

NOTICE IS HEREBY GIVEN, that the City Council of the City of Twentynine Palms will hold a **WORKSHOP** on Tuesday, January 12, 2010, at 4:30 p.m. in the City Hall Council Chambers, 6136 Adobe Road, Twentynine Palms, CA to consider the following:

Community Development Block Grant (CDBG) Presentations for 2009-2010

NOTICE IS HEREBY GIVEN, that the City Council of the City of Twentynine Palms will hold a **CLOSED SESSION** on Tuesday, January 12, 2010 at 5:30 p.m. at City Hall, 6136 Adobe Road, Twentynine Palms, to consider the following:

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

Mayor Flock called the meeting to order at 5:30 p.m. Mayor Flock adjourned the meeting to Closed Session at 5:32 p.m. City Attorney Munoz reported at 5:58 p.m. no action was taken during 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, January 12, 2010
6:00 P.M.**

MINUTES

- 1.0 CALL TO ORDER** - Mayor Flock re-opened the meeting at 6:02 p.m.
PLEDGE OF ALLEGIANCE – Brigadier General H. Stacy Clardy led the Pledge of Allegiance.
INVOCATION – Chaplain Milt Merritt, Retired United State Navy, gave the Invocation.
ROLL CALL - The following Councilmembers were present: Cole, Harris, Klink, Spear and Flock.

2.0 SPECIAL RECOGNITION AND PRESENTATIONS - None

3.0 ANNOUNCEMENTS

- 3.1 Mayor Flock announced these proceedings will be televised on Cable T.V., Channel 10, as follows: Monday, January 18, 2010 at 6:30 p.m. and Friday, January 22, 2010 at 6:30 p.m.

4.0 PUBLIC COMMENTS

Brigadier General H. Stacy Clardy, introduced himself to the City Council and said a positive relationship with the City was critically important. He said there is currently \$500 million dollars going toward construction projects aboard the Base.

Leslie Andrews, Desert Local News, spoke regarding a 32 page virtual newspaper on www.desertlocalnews.com and said if the public would like to report a story to call 760-780-7109 or email info@desertlocalnews.com.

D.J. Masker, Twentynine Palms, said she got her garbage refund check for \$195.00 six months late. She said she was still waiting for her trash bins to be replaced and it had been three months.

5.0 COUNCIL COMMENTS

Councilmember Spear said the request by Councilmember Klink to bring back Vacation Home Rentals is appropriate and is reflective of how the City is supposed to run. He said current places advertising now for Vacation Rentals are Joshua Tree Vacation Rentals operated by Susan Peplow, Three Horse Ranch operated by Robin and Manuel Anya and Hungry Bunny Ranch operated by Sherry Hall. He said he wanted their rates looked into.

Councilmember Cole said there were new face lifts on buildings in the City and he wished the public a Happy New Year.

Councilmember Klink wished Happy Birthday to everyone celebrating their Birthday in January and wished the public a Happy New Year.

Mayor Pro Tem Harris said the Theatre 29 Awards Dinner had a great turnout and is a really nice event. He said there was also a good turnout at the Morongo Unified School District awards at the College.

Mayor Flock said he attended the Theatre 29 Awards Dinner also and it was a great event. He said he swore in the new officers of the Action Council on Sunday and they were an enthusiastic group.

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 totaling \$677,138.68.

- 6.3 Approval of Minutes
RECOMMENDATION: The City Council approve the minutes of the December 8, 2009 meeting.

- 6.4 Parking Lot Bid Award at Knott's Sky Park
RECOMMENDATION: The City Council awards the bid for the construction of the parking lot at Knott's Sky Park to Ficara Paving in the amount of \$74,787.25.
- 6.5 Adoption of Measure I - Local Street Program Capital Improvement Plan For Fiscal Years 2009/2010 through 2014/2015
RECOMMENDATION: The City Council approve Fiscal Years 2009/2010 through 2014/2015 Measure I, 6-year Plan and Adopt Resolution No. 10-01.
- 6.6 Approval of Installment Sale Agreement with Twentynine Palms Water District
RECOMMENDATION: The City Council approve the Installment Sale Agreement.

Councilmember Spear abstained from check number 47359 and check number 47423 to the San Bernardino County Sherriff's Department due to possible conflict of interest.

