicle that they would like to purchase, Fridays and Saturdays are a very busy day for me. If they would be diverted then I may loose that customer. My business is not a \$5.00 items store. I sell vehicles. My business would be shut down but other used car lots in the area will still have there access open. I do not want Adobe rd, Closed that is my front window. That is a pay day Friday.

Sincerely,

Signature





Twentynine Palms Chamber of Commerce

73484 Twentynine Palms Hwy
Twentynine Palms, California 92277
(760) 367-3445 • Fax (760) 367-3366

May 2, 2011

City of Twentynine Palms
Attn: Brenda Simmons, Community Development Technician
6136 Adobe Road
Twentynine Palms, CA 92277

Ms. Simmons,

During the first week of April all businesses on Adobe were notified of the street being closed for the Street Fair, Car Show, and Soapbox Derby on Friday, June 3, 2011.

Sincerely,

Rob Fleck
Executive Director



Twentynine Palms Chamber of Commerce

73484 Twentynine Palms Hwy
Twentynine Palms, California 92277
(760) 367-3445 • Fax (760) 367-3366

April 7, 2011

Dear Business Owner:

The Twentynine Palms 2011 Annual Soapbox Derby and Street Fair and Car Show are coming! Mark your calendar and make plans for Friday, June 3, 2011, from 2:00 p.m. to 10:00 p.m.

The Soapbox Derby, held in conjunction with the Annual Street Fair and Car Show, will take place in a new location this year along with the Street Fair. This is a very important event, which involves children and families from all around the surrounding area!

The venue for this event has changed for this year! The Derby will take place on Adobe Road between Two Mile Road and El Paseo Drive. This stretch of Adobe Road, along with from El Paseo Drive to Gorgonio Drive, will be closed from approximately 2:00 p.m. to 7:00 p.m. Adobe Road from El Paseo Drive to Gorgonio Drive will remain closed until 10:30pm. Traffic will be re-routed via side streets during the event.

Although the street on which your business is located will be closed to vehicular traffic, this is a fantastic opportunity for you to open your doors to the many pedestrians who will converge during this community-driven event!

You are invited and encouraged to set up merchandise for display or sale on the sidewalk outside your business or the street directly in front of your store. Retail businesses and shops can spill their wares outdoors and offer sidewalk sales, promotional displays, activities, and an "open house" atmosphere inside the stores. Be sure to include your special sales, promotions and/or business hours for this event in any of your advertising.

Your business also has the opportunity to get involved in the actual Street Fair and Car Show event, located a bit further down the road. If you would like to have a vendor space, simply give us a call or visit our website, 29chamber.org, for more information, and to download the appropriate forms.

Thank you all for joining with us to make this a successful event. We look forward to working with you! Please contact us at 367-3445 with any questions or concerns.

Respectfully yours,

Rob Fleck
Executive Director



Twentynine Palms Chamber of Commerce

73484 Twentynine Palms Hwy
Twentynine Palms, California 92277
(760) 367-3445 • Fax (760) 367-3366

April 7, 2011

Dear Business Owner:

The Twentynine Palms 2011 Street Fair and Car Show is coming! Mark your calendar and make plans for Friday, June 3, 2011, from 6:00 p.m. to 10:00 p.m.

The Twentynine Palms Chamber of Commerce is proud to host this popular summer event for our community. We hope you'll join the fun and experience a fantastic evening of sales at the same time. The 2010 Street Fair brought in nearly 100 vehicles and thousands of people to our downtown area.

The venue for this event has changed for this year! The event will take place on Adobe Road between Gorgonio Drive and El Paseo Drive. Adobe Road will be closed from approximately 2:00 p.m. to 10:30 p.m. Traffic will be re-routed via side streets during the event.

Vendors will set up on the west side of the street, and larger entertainment vendors will set up in the center of the highway. The Car Show, which will include cars, trucks and motorcycles, will be staged in the parking lanes on the east side of the highway.

Although the street on which your business is located will be closed to vehicular traffic, this is a fantastic opportunity for you to open your doors to the many pedestrians who will converge during this four-hour event.

You are invited and encouraged to set up merchandise for display or sale on the sidewalk outside your business or the street directly in front of your store. Restaurants are encouraged to offer special food items and/or beverages for sale. Retail businesses and shops can spill their wares outdoors and offer sidewalk sales, promotional displays, activities, and an "open house" atmosphere inside the stores. Because this event is planned until 10:00 p.m., you may also consider extending your business hours. Be sure to include your special sales, promotions and/or business hours for this event in any of your advertising.

