

**TWENTYNINE PALMS CITY COUNCIL/REDEVELOPMENT AGENCY  
CITY COUNCIL CHAMBERS, 6136 ADOBE ROAD  
TWENTYNINE PALMS, CALIFORNIA  
TUESDAY, JANUARY 13, 2004  
7:00 P.M.**

**MINUTES**

- 1.0 CALL TO ORDER** – Mayor Freshour called the meeting to order at 7:00 p.m.  
**PLEDGE OF ALLEGIANCE-** Mayor Pro Tem Benton led the Pledge of Allegiance to the Flag.  
**INVOCATION** – Pastor Grover Fletcher of the Wonder Valley Community Church gave the Invocation.  
**ROLL CALL** - Councilmembers Bagley, Benton, Cole, Spear and Mayor Freshour.

**2.0 SPECIAL RECOGNITION AND PRESENTATIONS**

- 2.1 San Bernardino County Board of Supervisors, First District Supervisor Representative Mac Dube, will make a presentation to the San Bernardino County Sheriff's Department and California Highway Patrol.

Mayor Freshour presented a Resolution from the County of San Bernardino to Captain Williams, representing the San Bernardino County Sheriff's Department, and First District Supervisor Representative Mac Dube presented a Resolution from the County of San Bernardino to Lt. Jones, representing the California Highway Patrol.

Representative Dube said that these Resolutions were to recognize both groups for their outstanding performance of duty. He said that he had previously presented Captain Thompson of the Twentynine Palms Fire Department with a Resolution at the Twentynine Palms Water District meeting on December 17<sup>th</sup>.

- 2.2 Mayor Freshour will give the State of the City Address

Mayor Freshour presented his State of the City Address to the City Council, staff and Citizens. He highlighted the many accomplishments of the City and the exciting opportunities and challenges the City will encounter in the months ahead.

**3.0 ANNOUNCEMENTS –**

- 3.1 Mayor Freshour announced that these proceedings will be Televised on Cable Television, Channel 6, as Follows: Wednesday, January 14, 2004 at 7:00 p.m. and Saturday, January 18, 2004 at 3:00 p.m.
- 3.2 Mayor Freshour announced that the City Offices will be closed on Monday, January 19, 2004, in observance of Martin Luther King, Jr. Day.

3.3 Mayor Freshour announced that the January 2004 Chamber of Commerce Mixer will be hosted by the City of Twentynine Palms on Thursday, January 22<sup>nd</sup> at City Hall.

**4.0 PUBLIC COMMENTS** – This is the time for the public to address the City Council on issues.

4.1 An anonymous gentleman spoke to the City Council regarding Code Enforcement. He was opposed to people being anonymous when they complained about a person's property to Code Enforcement.

Henry Mattson, Twentynine Palms, told the City Council that he is not in favor of the Recall.

4.2 Public comments on specific agenda items will be deferred until consideration of the item on the agenda.

**5.0 CITY COUNCIL COMMENTS** – This is the time for comments from the City Councilmembers on any subjects.

Councilmember Spear was joined at the podium by Ashley Calvert representing Waste Management. They presented \$300.00 to Boy Scout Troop 77 for their participation in the November 2003 Neighborhood Clean-up. Councilmember Spear, Waste Management and Michael Collins of Collins Computer Innovations each donated \$100.00. Councilmember Spear reported that in 2004 Rocky Moore would be donating \$100.00 per clean-up replacing Michael Collins who has donated generously this year.

Councilmember Cole said Happy New Year to everyone.

Councilmember Bagley encouraged everyone to attend the Chamber Mixer on January 22<sup>nd</sup>.

Mayor Pro Tem Benton wished everyone a prosperous New Year.

**6.0 CITY COUNCIL/REDEVELOPMENT AGENCY CONSENT CALENDAR** - All matters listed under the Consent Calendar are to be considered routine by the City Council/Redevelopment Agency and will be enacted by one motion in the form listed. Any item may be removed from the Consent Calendar and considered separately by the City Council under item number 7.0 on the agenda. The public will be given and opportunity to comment on Consent Calendar items prior to the City council action (roll call vote).

At this time, the City Clerk will read the title(s) of the ordinance(s) listed herein except those that are removed for separate action.

6.1 Waive the Reading of Ordinances and Approve Reading by Title Only  
RECOMMENDATION: The City Council approve the reading by title only of all ordinances and that further reading of such ordinances be waived.

