

NOTICE IS HEREBY GIVEN, that the City Council of the City of Twentynine Palms will hold a **CLOSED SESSION** on Tuesday, July 14, 2009 at 5:00 p.m. at City Hall, 6136 Adobe Road, Twentynine Palms, to consider the following:

Closed Session Pursuant to Government Code Section 54956.9 Conference with Legal Counsel Regarding Potential Litigation (2 cases).

Closed Session Pursuant to Government Code Section 54956.8
Property Negotiations-Conference with Real Property Negotiator-Michael Tree.
0618-332-01, 0618-332-02, 0618-332-03, 0618-332-04

Closed Session Pursuant to Government Code Section 54957
Public Employee Performance Evaluation – City Attorney

Mayor Klink opened the meeting at 5:00 p.m. Mayor Klink adjourned the meeting to closed session at 5:01 p.m. Councilmember Harris attended the Closed Session at 5:02p.m. City Attorney Munoz reported at 5:45 p.m. there was no action taken in the Closed Session.

**TWENTYNINE PALMS CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING
6136 Adobe Road
Twentynine Palms, CA 92277
www.ci.twentynine-palms.ca.us
Tuesday, July 14, 2009
6:00 P.M.**

MINUTES

- 1.0 CALL TO ORDER** - Mayor Klink re-opened the meeting at 6:08 p.m.
PLEDGE OF ALLEGIANCE- Tyler Young from Cub Scout Pack 72 led the Pledge of Allegiance.
INVOCATION – Reverend Milt Merritt, United States Navy, Retired, gave the Invocation.
ROLL CALL – The following Councilmembers were present: Cole, Flock, Harris, Spear, and Klink.

2.0 SPECIAL RECOGNITION AND PRESENTATIONS

- 2.1 Presentation to Cub Scout Pack 72 for participating in the “Cash for Trash Program”.

Councilmember Spear presented checks totaling \$700.00 to Cub Scout Pack 72 for participating in the “Cash for Trash Program”. He said of that \$700, \$300 was presented by Mike Veto on behalf of Burrtec Waste and Recycling, \$100 was from Mike Duncan and Triad Realty, and \$300 was from the citizens of Twentynine Palms.

3.0 ANNOUNCEMENTS

- 3.1 Mayor Klink announced these proceedings will be televised on Cable T.V., Channel 10, as follows: Monday, July 20, 2009 at 6:30 p.m. and Friday, July 24, 2009 at 6:30 p.m.

4.0 PUBLIC COMMENTS- None

5.0 COUNCIL COMMENTS

Councilmember Harris said he attended the BBQ in Luckie Park that was for the Fire Department, City Employees, Sheriffs and their families this past weekend and it was very well done. He said that Grumpy had provided the hot dogs and hamburgers and it went very well.

Councilmember Spear said his wife was in Georgia waiting the birth of their first granddaughter.

Mayor Pro Flock reminded the public to drink a lot of water during the hot summer months.

Mayor Klink wished a Happy Birthday to everyone celebrating their Birthday in July and sang Happy Birthday to Pamela LaFosse of the Desert Trail.

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 an opportunity to comment on Consent Calendar items prior to the City Council action (roll call vote).

- 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 Register
RECOMMENDATION: Receive and file register totaling \$ 1,285.983.38.
- 6.3 Approval of Minutes
RECOMMENDATION: The City Council approve the minutes of the June 9, 2009 and June 23, 2009 meeting.
- 6.4 \$2,000,000 Loan Agreement between the Redevelopment Agency and the City of Twentynine Palms
RECOMMENDATION: Staff recommends that the City Council and the Redevelopment Agency Board approve the \$2,000,000 Loan Agreement between the Agency and the City of Twentynine Palms .
- 6.5 Approval to Award Contract to S.R. Building Inc. in the Amount of \$83,187 for the Air Conditioning Project at Patriotic Hall and the Community Center.
RECOMMENDATION: The City Council approve the Air Conditioning project to S.R. Building Inc. in the amount of \$83,187.