Merchants will be afforded the first opportunity to claim the sidewalk space or street space immediately in front of their stores but we need your commitment soon. Just return the enclosed Vendor Application to the Chamber office as soon as possible to let us know you would like to use the space in front of your business with NO VENDOR FEE. If you would like to have a vendor space elsewhere in the venue, please include the appropriate vendor fee.

Any front street space not claimed by merchants will be assigned to other vendors.

Thank you all for joining with us to make this a successful event. Please contact us at 367-3445 with any questions or concerns.

Respectfully yours,

Rob Fleck
Executive Director



STAFF REPORT

TO: City Council via City Manager
FROM: Finance Director
DATE: May 3, 2011
FOR COUNCIL MEETING OF: May 10, 2011

SUBJECT: Article 8 Claim

RECOMMENDATION:

The City Council authorize the filing of a Local Transportation Fund (LTF) Article 8, Local Streets and Roads Claim in the amount of \$367,155.

ORDER OF PROCEDURE:

Request Staff Report (Ron Peck Presenting)
Request Public Comment
Council Questions of Staff
Council Discussion
Motion/Second
Discussion of Motion
Call the Question

Attachments
➤ Claim Form
➤ Financial Reporting Form
➤ Project Listing

BACKGROUND:

The LTF is financed by a .25% sales tax. The funds go through the state, the county, SANBAG and the MBTA before they filter down to the City. The funds are referred to as "Article 8". The City received \$246,269 for fiscal year 2010, which is being used for street projects.

Annually, the City is allocated Local Transportation Funds to accomplish various street projects within the City. These funds can be used for a variety of street and road purposes, including widening streets or installing curbs, gutters and sidewalks or bikeways. This makes them more versatile than gas tax funds. The San Bernardino Associated Governments (SANBAG) administers the funds, and sends out application forms to the Cities each year. City Council approval of the application is required. Staff has prepared the application for the Council to review.

ALTERNATIVES: None

FISCAL IMPACT: City will receive \$367,155. for street projects.

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

**San Bernardino Associated Governments
Local Transportation Fund - Article 8
Other Puposes Claim**

Fiscal Year: 2010-2011

Claimant: City of Twentynine Palms
6136 Adobe Rd.
Twentynine Palms, CA 92277

Attention: Ronald Peck
Phone #: 760-367-1972

Amount: \$ 367,155

PURPOSE: () Article 8, PUC Section 99400a Local Streets & Roads	\$	367,155
() Article 8, PUC Section 99400a Bicycle & Pedestrian Facilities	\$	-
() Article 8, PUC Section 99400.5 Multimodal Transportation Terminals	\$	-

Authorizing Signature:
(Claimant's Chief Adminstrator or Financial Officer)

(Signature)

Ronald D. Peck, Finance Director
(Type Name & Title)

Condition of Approval:

Approval of this claim and payment by the County Auditor to this claimant are subject to monies being available and to the provision that such monies will be used only in accordance with the allocation instruction.

**San Bernardino Associated Governments
Local Transportation Fund - Article 8
Other Purposes Claim
Financial Reporting Form**

Claimant: City of Twentynin Palms

	Audited FY 2009-10	Proposed FY 2010-11
Revenue		
Intergovernmental allocations LTF Article 8 Other Purposes		
Local Streets & Roads - PUC 99400(a)	\$ 246,269	\$ 367,155
Bicycle & Pedestrian Facilities - PUC 99400(a)	\$ -	\$ -
Multimodal Transportation Terminals - PUC 99400.5	\$ -	\$ -
Miscellaneous		
Interest	\$ 1,267	\$ -
Lease occupancy	\$ -	\$ -
Miscellaneous	\$ 3,472	\$ 340,000
Total Revenues:	\$ 251,008	\$ 707,155
Expenditures		
Construction, Maintenance and engineering	\$ 431,229	\$ 700,000
Multimodal Transportation Terminals	\$ -	\$ -
Total Expenditures	\$ 431,229	\$ 700,000
Excess of Revenue over(under) Expenditures	\$ (180,221)	\$ 7,155
Fund Balance At Beginning of Year	\$ 352,211	\$ 171,990
Fund Balance at End of Year	\$ 171,990	\$ 179,145

City of Twentynine Palms
Article 8 Funds
Proposed use
Fiscal years 2010-11 and 2011-12

	<u>2010-11</u>	<u>2011-12</u>
Safe Routes 2 School, to be reimbursed by a State grant	521,729	0
Maintenance and patching, using force labor, various locations	345,000	0
Slurry Seal Projects		700,000
	<hr/>	<hr/>
TOTAL	<u><u>866,729</u></u>	<u><u>700,000</u></u>



**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: May 2, 2011
For Council Meeting Of: May 10, 2011

SUBJECT: PC 10-88 – Proposed adoption of a City Council Resolution (No. 11-05) establishing a Fire Facilities Impact Fee consistent with the adopted Fire Facilities Impact Fee Study.

