

WENTYNINE PALMS CITY COUNCIL/REDEVELOPMENT AGENCY

REGULAR MEETING

6136 Adobe Road

Twentynine Palms, CA 92277

www.ci.twentynine-palms.ca.us

Tuesday, September 8, 2009

6:00 P.M.

MINUTES

- 1.0 CALL TO ORDER** – Mayor Klink called the meeting to order at 6:00 p.m.
PLEDGE OF ALLEGIANCE- Councilmember Spear led the Pledge of Allegiance.
INVOCATION- Rebecca Sqyres, Palms Southern Baptist 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 Michael Collins

Mayor Klink presented a certificate of recognition to Michael Collins for his contributions to the community.

Michael Collins accepted the plaque and thanked the Mayor and Councilmember's for the recognition.

2.2 Presentation to Citizens on Patrol for participation in the Neighborhood "Cash for Trash" Clean Up

Councilmember Spear presented a check from the City for \$300.00 and from Mike Duncan at Triad Realty for \$100.00 to the Citizens on Patrol for their Neighborhood Clean Up efforts, in the "Cash for Trash" program.

Mike Veto, Burrtec, commended the Citizens on Patrol for their great job and presented a check to them for \$300.00.

3.0 ANNOUNCEMENTS

- 3.1** Mayor Klink announced these proceedings will be televised on Cable T.V., Channel 10, as follows: Monday, September 14, 2009 at 6:30 p.m. and Friday, September 18,2009 at 6:30 p.m.

4.0 PUBLIC COMMENTS

Cal Sisco, Twentynine Palms, said hoped to see a lake in his retirement years in the City and suggested the GPAC committee create a subcommittee to contact solar power manufacturing plants to see if they have interest in the area.

David Smith, Twentynine Palms, spoke regarding the flooding at his house off of Two Mile Road he said he believed the cause of the flooding was the widening of Two Mile Road due to the berm being removed.

Mel Berlin, Twentynine Palms, thanked the City staff and the City Council for attending the 15th annual mural tour and dinner. He said it was a great success.

5.0 COUNCIL COMMENTS

Councilmember Cole thanked Mike Collins and his family for their contributions to the City and also thanked the Citizen Patrol for their Cleanup efforts.

Mayor Pro Tem Flock said the Meltdown the Chamber of Commerce held went well and there was a good turnout, he said the mural tour was amazing and the coordination by the different groups that were involved made for a first class event. He said he attended the Desert Diversity show at the Twentynine Palms Art Gallery and it was well attended and it was a great show. He said the Oasis of Murals book was out and that it was a very nice book and was worth having.

Councilmember Spear said the Chamber of Commerce may be subject to provisions of the Code, which he felt are a matter of public debate and discussion. He said a formal third party account of all Chamber expenses over the last three (3) fiscal years should be discussed, an immediate suspension of City funding to the Chamber should be discussed to protect any further expenditures of City funds that are not directly related to promoting the City to outside commercial development and tourism interests, and the Chamber should be tasked, in the interim to develop a purchasing policy, that should be approved by the Council before further tax dollars are spent by the Chamber. He said he would seek this discussion placing the item under future Council initiated items.

Councilmember Harris said he attended the summer Meltdown and it was a great turn out although it was very hot. He said Grumpy did a wonderful job providing and fixing the food. He said Williams Insurance has been approved by the DMV to handle items for the public such as registering vehicles or title transfers so they do not have to go to DMV. He said the Council Connection at the Wonder Garden had a great round house discussion and encouraged the public to attend the Council Connections to meet with two Councilmember's that answer the public's questions. He reminded the public that schools were back in session and to please be cautious of the children.

Mayor Klink said kids are walking a lot more and further to school and to their bus stops and asked the public to please be careful. He said the summer Meltdown was a great success. He said the 15th annual anniversary of Action Council and mural tour was a great time although it was windy. He encouraged the public to participate in the GPAC meetings. He wished everyone in August a Happy Birthday.

Mayor Pro Tem Flock added that Bill Easter said he would be available to finish up the vacation home rental issue on the Planning Commission and would be able to extend his time on the Commission.

Community Development Director LaClaire (Director LaClaire) said it was entirely up to the City Council to support Chair Easter's decision to remain on the Planning Commission.

Mayor Klink said that issue would be discussed with the task force.