ACTION: On a motion made by Mayor Pro Tem 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 PC 09-61 – An Amendment to Chapter 19.32 of the “Development Code” regarding Temporary Sidewalk Sales and Outdoor Displays
RECOMMENDATION: Re-open and conduct the open, continued Public Hearing, consider public comment and introduce Ordinance No. 225 making a determination that PC 09-61 is exempt from further environmental review and adopting the proposed changes to Chapter 19.32 “Temporary Use Permits” of the “Development Code” as modified herein.

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

Councilmember Cole said there are other things that are large such as bikes, strollers, etc that could be considered.

Councilmember Klink asked if when they do display on the curb if they are allowed to put things on the sidewalk as well.

Mayor Pro Tem Harris asked what this Amendment does to the second hand stores. He said if these people did not put their items outside people might not know what items they have in their stores, which then could affect their business.

Director LaClaire responded the 2nd hand stores are limited to the 200 square feet that is proposed in the language. He said he would be doing the administrative review which would typically take a day or two.

Mayor Pro Tem Harris said he had concern with the 200 square feet as he felt it was too limited of a space to display items. He said he does not want to hurt people's business.

City Attorney Munoz said if the City Council was not comfortable with moving forward they have the ability to use the basic public nuisance standards which are a little more subjective.

Councilmember Spear said he would like the issue to go away and that if there is an issue, at that time it can be dealt with.

Mayor Flock re-opened the continued Public Hearing.

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

ACTION: On a motion made by Councilmember Cole, seconded by Mayor Pro Tem Harris and carried with a 5-0 roll call vote, the City Council tabled the item.

8.2 PC 09-64 – An Amendment to the “Development Code” by Adding “Certified Farmers’ Markets”

RECOMMENDATION: Conduct the Public Hearing, consider public comment and introduce Ordinance No. 226, making a determination that PC 09-64 is Exempt from further environmental review and by adding a new chapter 19.57 “Certified Farmers’ Markets, Open Air Markets, Craft and Job Fairs” to the “Development Code”.

Director LaClaire presented a staff report to the City Council.

The Councilmembers expressed their concern with the proposed size of the lot saying it was too large. The consensus was to change the size from 1000 feet to 300 feet.

Mayor Flock opened the Public Hearing.

Vala Stults, Twentynine Palms, thanked the City Council for due diligence with the project and she thanked Director LaClaire for his hard work and the Planning Commission for their time and allowing the item to move forward.

Mayor Flock closed the Public Hearing.

Mayor Flock directed City Clerk Sherwood to introduce Ordinance No. 226 reading by title only.

ACTION: On a motion made by Councilmember Klink, seconded by Councilmember Cole and carried with a 5-0 voice vote, the City Council introduced Ordinance No. 226 making a determination that PC 09-64 is Exempt from further environmental review and by adding a new chapter 19.57 “Certified Farmers’ Market, Open Air Markets, Craft and Job Fairs” to the “Development Code” with the modifications as discussed.

8.3 PC 08-72 – An Appeal of the Planning Commission’s December 15, 2009 Approval of the PC 08-72 (Hampton Inn & Suites).

RECOMMENDATION: Conduct the Public Hearing, consider public comment and uphold or deny the Planning Commission’s approval of PC 08-72, an application by K-Partners Hospitality Group, L.P. for a Conditional Use Permit to construct a three (3) story, 87-suite “Hampton Inn and Suites” hotel.

Director LaClaire presented a staff report to the City Council.

Councilmember Spear said the elected officials should be the ones to approve or deny the project.

Mayor Flock opened the Public Hearing.

Hitesh Bhakta, Twentynine Palms, spoke in favor of the item. He said there will be an impact on pedestrians by the creation of this development.

Mark Crisci, K-9 Partners Hospitality, said as a company they share all the concerns for traffic and safety. He said they had already spent around \$80,000 in road improvements along Highway 62 and Encelia. He said he respects their position and they enjoy being in the City, but he felt they are being viewed as the Villain and they created 25 jobs for local people.

Councilmember Klink asked if there were any recent traffic studies from 2009-2010.

Steve Sazaki, Sazaki Transportation Services, spoke to the City Council and said that CalTrans is behind on their study a year or so. He said over the 3 year period there were 3 recorded accidents and he said as far as warrants there were 5 crashes in a one year period.

Eric Bond, Twentynine Palms, said he was not in favor of stop lights at the location. He said people should just slow down or be given tickets.

D.J. Masker, Twentynine Palms, said the traffic light at Larrea Avenue should have been put at Encelia Drive.