- 6.6 Designation of a Voting and Alternate Delegate for Annual League of California Cities Conference.
RECOMMENDATION: The City Council designates a voting delegate and alternate for the League of California Cities Annual Conference September 16-18, 2009 in San Jose, California.
- 6.7 Asphalt Berm Reconstructive Project.
RECOMMENDATION: Staff recommendation is that the City Council amends the Ficara Paving Co. contract to \$121,648.50 and authorizes final payment.
- 6.8 Chamber of Commerce Report - June 2009
RECOMMENDATION: Receive and file.
- 6.9 Twentynine Palms Lighting and Landscaping Assessment District #1, Engineer's Annual Report, and Levy of Assessment for FY 2009-2010
RECOMMENDATION: 1) Adopt Resolution No. 09-23, (A Resolution of the City Council of the City of Twentynine Palms Directing the Filing of the Annual Report for the Twentynine Palms Landscaping and Lighting Assessment District No.1). 2) Receive and approve the Engineer's report as filed or as amended. 3) Adopt Resolution No. 09-24, (A Resolution of the City Council of the City of Twentynine Palms declaring its intention to order improvements, and to levy and collect assessments pursuant to the Lighting and Landscaping Act of 1972 for Fiscal Year 2009-2010).

Councilmember Spear requested item 6.7 be pulled for discussion.

Mayor Pro Tem Flock requested item 6.6 be pulled to select a delegate and alternate for the League of California Cities Annual Conference.

ACTION: On a motion made by Councilmember Spear, seconded by Councilmember Cole and carried with a 5-0 roll call vote, the City Council approved the balance of the Consent Calendar.

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

- 6.6 Designation of a Voting and Alternate Delegate for Annual League of California Cities Conference.
RECOMMENDATION: The City Council designates a voting delegate and alternate for the League of California Cities Annual Conference September 16-18, 2009 in San Jose, California.

Consensus of the City Council was to appoint Councilmember Cole as the delegate and Councilmember Harris as the alternate for the League of California Cities Annual Conference, September 16-18, 2009, in San Jose California.

- 6.7 Asphalt Berm Reconstructive Project.
RECOMMENDATION: Staff recommendation is that the City Council amends the Ficara Paving Co. contract to \$121,648.50 and authorizes final payment.

City Manager Tree presented a staff report to the City Council.

Councilmember Harris asked staff if a contract amendment has to be written up and signed by someone at the City before the work is done.

City Manager Tree said that could be done but they had an invoice that outlines the work that was accomplished. He said that the invoice became the amendment of approval.

Councilmember Cole said there should be an authorization process.

Councilmember Spear asked if anywhere it states in the original contract that the contractor cannot exceed 10% of the original contracted amount.

City Manager Tree said he was sure it did not.

City Attorney Munoz said the work was already completed but that a significant amount of money could be used to fight the issue if the City Council felt it was really worth it. He suggested a letter be sent to the contractor stating the contract must be followed and that will put them on notice for next time to be more careful.

ACTION: On a motion made by Councilmember Cole, seconded by Councilmember Spear and carried with a 5-0 roll call vote, the City Council approved the remainder of the Consent Calendar.

8.0 PUBLIC HEARING

- 8.1 PC 07-70 General Plan Amendment and Change of Zone from CT (Commercial Tourist) to RS-4 (Single-Family Residential), for the block bound by Gorgonio Drive on the north, Morongo Road on the east, Joshua Drive on the south and Mariposa Avenue on the west (sixteen (16) properties identified as APNs 0615-102-02 through 0615-102-17), TIN, R9E, Section 25.

RECOMMENDATION: Conduct the Public Hearing, consider public comment, adopt Council Resolution No. 09-21 and introduce Ordinance No. 223 that determines that PC 07-70 is exempt from further environmental review and allow the proposed changes to the Land Use Element of the General Plan and Zoning Designation to the affected properties.