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 registers dated August 11, 2009 and August 25, 2009, and September 8, 2009 totaling \$1,380,287.12
- 6.3 Approval of Minutes
RECOMMENDATION: The City Council approve the minutes of the July 28, 2009 meeting.
- 6.4 Chamber of Commerce Report – July 2009
RECOMMENDATION: Receive and file.
- 6.5 PC 09-36 (Amendments to Chapters 19.12, 19.82, 19.84, 19.96 of the Development Code, and adding a new Chapter 19.57 "Bingo Games" to the Development Code of the City of Twentynine Palms).
RECOMMENDATION: The City Council adopt Ordinance No. 222.
- 6.6 Update to Management Action Plan (MAP)
RECOMMENDATION: The City Council receives staff report and provides direction as appropriate.

Councilmember Spear abstained from item 6.2 check number 46637 and 46681 for the San Bernardino County Sheriff's Department due to possible conflict of interest.

ACTION: On a motion made by Councilmember Harris, seconded by Councilmember Cole and carried with a 5-0 roll call vote, the City Council approved the consent calendar as submitted.

7.0 ITEMS REMOVED FROM CONSENT CALENDAR FOR DISCUSSION OR SEPARATE ACTION AND/OR ADDED AGENDA ITEMS- None

8.0 PUBLIC HEARING

8.1 Formation of Historic Plaza Maintenance Assessment District

RECOMMENDATION: Hold the Public Hearing, tabulate the ballots, and adopt Resolution 09-28 of the City Council (i) ordering the formation of the Historic Plaza Maintenance Assessment District (“District”) and the levy and collection of assessments therein, and (ii) approving the plans and specifications, and authorizing a call for bids, for the improvements to be constructed in Historic Plaza.

Frank Spavacek, RSG, presented a staff report to the City Council.

Councilmember Harris asked if a small park that would be put in the area where the leach field was located would have to be dug up to look at problems, and if so are we putting things there that are costly to remove or be replaced there if that were to happen.

Mr. Spavacek responded most of the big plants would be in the area that were not near the leach field or near where the septic would be. He said if it had to be dug up it would not be an issue to be put back into place.

Councilmember Harris asked if the septic were to back up would there be problems with contamination of the land where the park would be, making it unusable.

Mr. Spavacek said they had not looked at that point and he would speak with the Engineer about the issue.

Mayor Klink opened the Public Hearing.

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

Mr. Spavacek, City Clerk Sherwood, Director LaClaire, and City Attorney Munoz tabulated the ballots.

Mr. Spavacek reported eight of the representative properties voted, three did not vote, he said the eight returned ballots all were unanimous so the assessment district ballots passed by 100%. He said given the acceptance the City Council could then proceed as recommended and go out to bid.

ACTION: On a motion made by Councilmember Cole, seconded by Councilmember Spear and carried with a 5-0 roll call vote, the City Council adopted Resolution 09-28 of the City Council (i) ordering the formation of the Historic Plaza Maintenance Assessment District (“District”) and the levy and collection of assessments therein, and (ii) approving the plans and specifications, and authorizing a call for bids, for the improvements to be constructed in Historic Plaza.

9.0 REPORTS, REQUESTS AND COMMUNICATIONS

9.1 Evaluation of Use of Task Forces

RECOMMENDATION: The City Council receives the staff report and provides direction.

City Attorney Munoz presented a staff report to the City Council.

Councilmember Spear asked for clarification on the terms “continuing subject matter”.

City Attorney Munoz said in his opinion the words “continuing subject matter” jurisdiction in this sense means power or authority, jurisdiction means the task force has the overall binding authority to make decisions. He said in those situations where they are saying the task force has the decision making authority the Brown Act applies. He said if just two members are getting together with the City Manager to talk on an issue they can do that.

Liz Meyer, Twentynine Palms, said this town is very active and believes in itself. She said one of the strengths of the City is citizen involvement and she said task forces, advisory committees and subcommittees are the essence of what makes the people of this town believe they can get involved and make a difference. She thanked the City Council for letting the citizens be a part of the subcommittees and advisory committees.

Councilmember Harris said the task forces bring back information to the City Council and staff and is a very valuable tool.

Mayor Pro Tem Flock said the task forces bring back recommendations and options to the City Council. He said they do not make decisions and he felt the task forces were very effective.

Councilmember Cole said he felt the task forces were effective.

