

**TWENTYNINE PALMS CITY COUNCIL/REDEVELOPMENT AGENCY
CITY COUNCIL CHAMBERS, 6136 ADOBE ROAD
TWENTYNINE PALMS, CALIFORNIA
TUESDAY, JANUARY 25, 2005
7:00 P.M.**

MINUTES

1.0 CALL TO ORDER – Mayor Benton called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE- Councilmember Bernal led the Pledge of Allegiance to the Flag.

Mayor Benton called for a moment of silence in honor of Councilmember Joel Klink's father William R. Klink, who passed away on January 23, 2005.

INVOCATION –Pastor Kevin Brewer of the Faith in the Word Christian Center gave the Invocation.

ROLL CALL – The following Councilmembers were present: Councilmembers Bernal, Cole, Klink, Spear and Mayor Benton

2.0 SPECIAL RECOGNITION AND PRESENTATIONS

2.1 Mayor Benton presented a City Tile to Retiring General Manager Tina Johnson, recognizing her dedication and service to the Twentynine Palms Water District and the City of Twentynine Palms.

2.2 Mayor Benton presented a Proclamation to Jackie Voeltz, Principal of Blessed Sacrament School, commemorating Catholic School Week, January 29th through February 4th, 2005.

3.0 ANNOUNCEMENTS

3.1 Mayor Benton announced these proceedings will be televised on Cable T.V., Channel 6, as follows: Wednesday, January 26, 2005 at 7:00 p.m. and Saturday, January 29, 2005 at 3:00 P.M.

3.2 Mayor Benton announced that there will be a Strategic Planning Meeting at 6:00 p.m. on Wednesday, January 26, 2005.

4.0 PUBLIC COMMENTS

Mr. Donn Brackett, Twentynine Palms, said congratulations to the new Councilmembers and Mayor. He asked that the Council obtain the paperwork regarding an off leash area for dogs in the northeast section of Luckie Park, so that they can answer his questions.

Paul Smith, representing the Innkeepers Association, said that they are pleased with the local cleanup efforts, he also said that they endorse John Masterson for Planning Commissioner, and they support Mr. Kim's proposal to transfer ownership to Young Kim

and changing license classification. Mr. Smith also offered condolences to the Klink family.

Michael Collins, Twentynine Palms, welcomed the new Mayor and Councilmembers and said that he offers his support to the City Council to ensure that it remains and continues to grow in the efforts of being business friendly. Mr. Collins also offered his offered condolences to the Klink family.

5.0 CITY COUNCIL COMMENTS

Councilmember Cole apologized for poor communication he recently had with a citizen. He also apologized to staff, and the rest of the Council because he knows that it reflects on the rest of the organization. Councilmember Cole read a letter of commendation to the Planning Department which reflected their excellent communication with the public. Councilmember Cole also clarified that his opinions were not reflected in an article in the Desert Trail recently. He said that he supports staff and appreciates their hard work. He reminded the Council that their job is to make policy and provide direction for the City Manager, and anything other than that is micromanaging. He said that he wanted to clarify a statement that 80% percent of the businesses required a CUP and said that currently there are over 500 business licenses and only 48 of them require a CUP. In closing, Councilmember Cole said that he attended a Desert Mountain Division Measure I meeting and he learned that Twentynine Palms would receive an additional \$64,000 in LTF Funds, which are Article 8 funds used for road projects.

Councilmember Bernal thanked staff for easing her into the position of Councilmember. She also said that the meeting Sacramento was very educational. She said that she thinks that they were very well educated by staff before coming into the Councilmember position.

Councilmember Klink thanked the Council for the moment of silence for his Dad. He also thanked the staff for helping him to ease into the Councilmember position by keeping him informed. He said ditto on the Sacramento trip and said that it was put together very well. Councilmember Klink congratulated the Twentynine Palms JV Basketball Team, he said that their record so far is 13-0 so far, with a home game on the 28th.

Mayor Pro Tem Spear presented \$400. each to the 29 Palms Youth Club and Boy Scout Troop 77 for cleaning up the area around the Bowladium. He said that Waste Management donated \$200 each, Steve Spear donated \$100 each and Michael Duncan at Triad Realty donated \$100 each.

Mayor Benton announced that the next Strategic Planning meeting will be held on Wednesday, January 26th. He said that these meetings are open to the public.