Melissa Shepp, Twentynine Palms, said the light should have been at Larrea Avenue but that the speed limit coming into the City on Highway 62 is too high. She said lowering the speed limit would help alleviate some of the problems.

Councilmember Spear responded the City does not set the speed limit on Highway 62.

Carol Barrett, Twentynine Palms, said she is in favor of the new hotel and appreciates the Marriott being there already.

Steve Whitten, Twentynine Palms, said he appreciates the access of using Encelia to get onto Highway 62. He said safety is paramount but he does not recall in the past fourteen years a pedestrian being ran over that was crossing

the Highway and Encelia. He said pedestrian's need to use common sense when crossing the road.

George Hall, Twentynine Palms, said he agreed with Councilmember Spear that it is very dangerous and he does not feel a crosswalk would be beneficial.

Carol Barrett, Twentynine Palms, said the people that are staying at the hotel will most likely leave the hotel in their cars.

Tony Naraval, Twentynine Palms, said people should be encouraged to walk across the street from the hotel.

Nicole Panter, Twentynine Palms, said there should be an impact fee for any type of contingency.

Katrina Nguelyn, Twentynine Palms, expressed her concern with the area of Encelia and the Highway. She said on several occasions she has almost hit pedestrians crossing the street in that area in the evening. She also said turning left from Encelia onto the Highway is very dangerous because the cars are driving very fast, making it difficult to turn onto the Highway.

Mr. Crisci responded to put this much burden on one project makes the project un-feasible. He said this project allows the City more flexibility to be able pursue things from a financial standpoint because of the additional revenues that it builds.

Mayor Flock closed the Public Hearing.

Councilmember Spear said this was a great project and it was not his purpose to deny the project. He said he disagreed with the applicant's philosophy and felt there was a middle ground that could be reached.

Mayor Pro Tem Harris said he did not see anyone in the evening doing traffic studies in that area. He said studies cannot just be done during the day. He said slowing the traffic down with a sign is not going to work. He agreed with Councilmember Spear that there has to be a common ground met.

Councilmember Klink responded to Nicole Panter's comment and said the impact fees are being studied and he agreed with her on that issue. He suggested a flashing light with pedestrian sign. He said the City has to take care of the dangerous intersection.

Councilmember Cole asked for clarification regarding if the City Council was to deny or to appeal the project.

City Attorney Munoz said there are two separate issues. He said the first issue is the long term solution which is ultimately there being a traffic light installed. He said something less expensive is something that could be brought back on a future agenda to do some sort of a loan from the Redevelopment Agency or from General Fund revenues or TOT revenues. He said there also might be a way to tap into future traffic impact fees. He the City Council could put something in with

the developer's consent of an exact fee amount that could go towards different improvements.

Mayor Flock said in the future a traffic signal will be needed. He said if a crosswalk were put in that additional lighting would be required, he said that additional lighting might be required now however. He said he felt the project should be approved. He said the decision tonight was if the Planning Commission had made an error in making their decision and he felt an error had not been made.

Councilmember Klink requested a break.

Mayor Flock adjourned the meeting to a recess at 8:16 p.m.

Mayor Flock re-opened the meeting at 8:30 p.m.

City Attorney Munoz said he spoke with the developer and representative during the break and that they would be willing to modify condition E-10 to indicate instead of \$12,500 the amount be \$15,000 that could be used for any purpose the City desires related to improvements at the Highway 62 and Encelia intersection. He said they were willing to work with the City in their efforts with CalTrans to get the approvals that were needed.

Councilmember Spear said he would like Mr. Crisci's word that he would fight with CalTrans, the City Manager and the City Attorney to put white paint on the road.

Mr. Crisci responded yes.

Councilmember Spear said he would like to withdraw his appeal.

City Attorney Munoz responded Councilmember Spear was not able to withdraw his appeal.

ACTION: On a motion made by Mayor Flock, seconded by Councilmember Cole and carried with a 5-0 roll call vote, the City Council granted the appeal in part, to move forward with Condition E-10 being modified as indicated and bringing a Resolution back to the City Council meeting on January 26, 2010 for approval.