Mayor Klink said the task forces are always changed when a new Mayor takes office. He said he thought it was a good idea to keep them as they were. He said when a new Mayor takes over it might be a good idea to discuss which task forces should be kept and which task force assignments they could do without.

9.2 Discharge of Firearms Within City Limits

RECOMMENDATION: The City Council receives the staff report and provides direction.

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

Councilmember Spear said he became concerned that there was not an Ordinance and felt weapons within the City limits should be discussed and this was why he brought the item to the Council.

Jim Burdett, Twentynine Palms, said recently there has been a lot of shooting going on behind him which is only 10 acres away from where he lives. He said he contacted Code Enforcement and was made aware there was no Ordinance in place to enforce any rule.

Terry Burdett, Twentynine Palms, said her concern in addition to the noise was safety. She said there were a lot of students that like to drive behind her house to see where she lives and she is worried that the rounds that are going off might strike someone.

Ronald Hawkins, Twentynine Palms, said he owns the adjoining five acres next to Mr. Burdett. He said he is concerned with the safety of the firing of arms so close to his property.

Sue Postin, Twentynine Palms, said she walks in the neighborhood and is worried about her safety. She said a lot of the drivers are obviously intoxicated and they drive at unsafe speeds up the road. She said the firing is going on in all directions and you never know if you are going to be dodging coyotes or bullets.

Councilmember Cole asked if Robin Road was in the proximity of the area.

Ms. Postin responded yes, it was off of Baseline Road.

Steve Duott, Twentynine Palms, suggested looking at the BLM regulations, he said something should be done about it because of the population density.

John Neilson, Twentynine Palms, said he knew there was no intoxication in the area because he goes shooting their often. He said the shots are fired towards the mountainside and he had not seen anyone there that had been shooting their weapons wildly or towards anyone's property.

Councilmember Harris asked who owned the property and was it open.

Mr. Neilson responded it was owned by Irving Stone but was sold to Steve Donell who owns the gun store in town. He said it has been a firing range since the mid 50's.

Councilmember Cole asked if a whole range of firearms were now used at the property.

Mr. Neilson responded that on the range rules rifles are only allowed to be shot on the mountain side, he said the area that is closer to the residential areas is only pistol shooting.

Councilmember Spear asked if there was a particular reason Mr. Neilson did not go to the Twentynine Palms Pistol and Rifle Club.

Mr. Neilson responded he had issues when he had gone there, before but he had been a member in the past.

Irving Stone, Twentynine Palms, previous owner of the property, said this has become an issue of supposed safety, which there is not but a problem of personalities. He said there is no intoxication out there whatsoever and people are not shooting all around. He said some of this is becoming a fire arms issue and there is bias' about fire arms and asked the City Council to be aware of that.

Cheryl Hawkins, Twentynine Palms, said her five acres is connected to the shooting range. She said the fact that it is a shooting range has her really opposed due to their shooting right next to their property. .

Scott Edwards, Twentynine Palms, said he was concerned about future expansion of the City and asked if the City is looking for something that is modified for certain areas or all areas. He said Irving Stone, Sr. had approached the City for permits as a shooting range and was denied because the property was not large enough.

Ron Brault, President of the Twentynine Palms Rifle Club, said there have been no problems.

Mr. Hawkins said he would just like to let the Council know the shooting that was going on is only 75 yards from his home.

Rebecca Neilson, Twentynine Palms, she said her father, Steve Donell, is owner of the range. She said the range's main goal is safety.

Councilmember Spear said as a Council the issue should be looked and that was why he brought the issue to the City Council.

Mayor Pro Tem Flock said he agreed with Councilmember Spear. He said he thought it should be kept as simple and unrestrictive as possible.

Mayor Klink suggested conducting a workshop regarding the issues discussed.

City Attorney Munoz said staff was conducting an investigation and it may be that commercial operations may be going on that need a CUP. He said if it is a land use issue it would be really inappropriate to conduct a workshop. He suggested staff needed direction and if there were things the Council wanted staff to look in to if there were problems. If there were no problems then he said the issue should be left alone.

Councilmember Spear said the issue is open air ranges and a much broader issue of public safety.

Councilmember Harris suggested waiting for more information from staff and then listen to the legal counsel.

Consensus of the City Council was to wait for more information from legal counsel.

- 9.3 Procedure for Placing an Item on the City Council Meeting Agenda
RECOMMENDATION: The City Council receives the staff report and provides direction.