Community Development Director LaClaire (Director LaClaire) presented a staff report to the City Council.

Councilmember Spear asked if any money was paid by property owners to rectify a City mistake, and would they be refunded.

City Attorney Munoz responded yes.

Mayor Klink opened the Public Hearing.

After there were no requests to speak from the public, Mayor Klink closed the Public Hearing.

Councilmember Flock asked if this held up any project.

Director LaClaire responded no.

Councilmember Harris said this item went through with the Planning Commission process in October of 2007, and he asked if anything was ever done with the item.

Director LaClaire responded no, nothing was done. He said it had been on the Planning Commission's list of things to do for the past two (2) years.

Mayor Klink directed City Clerk Sherwood to introduce Ordinance No. 223 reading by title only.

City Clerk Sherwood introduced Ordinance No. 223.

ACTION: On a motion made by Councilmember Spear, seconded by Councilmember Harris and carried with a 5-0 roll call vote, the City Council adopted Resolution No. 09-21 and introduced Ordinance No. 223 that determines that PC 07-70 is exempt from further environmental review and allow the proposed changes to the Land Use Element of the General Plan and Zoning Designation to the affected properties, with no expense to anyone and hold harmless any fees that were paid by anyone at any point in time.

9.0 REPORTS, REQUESTS AND COMMUNICATIONS

9.1 Standards and Restrictions Related to Vehicle Commercial Activity within the General Commercial Zoning District Located within the Downtown Area.

RECOMMENDATION: Discuss the issue, consider public comment (at the Mayor's discretion) and provide guidance to staff for possible further action.

City Manager Tree requested this item to be pulled and continued to the July 28, 2009, City Council meeting due to the property owners not being able to be present.

Consensus of the City Council was to continue the item to the July 28, 2009, City Council meeting.

9.2 Update on Various Projects in the Community

RECOMMENDATION: Staff recommendation is that the City Council receives report and provides direction as appropriate.

City Manager Tree presented a staff report on the second phase of the CalTrans Highway project to the City Council. He said the timeline for the eminent domain process extends the project about 12 months to July 2010. He said that once acquisition is completed it would take about two to three months to complete the project approximately October 2010.

Councilmember Spear said the first phase is acceptable but it was not great. He questioned why when the surface of asphalt was laid CalTrans ground chunks out

of the highway and covered it with the slurry seal. He wanted to know if the City had a say, or if CalTrans could do what they wanted.

City Attorney Munoz said he would look into it.

Councilmember Cole asked if the rights of way were done after Phase 1 was complete.

City Manager Tree responded yes.

City Manager Tree presented a brief staff report on the Joshua Tree National Park Visitor Center. He said a contract was awarded to a firm to provide the design services for the project. He said it had undergone a seismic study and was cleared and they have been involved with a schematic study. He said it is expected the process will be done in September of this year. He said in the next couple of months they should have an artist rendition of the project. He said the delay for construction documents would extend the project to June 2010. He said the construction should run about 7 million dollars.

City Manager Tree presented a brief staff report to the City Council on the NuWu Casino. He said the Mayor and City staff had been meeting with Chairman Mike and his staff. He said the Band of Mission Indians would like to move on with their project sooner rather than later. He said Chairman Mike would be more than happy to provide a presentation to the City Council on where they are with the project.

Councilmember Cole said he would like to take Chairman Mike up on his offer of giving a presentation to the City Council.

9.3 Location of Restroom at Knott's Sky Park

RECOMMENDATION: The City Council approves Staff's recommendation of moving the restroom at Knott's Sky Park from the west side of the picnic shelter to the east side.

Community Services Director Councell (Director Councell) presented a staff report to the City Council.

Councilmember Harris asked if there was going to be anything other than concrete bumpers put into place to keep people from running their car into the restrooms.

Director Councell responded there will be a fence remaining and curb, gutter, and sidewalk will be in place. He said no parking will be put into place on that side.

Councilmember Cole asked what the distance is from the shelter to the restroom.

