I. CALL TO ORDER - 3:00 P.M.

Mayor Weber convened the meeting at 3:00 p.m.

II. ROLL CALL

Present:
Councilmember Jan C. Harnik
Councilman Sabby Jonathan
Councilmember Kathleen Kelly
Mayor Pro Tem Gina Nestande arrived at 3:03 p.m.
Mayor Susan Marie Weber

Also Present:
Lauri Aylaian, City Manager
Robert W. Hargreaves, City Attorney
Rachelle D. Klassen, City Clerk
Lori Carney, Director of Administrative Services
Russell Grance, Director of Building & Safety
Ryan Stendell, Director of Community Development
Martin Alvarez, Director of Economic Development
Janet M. Moore, Director of Finance/City Treasurer
Tom Garcia, Director of Public Works
Stephen Y. Aryan, Risk Manager
Ty Davis, Division Chief, Palm Desert Fire/Riverside Co. Fire Dept./Cal Fire
Bryan White, Battalion Chief, Palm Desert Fire/Riverside Co. Fire Dept./Cal Fire
Matt Martello, Asst. Chief, Palm Desert Police/Riverside Co. Sheriff’s Department
M. Gloria Sanchez, Management Specialist II

III. ORAL COMMUNICATIONS - A (CLOSED SESSION ITEMS)

None
IV. ADJOURN TO CLOSED SESSION

Request for Closed Session:

A. Conference with Real Property Negotiator pursuant to Government Code Section 54956.8:

1) Property: Lease Property - Parkview Professional Office Complex - 73710 Fred Waring Drive, Suite No. 116, Palm Desert
Negotiating Parties:
Agency: Lauri Aylaian/Anthony Hernandez/City of Palm Desert
Property Owner: City of Palm Desert
Other Parties: Lift To Rise
Under Negotiation: x Price x Terms of Payment

B. Conference with Legal Counsel regarding significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2):
Number of potential cases: 2

With City Council concurrence, Mayor Weber adjourned the meeting to Closed Session at 3:01 p.m. She reconvened the meeting at 4:00 p.m.

V. RECONVENE REGULAR MEETING - 4:00 P.M.

A. REPORT ON ACTION FROM CLOSED SESSION.

Mr. Hargreaves stated there was no reportable action from the Closed Session just ended.

VI. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA - Palm Desert Charter Middle School ASB Members Cameron Keller & Hailey Hays

VII. INVOCATION/INSPIRATION - Councilmember Kathleen Kelly

VIII. AWARDS AND PRESENTATIONS

A. PRESENTATION OF PROCLAMATION DECLARING THE MONTH OF APRIL 2019 AS “DMV / DONATE LIFE CALIFORNIA MONTH” IN THE CITY OF PALM DESERT.

On behalf of the entire City Council, Mayor Weber presented the framed proclamation to One Legacy Ambassador, and herself a living donor, Cheryl Machan, who was joined by one of the Palm Desert DMV Office Managers.
MS. MACHAN thanked the Mayor and City Council for recognition of this very important nationwide outreach in the month of April. She went on to say that in the past month the first Honor Walk occurred for an organ-tissue donor at Desert Regional Medical Center, Palm Springs, and was a very touching ceremony. She added that donor ended up saving five people with his organs alone and encouraged everyone to be a donor and save lives. They added that the DMV works hand-in-hand with One Legacy and is truly a partner in this program, helping educate the public about the importance of organ donation by checking the box on their California Drivers License or Identification Card. It was noted that this election can also be made through the online DMV portal.

IX. ORAL COMMUNICATIONS - B

MR. DALLAS WILLIAMS, on behalf of the Family YMCA of the Desert and the approximately 800 kids who participate, announced the YMCA’s annual Easter Egg Hunt being held in Civic Center Park next Saturday, April 20, at 10:00 a.m. for Palm Desert kids. Around 10,000 eggs are hidden for five different hunts conducted over a two-hour period, all free, with healthy activities and more games offered afterward. He then provided a video from 2018, adding that the Silver Foundation is a $5,000 sponsor for the event.

Councilman Jonathan thanked Mr. Williams and the YMCA staff for doing an excellent job with the event, particularly for leaving Civic Center Park in great condition afterward, since he never sees any leftover eggs when he runs there the next day.