RECOMMENDATION

Conduct the Public Hearing, consider public comment, determine that PC 10-88 Fire fee is Exempt from further environmental review and adopt City Council Resolution No. 11-05, establishing a Fire Facilities Impact Fee consistent with the recently adopted Fire Facilities Impact Study.

Attachments

**Council Resolution No. 11-05
Notice of Exemption**

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

PROJECT DESCRIPTION

A proposal to adopt a City Council Resolution (No. 11-05) establishing a specific Fire Impact Mitigation Fee consistent with the information provided within the Council adopted Fire Facilities Impact Fee Study which illustrates the specific need for and use of a Fire Facilities Impact mitigation fee to provide fire protective services within the community. Any fee established shall apply to all new construction within the community, in all zoning districts, citywide.

Background

At its regularly scheduled meeting of March 8, 2011, the Council introduced Ordinance No. 237 to adopt the Fire Facilities Impact Fee Study (dated February 2, 2011) which establishes the need for a fire impact mitigation fee and identifies the purposes to which any such fee collected shall be spent. Ordinance No. 237 was subsequently adopted by formal Council action on March 22, 2011, becoming effective April 21, 2011.

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

Review of Staff Report:

City Manager

City Attorney

City Engineer

Department Head

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.

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. 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.

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, adopted under Ordinance No. 237, 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.)

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 (floor area), \$265 for each 1,000 square feet of Office development (floor area) and \$147 for each 1,000 square feet of Industrial development (floor area) 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.

If the Council elects to establish the identified fee, it must be clear that this fee shall be held by the City, administered by the City and may only be used in accordance to the Impact Fee Study and State law. Therefore, disbursement of any fees collected may only occur upon execution of an agreement between the City and Fire District.

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. 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.

Policy 1.2

The City, working in conjunction with the Twentynine Palms Fire Department, shall reduce risks of structural and wildland fires.

Site Characteristics

The Fee Resolution 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 adopting Municipal fees, 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 establish a fee within the community.

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 have been and will 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 the City to collect, hold and administer the fee. Under the provisions of State law, the City may retain a small portion of the fees collected to compensate for the actual costs incurred to collect and monitor the Fire Impact Mitigation Fee program.

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 April 21, 2011 and May 5, 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 May 10, 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 May 10, 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, that 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 service 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 District to make expenditures and fund current obligations for specific purposes.

“Commercial” means retail, office, 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 District 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, to construct a new structure, or issuance of a certificate of occupancy for a change in the use of a building or property from a residential use to a commercial, office and/or industrial use.

“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 gross square feet of commercial floor space	\$374
Per 1,000 gross square feet of office floor space	\$265
Per 1,000 gross square feet of industrial floor space	\$147

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

D. Annual review of fee.

1. The amount of the fee established by Council Resolution No. 11-05 may 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 District 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 District boundaries.

E. 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 an 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 the person, or entity, to which a Building Permit is issued thereafter.

F. 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

2. Notwithstanding the provisions of subsection "F-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 "F-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.

G. Exemption from fee.

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

1. Notwithstanding the provisions of subsection "C-2" 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.

H. 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 District, 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.

I. Consideration in lieu of Fee.

1. The Twentynine Palms Water District 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 District Board of Directors; and
- c. Is within the scope of the acceptable fire protection facilities project(s).

2. The Twentynine Palms Water District 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 District 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 District Board of Directors, and the amount of the otherwise required fee.

J. 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.

K. 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 District 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 District 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 District.

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 July 11, 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 11th day of JULY, 2011, at least sixty (60) days after its adoption by Council action on the 10th day of May, 2011.

PASSED, APPROVED AND ADOPTED THIS 10th DAY OF MAY, 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 10th day of May, 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: claclair@29palms.org

Signature

Community Development Director
Title

/ /2010
Date

Date Received for Filing and Posting at OPR: _____



**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
From: Community Development Director
Date: May 2, 2011
For Council Meeting Of: May 10, 2011

SUBJECT: PC 11-36 – City Council vacation of the alleyway adjacent to and affecting lots 57, 58, 59, 60, 97 of Tract No. 2525, Twentynine Palms, CA, pursuant to Streets and Highways Code Section 8320.