8.4 Historic Plaza Improvements

RECOMMENDATION: The City Council and Agency Board hold a joint Public Hearing to receive testimony regarding Agency funding of improvements to Historic Plaza. Upon closing the Public Hearing, staff further recommends that: The Agency Board adopt RDA Resolution No. 10-01 approving (i) a construction contract with Cooley Construction, the lowest qualified bidder, to install the Historic Plaza improvements (the Historic Plaza Construction Contract); (ii) construction and sidewalk easement agreements with the property owners that front Historic Plaza; and (iii) the funding of the public art piece pursuant to the "Artist Agreement".

The City Council adopt Resolution No. 10-02 approving (i) an agreement with Steve Rieman for a public art piece that will be located in the renovated Historic

Plaza (the "Artist Agreement"); (ii) the Agency's funding of the public art piece pursuant to the Artist Agreement; (iii) construction and sidewalk easement agreements with the property owners that front Historic Plaza; (iv) the Agency's funding of the construction work pursuant to the Historic Plaza Construction Contract; and (v) a lease agreement with the owner of the property proposed to be developed with a "pocket park."

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

City Attorney Munoz said he provided the City Council with documents including a revised Resolution prior to the meeting; he said the red lined document shows the minor changes. He said there is a page out of the agreement titled Public Works Insurance Documents that would be approved that the City Manager would be able to move forward with. He said it had come to his attention that there was a dispute regarding the awarded bid and if the bid had met various requirements and he said the bid was appropriate and meets the code.

Mayor Flock asked if all the agreements had been signed by the property owners.

City Manager Tree responded yes, all but one had been signed and that property owner was in Japan. He said there had been ongoing email discussions with that specific property owner and the agreement had been Fed-Ex'ed to him and that property owner was excited about the item.

Mayor Flock asked if there would be a hold up with the contract until the property owner signed the contract.

City Attorney Munoz responded that was the reason for the changes that were given to the Council to make sure nothing happens until the document was received.

Mayor Flock opened the Public Hearing.

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

Councilmember Spear said he wanted to know where staff was on the issue of Code Enforcement checking on the building across the street from the Plaza that he had inquired about.

City Manager Tree responded that issue was currently in the Code Enforcement stages.

ACTION: On a motion made by Boardmember Cole, seconded by Vice Chair Harris and carried with a 5-0 roll call vote, the Redevelopment Agency adopted RDA Resolution No. 10-01 approving (i) a construction contract with Cooley Construction, the lowest qualified bidder, to install the Historic Plaza improvements (the Historic Plaza Construction Contract); (ii) construction and sidewalk easement agreements with the property owners that front Historic

Plaza; and (iii) the funding of the public art piece pursuant to the "Artist Agreement" including the adjustments presented to the Council.

ACTION: On a motion made by Councilmember Klink, seconded by Councilmember Cole and carried with a 5-0 roll call vote, the City Council adopted Resolution No. 10-02 approving (i) an agreement with Steve Rieman for a public art piece that will be located in the renovated Historic Plaza (the "Artist Agreement"); (ii) the Agency's funding of the public art piece pursuant to the Artist Agreement; (iii) construction and sidewalk easement agreements with the property owners that front Historic Plaza; (iv) the Agency's funding of the construction work pursuant to the Historic Plaza Construction Contract; and (v) a lease agreement with the owner of the property proposed to be developed with a "pocket park" with the modifications as presented.

9.0 REPORTS, REQUESTS AND COMMUNICATIONS

9.1 Commercial Bins on Residential Properties

RECOMMENDATION: The City Council enforces Section 8.2.4 of the Burrtec agreement as currently approved.

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

Councilmember Cole wanted to know what the customers with dumpsters do for their recycling.

Mayor Pro Tem Harris asked if a recycling cart could be provided to residents at no extra cost.

Mr. Veto responded he could look into the suggestion.

Jerry Foster, Twentynine Palms, said this was a great idea and if they received the recycling carts he thought everyone would be willing to recycle.

D.J. Masker, Twentynine Palms, said there are recycling bins at Public Works on Bullion Avenue and she would like to see how much aluminum, glass and tin is being recycled so the public can be aware of whether it is increasing or decreasing.

Margaret Craig, Twentynine Palms, said she needs her dumpster and has the room for it.

Councilmember Harris said he did not want to take away the dumpsters for every parcel and people who have had them for years. He said he liked the dumpsters being painted to keep with the desert scheme, he said the first violation could be given a warning. He said the people that have them need them.

Mayor Flock suggested a one time permit fee for any one that has less than an acre and have an onsite inspection to determine if it is appropriate or not to have a dumpster. He said that will create a burden on staff but will be mitigated by the fee and will eliminate problems down the line.