X. MAYOR AND COUNCILMEMBER REPORTS & REMARKS TO THE COMMUNITY

A. Councilmember Jan C. Harnik Committee Reports and General Comments.

1. Yom HaShoah - announced that the annual Holocaust Remembrance Day will be held this coming Sunday, with a ceremony scheduled for The Galen Auditorium at Eisenhower Medical Center from 3:00 p.m. - 5:00 p.m. She added that it was a meaningful event.

B. Councilman Sabby Jonathan Committee Reports and General Comments.

None

C. Councilmember Kathleen Kelly Committee Reports and General Comments.
1. **SunLine Transit Agency - Earth Day 2019** - noted that SunLine had long been an international leader in zero emissions technology. On Earth Day, Monday, April 22, from 10:00 a.m. - 2:00 p.m., there will be a public event at headquarters in Thousand Palms for introducing a newly-being-constructed hydrogen fueling station and advanced electrolizer, truly capturing the cutting-edge technology for these fuels. There will be community tours, including SunLine’s Learning Center that is attracting participation from around the world.

D. Mayor Pro Tem Gina Nestande Committee Reports and General Comments.

None


With City Council concurrence, the Meeting Summaries Report was received and filed.

F. City Council Requests for Action.

1. **Cannabis Smoking** – Councilman Jonathan said he recently received a letter of concern from a resident with five young children (10-14 years), with a neighbor, apparently legally, smoking cannabis outdoors. The neighbor smokes pot day and night, drifting into the backyard, the house, and children’s bedrooms, with no way to escape it, with the resident also was carefully pointing out that the neighbor is within his legal rights. However, he wanted to understand if there was any help to be provided in this situation. Upon making an initial inquiry to staff, he learned that there are cities with ordinance restrictions such that if complaints of odor from cannabis are received, users are restricted from engaging in it outdoors. He was unsure whether or not it was worth asking staff to review Palm Desert’s ordinance to see if it calls for reconsideration of just that aspect, noting that this was the first complaint he’d received. He sought concurrence from his colleagues about whether or not additional review was warranted at this time.

With City Council concurrence, staff was directed to look into the cannabis regulations for a future agenda item with regard to the issue of odor being considered a nuisance and if there are constructive ways for addressing it.

G. City Council Consideration of Travel Requests/Reports.
XI. STAFF REPORTS AND REMARKS

A. City Manager


With City Council concurrence, the City Manager’s Meeting Summaries Report was received and filed.

2. Agenda Item Notes

Ms. Aylaian noted that when City Council gets to agenda Section XII - Consent Calendar, Item L, staff will request it be pulled for separate consideration; and on Section XIV - Resolutions, Item A, staff wishes to pull that item entirely from consideration at this meeting.

B. City Attorney

None

C. City Clerk

None

D. Public Safety

1. Fire Department

Chief Davis commented that the Fire Department has already seen an increased number of medical emergencies on the Bump ‘N Grind Trail in the City. Therefore, he provided awareness tips for residents and visitors if they’re planning to hike in the near future.

– The four-mile Bump ‘N Grind Trail is considered about a two-hour, moderately challenging hike. Residents should be diligent, pace themselves, and most importantly, start early in the day while temperatures are cool, as quite a few heat-related illnesses, along with some minor-to-moderate trauma-type injuries occurring already.

– Bring sufficient water along and some nutritional snacks.

– Use the buddy system and hike in a group, that way assistance or communication can be provided if needed in an emergency.
– Let friends and family know where you are.

– The Fire Department is always here to help if you need them – call 9-1-1.

Chief Davis lastly called attention to a loss from the law enforcement community on Saturday, April 6, when a California Highway Patrol Officer was hit and killed due to a possible suspected drunk driver. He urged everyone to keep the public safety community in its thoughts and prayers while they’re out there doing their jobs.

Responding to inquiry about the increased number of calls on the Bump ‘N Grind Trail, he said the reasons vary. Usually, it’s heat-related/dehydration, which can then segue into people getting confused about where they’re at. However, a lot of systems and processes are in place through the dispatch-command center to pinpoint location with GPS tracking, allowing the Fire Department to get there quickly, find, and treat the injured person. He added that sometimes the person is unable to walk out, and there is access to the helicopter hoist for these incidents; but most of the calls were heat-related, along with some trauma-related.

2. Police Department

None

XII. CONSENT CALENDAR

PALM DESERT CITY COUNCIL

A. MINUTES of the Regular City Council Meeting of March 28, 2019.

Rec: Approve as presented.