RECOMMENDATION

That the Council:

- 1) Open the Public Hearing set by Council Resolution No. 11-12, adopted April 12, 2011;
- 2) Find that the road easement for the alley adjacent to and affecting lots 57, 58, 59, 60 and 97 as shown on Tract Map 2525 per the attached Council Resolution Exhibit “A” is an excess right-of-way of a street or highway not required for street or highway purposes;
- 3) Adopt Resolution No. 11-13 “A Resolution of the City Council of the City of Twentynine Palms, California, vacating that portion of an easement for public road purposes consisting of the alley adjacent to and affecting lots 57, 58, 59, 60 and 97 of Tract No. 2525 (as recorded in Book 36, page 19 of maps, Office of Records in the County of San Bernardino County, State of California), pursuant to Streets and Highways Code Sections 8330-8336;”
- 4) Instruct the City Clerk to cause the Resolution vacating the easement to be recorded in the office of the County Recorder of the County of San Bernardino, pursuant to Section 8336 of the Streets and Highways Code.

Attachments

- Vicinity Map
- Minute Excerpt from Council meeting of April 12, 2011
- Vacation Resolution (with Plat Map {Exhibit “A”})

ORDER OF PROCEDURE

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

PROJECT DESCRIPTION

A proposal to vacate that portion of an excess roadway designated as an alleyway adjacent to and affecting lots 57, 58, 59, 60 and 97 of Tract No. 2525 (as recorded in Book 36, page 19 of maps, Office of Records in the County of San Bernardino County, State of California), pursuant to Streets and Highways Code Sections 8330-8336 in association to the development of the adjoining properties for commercial use.

Review of Staff Report:

_____ City Manager _____ City Attorney _____ City Engineer _____ Department Head

BACKGROUND

At its regularly scheduled meeting of April 12, 2011, the City Council considered an application for a Site Plan Review to modify and re-open an existing commercial building located at 72003 Twentynine Palms Highway (Assessor Parcel Numbers 0615-081-08, 09 and 10) as a restaurant/coffee house (PC 10-62). To conform to the current Development Code requirements for parking, the property owner of the Site Plan Review (Mr. Richard Rasof) proposed to improve the property with parking to the south and west of the existing building, necessitating a formal request for the vacation of the alleyway adjacent to his three (3) parcels.

At its regularly scheduled meeting of April 12, 2011, the Council considered and approved the Site Plan Review request. The Council also approved, with the adoption of Resolution No. 11-11, the City Engineer's summary vacation of a portion of the alley adjacent to Assessor Parcel Numbers 0615-081-08, 09 and 10 (the site of the proposed restaurant/coffee house). Finally, the Council adopted Council Resolution No. 11-12 initiating the vacation of the remainder of the alleyway between that area summarily vacated by the City Engineer and Mojave Avenue.

It is noted that the property owner located adjacent to that portion of the alley initiated for vacation by Council action in adopting Council Resolution No. 11-12 has been contacted by City staff. This individual stated that he does not object to the vacation of the alleyway adjacent to his property.

Regarding the alleyway vacation, the Planning Commission, at its regularly scheduled meeting of March 1, 2011, considered PC 10-62 Site Plan Review as well as the request to vacate the public easement (alleyway) adjacent to the project. As part of that Public Hearing, the Commission was tasked with making a determination of whether the proposed vacation of the alleyway would or would not conflict with any of the Goals and Policies of the Circulation Element or other Elements of the adopted General Plan. At the Hearing, the Commission made a determination of General Plan consistency with the adoption of Commission Resolution No. 11-02, and further recommended that the City Council vacate the full length of alleyway between Cahuilla and Mojave Avenues.

Streets and Highways Code Sections 8330-8336

When a public easement (alleyway) is not used and/or is considered an excess right-of-way of a street or highway not required for street or highway purposes, that alleyway may be vacated under the provisions of the Streets and Highway Code. Similarly, when an easement (alleyway) is used, and cannot be considered excess right-of-way of a street or highway not required for street or highway purposes, it may still be vacated, but such vacation must follow a prescribed procedure wherein the Council adopts a resolution initiating the vacation (which it did on April 12, 2011 with Resolution No. 11-12), the easement is posted by the City Engineer for at least ten (10) days prior to a Public Hearing, and an advertised (twice in newspaper of local circulation at least fourteen {14} days prior to the hearing) Public Hearing regarding the vacation is held before the City Council. If the Council adopts the attached draft Resolution No. 11-13 vacating the easement (alleyway) following the Public Hearing, the City Clerk will record this resolution of vacation. After the resolution is recorded, the road easement shall no longer constitute a right-of-way over that portion of property described within the resolution.