6.0 CITY COUNCIL/REDEVELOPMENT AGENCY CONSENT CALENDAR

- 6.1 Waive the Reading of Ordinance and Approve the 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 register totaling \$1,370,315.95.
- 6.3 RECOMMENDATION: The City Council/Redevelopment Agency approve the minutes of December 14, 2004.
- 6.4 Law Enforcement Report – November and December 2004
RECOMMENDATION: Receive and file.
- 6.5 Chamber of Commerce Report – December 2004
RECOMMENDATION: Receive and file.
- 6.6 Treasurer's Report – November 2004
RECOMMENDATION: Receive and file.
- 6.7 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 \$447,757.
- 6.8 City Annual Financial Statements
RECOMMENDATION: The City Council receive and file the Financial Report.
- 6.9 Redevelopment Agency Annual Financial Statements
RECOMMENDATION: The Redevelopment Agency Board receive and file the Financial Report.
- 6.10 Check Signers
RECOMMENDATION: The City Council adopt Resolution No. 05-01, authorizing check signers and other banking authority.
- 6.11 Letter of Public Convenience and Necessity for Young Kim, 29 Palms Convenience Store, 3668 Adobe Road.
RECOMMENDATION: Direct staff to issue the Letter of Public Convenience and Necessity.
- 6.12 Resolution No. 05-03
RECOMMENDATION: The City Council adopt Resolution No. 05-03, affirming the selection of Mayor Benton and Mayor Pro Tem Spear.
- 6.13 Resolution No. 05-04
RECOMMENDATION: The City Council adopt Resolution 05-04 authorizing the Employer Pickup Resolution Pre-Tax Payroll Deduction Plan for Service Credit Purchases

Mayor Pro Tem Spear requested Item 6.3 be removed from the consent calendar for discussion.

Mayor Pro Tem Spear abstained from check numbers 35990, 36082 and 36185 on the warrant register and he also abstained from Consent Calendar item 6.4.

Mayor Benton abstained from check numbers 36110 and 36194 on the warrant register.

On a motion of Councilmember Cole, seconded by Mayor Pro Tem Spear 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** Item 6.3a Approval of Minutes
RECOMMENDATION: The City Council/Redevelopment Agency approve the minutes of December 14, 2004.

Mayor Pro Tem Spear requested that the following sentence be added to the minutes preceding the last sentence regarding the voice vote.

Councilmember Bagley said: This is a receive and file item on the consent calendar which is basically ministerial, and the recommendation back to staff should be a review of the parking situation on Adobe Road with the receive and file of this report.

On a motion of Mayor Pro Tem Spear, seconded by Councilmember Cole and carried with a 5-0 roll call vote, the minutes were approved as amended.

8.0 PUBLIC HEARING - None

9.0 REPORTS, REQUESTS AND COMMUNICATIONS - None

10.0 LEGISLATIVE/COUNCIL/REDEVELOPMENT AGENCY -

- 10.1** Review of Chapter 19.36 Home Occupation Permits
RECOMMENDATION: Discuss and provide Planning Commission and staff direction.

Community Development Director Corbin presented a staff report.

Mayor Pro Tem Spear said that the Home Occupation Permits (HOP) regulation as it is written states that all merchandise, supplies, equipment or other materials stored outdoors shall be screened from public view. He said that staff interpreted that a very large trailer associated with Reeves Enterprises, which is registered in the State of California, legally parked on a street of our City, constituted equipment and therefore should be screened, possibly with a thirteen foot high fence. He said that is not something he would want to do with the smallest of businesses. Another concern Mayor Pro Tem Spear had was brought to his attention by a citizen, Pat Flynn. He said she contacted City Hall about why she had to pay \$20.00 a year for a HOP as opposed to Stater Bros. who pays \$10a year.

Mayor Benton suggested that this item should be sent to the Planning Commission for their review and the Councilmembers concurred.

Director Corbin clarified that staff will present to the Planning Commission consideration of exempting vehicles as equipment per section 70-d in the HOP, and secondly, vehicles can be allowed and do not have to be screened if they are parked on private property as opposed to the public right of way. He said the other matter is the issue with the fee schedule that the Council adopted which requires a \$10 fee for a business license and a \$10 fee for a HOP, resulting in a HOP costing more than a commercial business.

10.2 Repeal of Resolution No. 04-01 establishing a procedure for placing an item on the City Council meeting agenda

RECOMMENDATION: Discuss and consider action to repeal Resolution No. 04-01.