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

Councilmember Cole said the Management Action Plan (MAP) has a deadline of one year for the General Plan. He would like a discussion to influence some of the deadlines the City Council needs to meet. He suggested finishing up items before adding more to the plate, to themselves and the staff.

Mayor Klink said when the Council initiates a future agenda item, staff brings it back in a timely matter.

Councilmember Spear said he rather the City Manager prioritizes what needs to come up on the agenda.

Mayor Pro Tem Flock said Councilmember's should be able to initiate an agenda item and possibly make a requirement that they discuss an item with the Mayor so the item gets the right priority.

City Manager Tree said the reality is staff wants to please Council and half the items that are on the agenda are things that are going on at the moment instead of focusing on the MAP.

Councilmember Harris said the Council cannot just jump on something and expect it to be resolved in two weeks.

Following discussion the City Manager suggested utilizing the MAP and limiting additional items for staff, the Council concurred.

10.0 LEGISLATIVE/COUNCIL/REDEVELOPMENT

- 10.1 PC 09-59- Applicant Thomas L. Parkhurst is seeking approval of a Letter of Public Convenience and Necessity for Tom Parkhurst's Golf Shop at Roadrunner Dunes Golf Course, 4733 Desert Knoll Road; Zone P; APN 0621-241-47, Section 16, TIN, R9E
RECOMMENDATION: Direct staff to issue a Letter of Public Convenience and Necessity (LPCN).

Director LaClaire presented a staff report to the City Council.

Councilmember Spear asked when Mr. Parkhurst had asked for the letter.

Director LaClaire responded it had been 2 or 3 weeks prior.

ACTION: On a motion made by Councilmember Spear, seconded by Councilmember Harris and carried with a 5-0 roll call vote, the City Council directed staff to submit a Letter of Public Convenience and Necessity.

- 10.2 Plans and Specifications for the Adobe Road Project, and authorize staff to proceed with advertisement for this project.

RECOMMENDATION: Review and approve construction plans and specifications for the Adobe Road Project, and authorize staff to proceed with advertisement for this project.

City Engineer Pedersen presented a brief staff report to the City Council.

ACTION: On a motion made by Councilmember Harris, seconded by Councilmember Spear and carried with a 5-0 voice vote, the City Council authorized staff to proceed with advertisement for this project.

- 10.3 Response to Department of Interior and Department of Energy Study of Large Solar Projects Near Twentynine Palms.

RECOMMENDATION: Send comment letter responding to the Programmatic Environmental Impact Statement.

Project Manager Kevin Cole presented a brief staff report to the City Council.

Jim Harvey, Founder and Executive Director of the Alliance for Responsible Energy property for the Morongo Basin area, thanked staff for keeping the public informed of the documents.

Cal Cisco, Twentynine Palms, said he wants a lake to dive into.

Councilmember Spear asked how building these things 90 miles away from us would affect our water.

Project Manager Cole responded that some of the plants that are put into place are air cooled or water cooled. He said the ones that are water cooled take a large amount of water to cool them and ultimately it could impact the amount of water that is in the desert.

Mayor Pro Tem Flock said he would like to see more emphasis on economic development and the negative impacts.

Steve Douth, Twentynine Palms, said he would like to see the individual homeowner be able to sell electricity into the grid.

The City Council agreed consensus was to all sign the letter after changes to the letter, suggested by the City Council had been made by Project Manager Cole.

11.0 FUTURE COUNCIL INITIATED ITEMS

Councilmember Spear presented a County map to the City Manager which is a map that indicated what can be mined. He also requested the Chamber of Commerce item as discussed in the Council Comments which may be subject to provisions of the Code.

12.0 CLOSED SESSION

12.1 Closed Session Pursuant to Government Code Section 54956.8
Property Negotiations-Conference with Real Property Negotiator-Charles
LaClaire

APN's 621-241-26,-29, -31, -45, -46, -47, -54
621-241-55, -59, -80, -82, -86, -87
621-251-27, -28, -36
621-334-11
621-331-01

12.2 Closed Session Pursuant to Government Code Section 54956.9 Conference with
Legal Counsel Regarding Potential Litigation (1 case)

13.0 ADJOURN- Mayor Klink adjourned the meeting at 8:47 p.m. to Closed Session in memory of Marilyn Donaldson and Joe A. Breuer. The Closed Session ended at 9:40 p.m. with no action being taken.

Respectfully Submitted,

Charlene L. Sherwood MMC, City Clerk