Analysis

With the Council's approval of Site Plan Review PC 10-62 and acceptance of the City Engineer's summary vacation of the alleyway adjacent to that project, the Council determined that the alleyway adjacent to that project was an excess right-of-way of a street or highway not required for street or highway purposes. With this action, and the approval of the Site Plan Review that shall utilize a portion of the vacated alleyway for parking and access to the restaurant/coffee house, that portion of the alleyway between Mojave Avenue and the restaurant improvements shall be of minimal use and may also be considered an excess right-

of-way (street or highway) not required for street or highway purposes. With that remaining portion of the alleyway considered excess, the Council may adopt the attached Council Resolution No. 11-13 to vacate the remainder of the alley in question.

CEQA Environmental Review

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project has been reviewed for its potential to impact the environment. It has been determined that the request being considered, the vacation of an underutilized or unused portion of an alleyway, does not have the potential to have a negative impact upon the environment and is, therefore, Categorical Exempt from further environmental review.

Alternatives

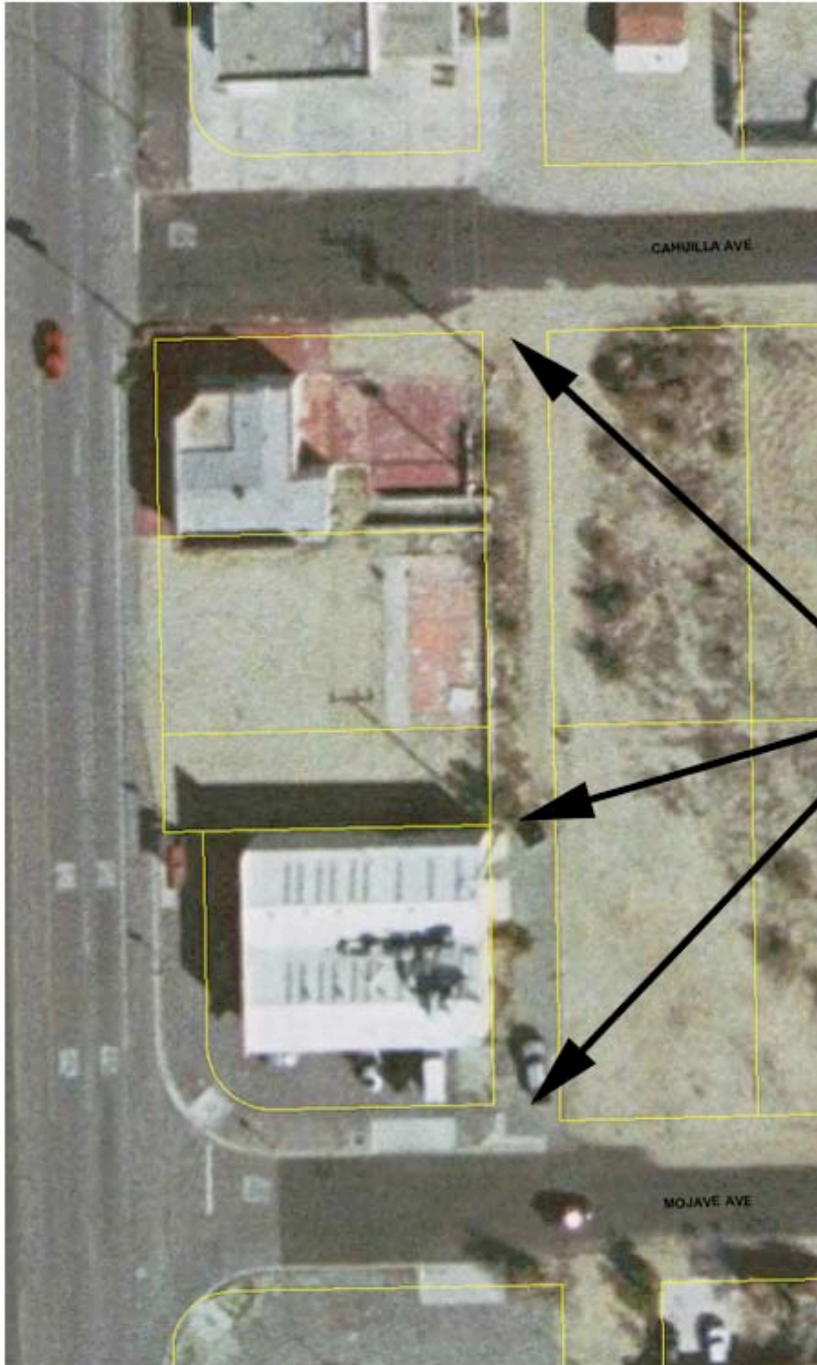
In considering this request, the Council has at least three (3) alternatives.