Finance Director Peck presented a staff report.

Mayor Pro Tem Spear said that every Councilmember that is elected by the citizens of this town has a moral and legal right to place items on the agenda for discussion, review and consideration in front of the public and the T.V. camera. He said a Councilmember need not seek the approval of another Councilmember to discuss the people's business. He said that this is what Resolution No. 04-01 does and he moves that they strike it.

Councilmember Cole said in the six years he has been on the Council there has not been an instance where a Councilmember wanted to discuss something and there was any hesitation to let them do so. He said that the resolution was really a non-issue.

On a motion of Mayor Pro Tem Spear, seconded by Councilmember Cole and carried with a 5-0 voice vote the City council repealed Resolution No. 04-01.

10.3 A moratorium for procedure of Right of Way

RECOMMENDATION: Discuss and provide staff direction.

Director Corbin presented a staff report.

Mayor Pro Tem Spear said with the information provided by the City Attorney and with the full discussion of the Council, and the involvement of the Planning Commission he said that he believes that they can identify a true trigger that would have the City request a right-of-way (ROW) dedication. He said it is the responsibility of the City to prove that a project being proposed will affect the traffic pattern. He said he feels that he must balance the constitutional right of the citizen to protect his property and balance the needs of the City for the street. He said he wanted to propose a traffic engineering study that would prove in a court of law if they are challenged that the traffic pattern in the project sight will be affected by the proposed project.

Councilmember Cole said that road dedications are the methods used to keep public access available to everyone. He said that people are not giving their land

to anybody, but he said that you buy into the fact that roads are good for everybody and public access is good, and that part of your obligation to the growth of the City is to allow a road easement or road dedication.

Mayor Pro Tem Spear said that each case must be evaluated on a case by case basis, and it must also meet the test that the project proposed will affect the traffic in the project area. He said that if it is a rational belief by the City and the staff that it is then they need to get a traffic study done.

Councilmember Klink said that he does not think that the citizens should have to pay \$100. to the had land dedicated to the City.

Councilmember Cole said that he thought the fee could be waived.

Mayor Benton received a consensus on the following: Road dedications per standard established in the General Plan will be required on any new development on an otherwise vacant property.

Director Corbin explained the differences between utilizing the City Engineer or a registered Traffic Engineer to perform the traffic surveys.

Jim Harris, Twentynine Palms, said that the City demanded 30 feet of his property, and he thinks that goes beyond what is reasonable for a road dedication. He asked that this be reviewed on a case by case and be given more consideration.

Holly Griffin, Twentynine Palms, said her neighbor was asked for 40 feet for his road dedication. She said it should be the responsibility of the City to pay for the costs.

Alex Nichols, Twentynine Palms, said he was told he would need a 60 feet easement through the center of his property. He said that he does not see why he should have to give up the land just so that the City can show it on the books.

Dan O'Brien, Twentynine Palms, said he was told the City would require 12, 25 and then 75 feet of his property to rent the property for a tow yard. He said that City should pay people to do improvements on his prescriptive easement.

Jim Harris, Twentynine Palms, asked if the Council wanted to take on the responsibility of maintaining his road, which he takes care of now.

Mayor Pro Tem Spear proposed the following motion to the City Council:

1. The Planning Commission be directed to reword all references to right of way dedications, specifically that references to square footage be removed, that reference to Conditional Use Permits, Minor Use Permits, and Temporary Use Permits be removed in regards to right of way dedications.
2. That consideration be given to the fact that the triggering mechanism for right of way dedications be linked to a completed traffic study done at whatever level,

that definitively establishes that the proposed project at an existing structure will affect the traffic pattern in that project area.

3. That all new construction on any and all vacant lots shall comply with the circulation element, and proper setbacks shall be complied with in order to facilitate future roadway construction.

A lengthy discussion followed. A motion was made to refer Mayor Pro Tem Spears motion to the Planning Commission for additional study. The motion was seconded by Councilmember Bernal and carried with a 5-0 voice vote.

11.0 FUTURE COUNCIL-INITIATED AGENDA ITEMS - None

12.0 CLOSED SESSION – None.

13.0 ADJOURN – Mayor Benton adjourned the meeting at 8:55 p.m.

Respectfully submitted,

Charlene L. Sherwood CMC, City Clerk