Councilmember Klink said he would like to stop allowing dumpsters on residences under an acre but to grandfather the ones in that already have them on their lots making sure the dumpsters are safe for pick up by Burrtec.

Councilmember Spear asked what the pickup radius of the trash truck. He said he did not think the dumpsters should be visible regardless of if they were painted a different color or not.

Mr. Veto responded the bin would need to be placed so the truck was not sitting in the street.

City Manager Tree clarified the requests of the City Council. He said the City Council did not want the dumpsters shared amongst residences on the street for their primary collection facility, they wanted the bins placed on the property that is out of the right away and set back and in an attractive enclosure or out of view of public right away and wanted Burrtec to agree to provide safe service in collecting trash from the dumpsters and a free recycling cart.

A motion was made by Mayor Flock for the City Council to allow dumpsters to property owners of an acre or less if they meet the criteria. The motion died because Councilmember Cole withdrew his second.

A motion was made by Mayor Flock to allow people with an acre or less to have dumpsters, if they can demonstrate that they can meet the criteria. The motion died due to lack of a second.

A motion was made by Councilmember Spear to proceed with the contract as it is presently written. The motion died due to lack of a second.

ACTION: On a motion made by Councilmember Klink, seconded by Councilmember Harris, and carried with a 4-1 roll call vote (Cole no), the City Council agreed to allow the current 127 City residents who have trash dumpsters to keep them and will not allow anymore trash dumpsters to go out to people who live on less than an acre. Recycle bins will be included with the trash dumpsters and the trash dumpsters have to be enclosed or concealed from public view. Also, the Burrtec trucks must have a safe turning radius from the Highway.

City Attorney Munoz said he would provide an outline of this policy and the City Council will be able to edit it if it is not what they had in mind.

9.2 City Visitor Center Lease Agreement and Operations Agreement with Chamber of Commerce and Plans for the Visitor Center Façade Improvements and Interior Exhibits.

RECOMMENDATION: The City Council approve the deal points for the lease agreement and operations agreement with the Chamber of Commerce and authorizes the City Manager to sign the agreements and provides direction to staff on the proposed Visitor Center façade and interior furniture/exhibits.

City Manager Tree presented a staff report to the City Council and asked for the City Council's input on the direction that staff was going with the plans.

Councilmember Cole asked if the façade project was being delayed.

City Manager Tree responded it would be on time and he would be able to have the bid results at the next City Council meeting.

Councilmember Spear asked if the letters on the façade are removable.

City Manager Tree responded yes, they would be an artistic metal.

Councilmember Spear asked how much the Chamber was paying for the letters.

City Manager Tree responded at this point the Chamber had not been approached about the signage.

Councilmember Spear asked why the logo did not include the City of Twentynine Palms.

City Manager Tree responded it could be modified to say that.

D.J. Masker, Twentynine Palms, said the City of Twentynine Palms should be on the sign.

Councilmember Harris suggested digital video frames that cost \$125 a piece that rotates pictures and a video could be run on them also that could be mounted on the walls.

Project Manager Cole said he has been shopping around for quotes on different items and looking into prices of kiosks.

Consensus of the City Council was to approve the deal points for the lease agreement and operations agreement with the Chamber of Commerce and authorized the City Manager to sign the agreements.

City Manager Tree said he would move forward with the pricing of the improvements.

10.0 LEGISLATIVE/COUNCIL/REDEVELOPMENT

10.1 Councilmember Assignments

RECOMMENDATION: The City Council makes changes to the City Council Task Force and Organizational Assignments as needed.

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

Councilmember Spear volunteered to be on the CDBG Task Force.

ACTION: ON a motion made by Councilmember Klink, seconded by Councilmember Cole, and carried with a 5-0 roll call vote the City Council accepted the Task Force's of the City Council.

Mayor Flock suggested making Councilmember Cole a representative for the Morongo Basin Transit Authority Organizational Assignment and Councilmember Klink an Alternate.

ACTION: On a motion made by Councilmember Klink, seconded by Councilmember Cole and carried with a 5-0 roll call vote, the City Council accepted the City Council Organizational Assignments.

11.0 FUTURE COUNCIL INITIATED ITEMS- None

12.0 CLOSED SESSION- None

13.0 ADJOURN- Mayor Flock adjourned the meeting at 10:20 p.m.

Respectfully Submitted,

Charlene L. Sherwood MMC, City Clerk