The Council may:

- 1) Adopt Council Resolution No. 11-13, approving the vacation of an unused public easement (alleyway) adjacent to and affecting lots 57, 58, 59, 60 and 97 of Tract Map 2525 per the attached Council Resolution Exhibit "A".
- 2) Remand the issue back to the Planning Commission for further consideration of vacating the easement (alleyway) adjacent to and affecting lots 57, 58, 59, 60 and 97 of Tract Map 2525 per the attached Council Resolution Exhibit "A".
- 3) Not adopt Council Resolution no. 11-13, thereby terminating the current consideration of vacation of the easement (alleyway) adjacent to and affecting lots 57, 58, 59, 60 and 97 of Tract Map 2525 per the attached Council Resolution Exhibit "A".

FISCAL IMPACT

The vacation of any right-of-way relieves the City of the costs associated with maintenance of that easement. The costs associated with the minimal maintenance of the easement (alleyway) at question within this report are minimal and, thus, any cost savings with this vacation shall also be minimal.



**Portion of alleyway
Summarily Vacated**

**Portion of Alley
Vacated by Council
Resolution No. 11-13**



**Aerial of Site
Assessor Parcel Number
0615-081-04 and 15**



**PC 11-36
May 10, 2011**

COUNCIL RESOLUTION No. 11-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, VACATING THE ALLEY ADJACENT TO AND AFFECTING LOTS 57, 58, 59, 60 AND 97 OF TRACT MAP 2525, PURSUANT TO STREETS AND HIGHWAYS CODE SECTIONS 8320

WHEREAS, California Government Code Section 65402 requires that a jurisdiction's planning agency (i.e., the City of Twentynine Palms Planning Commission) review and report upon whether a proposed disposition of real property for public purposes is consistent with the adopted General Plan; and

WHEREAS, the City of Twentynine Palms Planning Commission, as a local planning agency as defined under Government Code section 65402, has considered and determined that the vacation of the existing alleyway adjacent to and affecting lots 57, 58, 59, 60 and 97 of Tract Map 2525, per Exhibit "A" attached hereto, would be consistent with the Goals and Policies of the adopted General Plan; and

WHEREAS, under the provisions and requirements of the California Environmental Quality Act (CEQA), the proposed determination by the Planning Commission that the Vacation of a Public Easement (alley) by the City of Twentynine Palms can be seen with certainty to have no potential direct or indirect adverse impacts upon the environment and, therefore, such vacation is Categorically Exempt from further environmental review; and

WHEREAS, the Planning Commission, acting in its capacity under California Government Code Section 65402, has considered the following Goals and Policies of the General Plan in its consideration of the Vacation of a Public Easement (alley) adjacent to and affecting lots 57, 58, 59, 60 and 97 of Tract Map 2525, per Exhibit "A" attached hereto:

Goal #1

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

Policy #1.1

Traffic, noise and other impacts will be considered prior to any land use designation change and/or land use intensification.

Policy #1.2

Quality standards will be applied to all new developments.

Policy 1.3

Uses shall be located in a manner which will minimize conflict and mitigate impacts.

Goal #3

The City will provide opportunity for commercial facilities offering a wide variety of goods and services.

Policy 3.2

The Land Use Plan will allow for the creation of limited amounts of commercial development, in commercially designated districts, in or near residential areas.

Goal #5

The City will be environmentally sensitive and all land uses shall minimize adverse

environmental impacts and shall maintain and enhance existing natural resources.

Policy 5.1

Preservation of the community's clean and healthful air will be a priority when considering discretionary projects.

Policy 5.2

The City shall preserve the existing night sky as a community resource.

Policy 5.3

The City shall take all necessary steps in project approval and in issuance of Building Permits to ensure that erosion is minimized; and

WHEREAS, at a Public Hearing, open to the public, held by the Planning Commission on March 1, 2011 at which time the Commission adopted Planning Commission Resolution No. PC 11-02, making a determination that the vacation of that portion of the alleyway adjacent to and affecting lots 57, 58, 59, 60 and 97 of Tract Map 2525, per Exhibit "A" attached hereto, was not inconsistent with the Goals and Policies of the City's Circulation Element or any other Element of the City's adopted General Plan.