Director Councell said 30 to 40 feet.

Muffin Hill, Twentynine Palms, spoke in opposition of the item as presented by staff.

Councilmember Spear asked what the height of the proposed facility was.

Director Councill said it had not been put out to bid yet but he anticipated it would be 12 feet.

Councilmember Spear requested a cost projection to move the bathroom half the distance between the existing bathroom and where they are moving it now.

ACTION: On a motion made be Councilmember Cole, seconded by Mayor Pro Tem Flock and carried with a 3-2 roll call vote (Spear and Klink no) the City Council approves Staff's recommendation of moving the restroom at Knott's Sky Park from the west side of the picnic shelter to the east side.

10.0 LEGISLATIVE/COUNCIL/REDEVELOPMENT

10.1 Contribution Cooperative Agreement with Caltrans for Second Phase of Highway Widening Project

RECOMMENDATION: Staff recommends that the City Council approves the Contribution Cooperative Agreement.

City Manager Tree presented a staff report to the City Council.

Fred Hoss, Twentynine Palms, asked where the public's incentive to comment was. He said there is no real motivation from the City Council to get participation from the public. He said CalTrans is doing a beautiful job and spending a lot of money on the highway project. He said the public should speak about these things and it would help the City Council make decisions.

The City Council discussed speaking with CalTrans to find out why they did what they did regarding laying the slurry seal and using the grinding machine to take chunks out of the highway. After their discussion, the City Council decided to continue the item to the next City Council meeting.

Mayor Klink announced the item would be continued to the July 28, 2009 City Council meeting.

10.2 Historic Plaza Maintenance Assessment District

RECOMMENDATION: Adopt a Resolution approving the detailed Engineer's report for a Maintenance Assessment District in Historic Plaza, declaring the City's intent to order formation of said District, and setting September 8, 2009, as the date for the Public Hearing.

Frank Spevacek, RSG, presented a staff report to the City Council. He said the Resolution is to approve the Engineer's report and if it is approved, a report, information letter, and ballots will be sent to the 10 properties owners of Historic Plaza. He said a Public Hearing will be held September 8, 2009 in regards to the assessment district.

Fred Hoss, Twentynine Palms, spoke in opposition of spending money on the project.

DJ Masker, Twentynine Palms, said the City should have rehabilitated the Historic Plaza 10 years ago she wanted to know why the Plaza owners were paying and asked if this is the only way it can be done.

Mr. Spevacek responded the reason the owners are being asked to do this is partially due to the plaza improvements and the design. He said when the owners were discussing this, building and façade improvements were discussed as well, he said in this case the owners are agreeing at looking at an assessment to make these improvements. He said if this is approved the City, they will be looking at forming other districts in other areas where the agencies would be funding public improvements that would not only benefit the public but the adjoining properties.

ACTION: On a motion made by Councilmember Cole, seconded by Mayor Pro Tem Flock and carried with a 5-0 roll call vote, the City Council adopted Resolution No. 09-26, a Resolution approving the detailed Engineer's report for a Maintenance Assessment District in Historic Plaza, declaring the City's intent to order formation of said District, and setting September 8, 2009, as the date for the Public Hearing.

11.0 FUTURE COUNCIL INITIATED ITEMS

Councilmember Spear requested a report from the Board of Supervisors as to how CalTrans set the speed limit on Amboy Road and if they did do it would our Board of Supervisors care to do it for their portion of Amboy Road so the citizens don't get caught in a speed trap.

Mayor Klink said he would like to discuss at the next City Council going dark for the month of August. He said he received a letter from Planning Commissioner Chair Easter, announcing Chair Easter would be resigning from his position on the Planning Commission effective August 17, 2009. He said at the July 28, 2009 meeting he would like to start the process of selecting a new Planning Commissioner.

12.0 CLOSED SESSION- None

13.0 ADJOURN – Mayor Klink adjourned the meeting at 7:35 p.m.

Respectfully Submitted,

Charlene L. Sherwood MMC, City Clerk