- 6.2 Warrant and Payroll Register  
RECOMMENDATION: Receive and file registers totaling \$362,983.48.
- 6.3 Approval of Minutes  
RECOMMENDATION: The City Council/Redevelopment Agency approve the minutes of the November 25, 2003 City Council Meeting.
- 6.4 Law Enforcement Report – November 2003  
RECOMMENDATION: Receive and file.
- 6.5 Helen Putnam Award  
RECOMMENDATION: Receive and file certificate of recognition from the National League of Cities.
- 6.6 Approval of Luckie Park Pool Replastering Bid to Jeff Kerber  
RECOMMENDATION: The City Council approve the awarding of the Luckie Park Pool Replastering bid to Jeff Kerber Pool Plastering, in the amount of \$55,520.00 in funds from Community Development Block Grant Funds Luckie Park Pool Replastering Project.
- 6.7 Treasurer's Report – October 2003  
RECOMMENDATION: Receive and file.
- 6.8 Development Code Update, Review of Revised Chapter 19.46 Appeals and Chapter 19.94 through 19.112, Subdivision Regulation.  
RECOMMENDATION: Adopt Ordinance No. 177.
- 6.9 Annual Financial Reports / Audits  
RECOMMENDATION: The City Council receive and file the three financial reports.
- 6.10 Chamber of Commerce Report – December 2003  
RECOMMENDATION: Receive and file.
- 6.11 Downtown Storefront Loan Program Application  
RECOMMENDATION: Approve application for utilization of Redevelopment Loan for the Downtown Storefront Renovation Loan Program, and authorize execution.

Councilmember Bagley requested item 6.5 be pulled from the Consent Calendar. Councilmember Spear requested that item 6.8 be pulled and Councilmember Cole asked to remove item 6.11.

Councilmember Spear abstained from Item 6.4 and check no. 33921 of the warrant register.

On a motion of Councilmember Bagley, seconded by Mayor Pro Tem Benton and carried with a 5-0 roll call vote, the balance of the Consent Calendar was approved as submitted.

**7.0 ITEMS REMOVED FROM CONSENT CALENDAR FOR DISCUSSION OR SEPARATE ACTION AND /OR ADDED AGENDA ITEMS.**

7.1 6.5 Helen Putnam Award

RECOMMENDATION: Receive and file certificate of recognition from the National League of Cities

Councilmember Bagley said that he wanted to acknowledge that the City had received a certificate from the National League of Cities recognizing the City for its participation as a member of the High Desert /Solid Waste and Recycling Joint Powers Authority. City Manager Swigart gave a brief report about the award and said that is a very prestigious and competitive award and the City should be proud to receive it.

On a motion of Councilmember Bagley, seconded by Councilmember Cole and carried with a 5-0 voice vote, item 6.5 was approved.

7.2 6.8 Development Code Update, Review of Chapter 19.46 and Chapter 19.94 through 19.112, Subdivision Regulation.

RECOMMENDATION: Adopt Ordinance No. 177.

Councilmember Spear said that he thought that the word “shall” should be removed from Section 19.46.050 Section B, an Appeal Review. He said that it opens up an area of discretion and he thinks discretion in regards to making a decision should stay at the City Council level and the issue of discretionary He said that discretionary decisions should be made in a public forum discussion by staff should be deleted. He said he would also like to have the section include that a decision may not be made until they make written findings.

Councilmember Cole said that if no discretionary authority is given to staff or the Planning Commission, the City Council would have to review all of the appeals.

Councilmember Spear said that an example of interperative discretion is the Roughley Manor.

Councilmember Spear said that he thought that the burden of discretionary decisions should be taken off of staff.

Councilmember Bagley said that it is the right of the Citizen to appeal to the Planning Commission if they do not like the decision made at staff level. He said that if a person does not like the decision of the Planning Commission they can appeal to the City Council.

Councilmember Spear said that he thought some wordsmithing might be in order to remove the words “discretionary matters”.

Councilmember Cole said all decisions are made out in the open. He also said because of scheduling sometimes, a project might have to wait a long time for

Planning Commission approval. If the decision was made at staff level the wait would be less.

A motion was made by Councilmember Spear to send item 19.460.50 back to staff for rewording, and to remove the word “shall” from the writing. Councilmember Bagley seconded the motion for discussion purposes. With a 4-0-1 voice vote (Spear-yes), the City Council voted not to send 19.460.50 back to staff for rewriting.