WHEREAS, pursuant to Section 15305 of the CEQA Guidelines, the project, which consists of the vacation of an alleyway affecting lots 57, 58, 59, 60 and 97 of Tract Map 2525, per Exhibit "A" attached hereto, determined to be excess right-of-way does not having the potential to have an adverse impact upon the environment and which is, therefore, Categorically Exempt from further environmental review; and

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

WHEREAS, Public Hearing notice for PC 11-36 Vacation of Street or Public Service Easement was published in the Desert Trail, a newspaper of record on both April 21, 2011 and May 5, 2011 as required under the Streets and highways Code; and

WHEREAS, a Public Hearing, open to the public, was held by the Planning Commission on March 1, 2011 at which time the Commission adopted Planning Commission Resolution No. PC 11-02, forwarding a recommendation that the City Council vacate that portion of the alleyway adjacent to and affecting lots 57, 58, 59, 60 and 97 of Tract Map 2525, per Exhibit "A" attached hereto.

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

Section 1. That the City Council of the City of Twentynine Palms now finds that the public alleyway easement adjacent to and affecting lots 57, 58, 59, 60 and 97 of Tract Map 2525, per Exhibit "A" attached hereto, as dedicated and noted within said Tract Map recorded in Book 36, page 19 of maps, Office of Records in the County of San Bernardino County, State of California is an excess right-of-way of a street or highway not required for street or highway purposes, and that it is now in the public interest that said easement be vacated pursuant to Streets and Highways Code Sections 8330-8336.

Section 2: That pursuant to the Public Streets, Highways and Service Easements

Vacation Law, Division 9, Part 3 Chapter 4, (Summary Vacation), California Streets and Highways Code beginning at Section 8330, relating to the summary vacation of public streets, highways and service easements, the following described portion of said easement is hereby vacated:

A portion of that certain 20.00 foot alley lying westerly of Cahuilla Avenue and easterly of the southerly prolongation of the westerly lot line of the lot described as the east half of lot 58, south of Highway 62, as per the Tract Map No. 2525 recorded in Book 37 of Maps page 108, records of San Bernardino County, State of California, said portion of the alley being bounded on the east by the northerly prolongation of the east line of Lot 97 of said Tract 2525 and on the west by the southerly prolongation of the west line of the lot described as the east half of lot 58, of said Tract 2525. See Exhibit "A" attached hereto and by this reference made apart hereof.

Affects Assessor's Parcels: 0615-081-04, 0615-081-08, 0615-081-09, 0615-081-10, 0615-081-11 and 0615-081-15.

Section 3: The City Clerk shall record this Resolution of Vacation pursuant to Streets and Highways Code section 8336.

Section 4: That from and after the date this Resolution is recorded, said easement shall no longer constitute an easement over that portion herein above described.

Section 5: Reserving and excepting from said abandonment the easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures, in upon, over and across any street or part thereof proposed to be vacated and pursuant to any existing franchise or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew, and enlarge lines of pipe, conduits, cables, wires, poles and other convenient structures, equipment and fixtures for the operation of gas pipe lines, telephone lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, water, and for incidental purposes, including access to protect these works from all hazards in, upon and over the street or part thereof proposed to be vacated.

Section 6: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, the City shall be deemed to have adopted this resolution without such section.

PASSED, APPROVED and ADOPTED this 10th day of May, 2011.

Jim Harris, Mayor

ATTEST:

Charlene L. Sherwood MMC, City Clerk

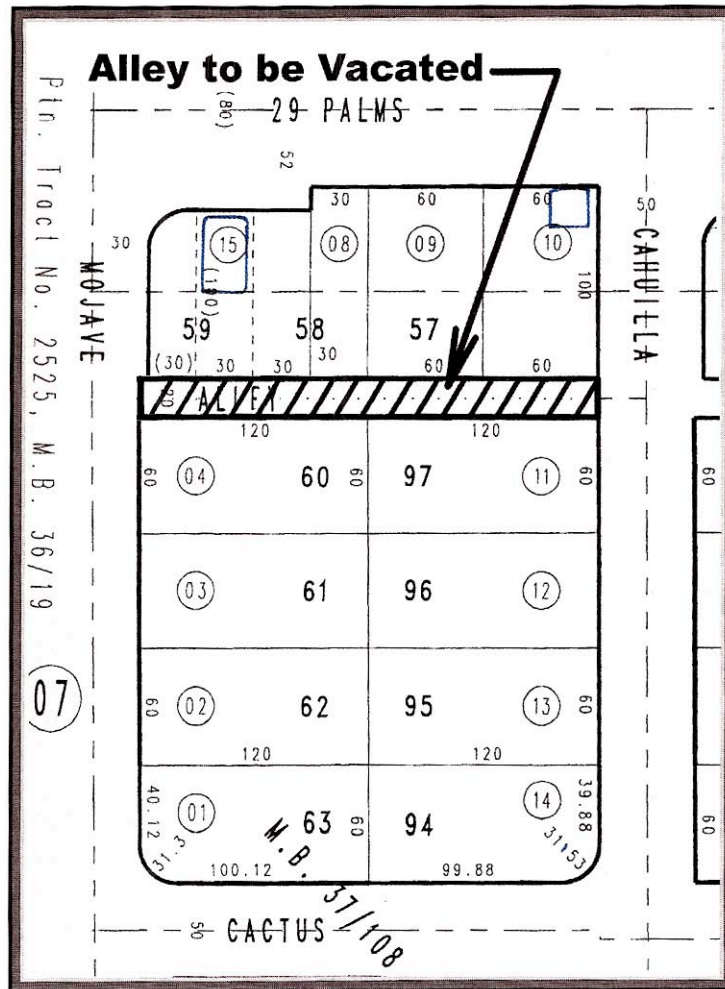
I hereby certify that the foregoing Resolution No. 11-13 was duly adopted by the City Council of