City Manager Swigart said there are three levels of permitting in the municipal tradition: the ministerial level which is staff, the discretionary level which is the Planning Commission, and the legislative level in which the City Council looks at the ordinance and the discretionary actions of the Planning Commission. They then give guidance to the Planning Commission when necessary.

On a motion of Councilmember Bagley, seconded by Councilmember Cole and carried with a 4-0-1 voice vote (Spear-no), the City council adopted Ordinance No. 177.

- 7.3     6.11 Downtown Storefront Loan Program Application  
RECOMMENDATION: Approve application for utilization of Redevelopment for the Downtown Storefront Renovation Loan Program, and authorize execution.

Councilmember Cole asked for clarification of what the business is for this application.

City Manager Swigart said that there is not a business there at the present time. He said after the building is remodeled a business will be brought in.

Councilmember Cole also asked for clarification about when the loan would be due.

Councilmember Bagley said the loan would be due two years after the loan is made.

On a motion of Councilmember Spear, seconded by Mayor Pro Tem Benton and carried with a 5-0 roll call vote, the City Council approved the application for utilization of Redevelopment Loan money.

## **8.0 PUBLIC HEARING**

- 8.1     Development Code Update, Review of Chapters 19.54 Bed and Breakfast Inns, 19.62 Flood Management Regulations, 19.64 Hillside Grading, Clearing and Plant Removal, 19.74 Noise Control, 19.85 Public Improvements – Delaying or Deferring, 19.86 Nonconforming Uses, 19.92 Nuisance Abatement.  
RECOMMENDATION: Conduct the Public Hearing, introduce Ordinance No. 178, and direct staff to bring the matter back to the City Council for adoption.

Community Development Director Corbin (Director Corbin) gave his staff report. He said that a 4-page memo regarding Chapter 19.74 had been distributed to the Councilmembers before the meeting. He said the 4-page memo is the one that the Planning Commission is recommending for adoption. He said that the 12-page document inadvertently ended up in the packet.

Councilmember Cole suggested continuing Chapter 19.74-Noise Control, to another meeting so the City council will have time to review it.

Mayor Freshour opened the Public Hearing.

Holly Griffin, Twentynine Palms, said that Jan and Gary Peter's are building a Bed and Breakfast in a residential area, and it is not designated historical building on Sullivan Road. She asked what would happen to their project in the middle of this adoption.

Mayor Freshour said that Ms. Griffin could get an answer to her question either before or after the meeting.

City Manager Swigart said the City has not received an application for a Bed and Breakfast.

Mayor Freshour closed the Public Hearing.

Councilmember Bagkey made a motion, seconded by Councilmember Cole and carried with a 5-0 roll call vote to approve the Development Code recommendations, with the exception of the noise draft which will come back for discussion at the February 10<sup>th</sup> City Council meeting. Also included in the motion was the City Managers suggestion that in page 85-1, section 19.85.030, the word "waiver" be changed to "deferral" and that in paragraph 2, first sentence, the word "may" be changed to "shall".

## **9.0 REPORTS, REQUESTS AND COMMUNICATIONS – None**

## **10.0 LEGISLATIVE/COUNCIL/REDEVELOPMENT AGENCY**

### **10.1 Adoption of Resolution 04-01**

**RECOMMENDATION:** The City Council adopt Resolution No. 04-01 establishing a procedure for placing items on the City Council meeting agenda.

City Manager Swigart said that he and the administrative sub-committee of Mayor Freshour and Councilmember Bagley, met and developed Resolution No. 04-01 which provides a mean for which things will be placed on the agenda.

Councilmember Spear asked for clarification on placing an item on the agenda.

Councilmember Bagley said that a second by another Councilmember would be needed to place an item on the agenda. If an item arises after the meeting a Councilmember will have to get the okay from the Mayor to have an item agendaized.

On a motion of Councilmember Cole, seconded by Mayor Pro Tem Benton and carried with a 5-0 roll call vote, the City Council approved Resolution 04-01.

Councilmember Spear said for the record that he thinks they are entering upon a “slippery slope”, because each one of them represents a certain population of the City and it is their incumbent duty by oath to do what they can to support that citizenry.

**11.0 FUTURE COUNCIL-INITIATED AGENDA ITEMS**

11.1 Mayor Freshour requested that the City Attorney develop an ordinance for vehicle confiscation if someone’s vehicle is used in the commission of a crime.

**12.0 CLOSED SESSION - None**

**13.0 ADJOURN** – The City Council meeting adjourned at 8:35 p.m.

Respectfully submitted,

Charlene L. Sherwood CMC  
City Clerk