the City of Twentynine Palms at a regular meeting thereof, held on the 10th day of May, 2011,
by the following vote of the Council:

AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:

Charlene L. Sherwood MMC, City Clerk

EXHIBIT "A"



Applicant: City of Twentynine Palms

Affecting those lots described as Assessor Parcel Numbers: 0615-081-04, 0615-081-08, 0615-081-09, 0615-081-10, 0615-081-11 and 0615-081-15.

Affecting lots 57, 58, 59, 60, 97 of Tract No. 2525, in the County of San Bernardino, State of California, as per plat recorded in book 36 of maps, page 19, Records of said County, together with adjacent vacated alley.



Prepared By:
City of
Twentynine Palms
Engineering Division



Notice of Exemption
City of Twentynine Palms
Community Development Department
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 Fax (760) 367-4890

- 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
1400 Tenth Street, Room 121
Sacramento, CA 95814

Project Title: PC 11-36 Vacation of Street or Public Service Easement (Alleyway)

Project Location: Adjacent to, and affecting, lots 57, 58, 59, 60 and 97 of Tract Map 2525

Project Location: Twentynine Palms, San Bernardino County

Description of nature, purpose and beneficiaries of Project: The vacation of an unused alleyway shall allow for the development of the adjoining property for a commercial use which shall benefits the surrounding properties and the community as a whole by an enhanced diversity of commercial services available within the community and enhanced tax base.

Public Agency approving Project: Twentynine Palms City Council

Name of Person Carrying Out Project: Richard Pedersen, City Engineer

Exempt Status (check one):

- Ministerial (Sec. 15073)
 Declared Emergency [Sec. 15071 (a)]
 Emergency Project [Sec. 15071 (b) and (c)]
 Categorical Type/Sec. 15305

Reason(s) Project is Exempt: Pursuant to Section 15305 of the California Environmental Quality Act (CEQA) Guideline, the project, which consists of the vacation of an unused alleyway does not have the potential to have an impact upon the environment and is Categorically 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
6136 Adobe Road
Twentynine Palms, CA 92277
760-367-6799 – FAX 760-367-4890
www.29palms.org

NEWS RELEASE – MAY 3, 2011

Buy Bonds for the City of Twentynine Palms

Local residents now have an opportunity to purchase the bonds that were recently issued by the City of Twentynine Palms.

On March 22, the City Council and Redevelopment Agency Board authorized the issuance and sale of Redevelopment Agency Tax Allocation Bonds, not to exceed \$9,000,000 for Series A bonds to finance projects relating to the Four Corners Redevelopment Project Area, and \$3,500,000 for Series B bonds to finance low and moderate income housing projects in the Four Corners Redevelopment Project Area.

Approximately \$100,000 worth of Series B bonds are now available for retail sale, a few maturing in 2021, but most in 2042, according to a memo to City staff received this week from Robin Thomas of Wedbush Securities Inc., underwriter for the bonds. "Minimum bond size is \$5,000. The price is subject to change, and they are on a first come, first served basis," Thomas said, adding that their office would be glad to talk to any local residents who wanted more information.

Residents who are interested in purchasing the bonds can contact Mark Augusta, Senior Vice President of Investments at Wedbush Securities Inc. in Solana Beach, (858)523-4925 or 1-800-859-6033. An informational link is also provided on the City's website at www.29palms.org.

The City Council and Redevelopment Agency will also have a brief report on the public purchase of bonds at its next regular meeting on Tuesday, May 10, at City Hall, 6136 Adobe Road, Twentynine Palms.

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