Rec: Approve as presented.

C. CLAIMS AND DEMANDS AGAINST THE CITY/HOUSING TREASURIES - Warrant Dated 3/22/2019 (Joint Consideration with the Palm Desert Housing Authority - Item V below).

Rec: Approve as presented.
D. **COMPLIANCE ANALYSIS & INVESTMENT REPORTS** for the Months of January 2019 and February 2019 *(Joint Consideration with the Successor Agency to the Palm Desert Redevelopment Agency - Item S below)*.

Rec: Receive and file.

E. **APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE** by Bella Villaggio, 40235 Portola Avenue, Palm Desert.

Rec: Receive and file.

F. **APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE** by Island Boba Sushi Poke, 36901 Cook Street, Suite 6, Palm Desert.

Rec: Receive and file.

G. **APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE** by Ristorante Mamma Gina, 73705 El Paseo, #s 30B, C & D, Palm Desert.

Rec: Receive and file.

Approved on a 4-0-1 vote *(AYES: Harnik, Kelly, Nestande, and Weber; NOES: None; ABSTAINED: Jonathan)*.

H. **APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE** by Sweet Spot Café, 73338 Highway 111, Palm Desert.

Rec: Receive and file.

I. **CITY COMMITTEE AND COMMISSION MEETING MINUTES**.

2. Cultural Resources Preservation Committee Meeting of January 29, 2019.

Rec: Receive and file.

J. **RESOLUTION NO. 2019 - 12** - A Resolution of the City Council of the City of Palm Desert, California, Setting Forth Its Findings and Authorizing the Destruction of Paper Records that Have Been Digitally Imaged from the Department of Community Development/Planning, to Rely on the Electronic
K. RESOLUTION NO. 2019 - 13 - A Resolution of the City Council of the City of Palm Desert, California, Setting Forth Its Findings and Authorizing the Destruction of Paper Records that Have Been Digitally Imaged from the Finance Department, to Rely on the Electronic Record as the Official Record - Exhibit “A” - Various Finance Department Files.

Rec: Waive further reading and adopt.


This item was removed for separate consideration under Section XIII - Consent Items Held Over - of the agenda. Please see that portion of the minutes for resulting discussion and action.

M. REQUEST FOR RENEWAL OF CONTRACT with Same Day Express in Fiscal Year 2019-2020 for Maintenance of the City of Palm Desert’s Permanent Public Art Collection and the El Paseo Sculpture Exhibition (Contract No. C36132).

Rec: By Minute Motion, approve/authorize: 1) Renewal of subject contract with Same Day Express in the amount of $49,992 for the period of July 1, 2019 - June 30, 2020, for maintenance of the City of Palm Desert’s Permanent Public Art Collection and the El Paseo Sculpture Exhibition; 2) up to $5,000 on an as-needed basis for additional maintenance services from Same Day Express; 3) Mayor to execute said contract renewal – monies will be available in the Public Art Fund for FY 2019-2020.

N. REQUEST FOR RATIFICATION of Change Order No. 1 to Contract No. A38010 – Council Chamber Heating, Ventilation, and Air Conditioning

Rec: By Minute Motion, ratify approval of Change Order No. 1 in the amount of $9,379 to subject contract for additional HVAC equipment necessary for the media control room in the Council Chamber – funds have been allocated to Account No. 4504161-4400100 - Building Maintenance.


Rec: By Minute Motion: 1) Preapprove and authorize expenditures in an amount not to exceed $60,000 ($40,000 to Pyro Spectaculars, Inc., [Contract No. C38430A] and $20,000 for ancillary vendors) from the FY 2019-2020 Budget for production of the 2019 Independence Day Celebration event; 2) authorize City Manager to execute ancillary vendor contracts associated with production of the event in an amount not to exceed $20,000.

P. REQUEST FOR APPROVAL of the 2019 Relay For Life of Coachella Valley Event Scheduled for Saturday, November 9 (Samantha Tweddell, Community Development Manager, Applicant).

Rec: By Minute Motion, approve/authorize: 1) The 2019 Relay For Life of Coachella Valley scheduled for Saturday, November 9; 2) temporary waiver of Palm Desert Municipal Code (PDMC) Sections: a) 11.01.140 - Amplified Sound in City Parks; b) 11.01.080(O) - Placement of Advertising Signage in City Parks; c) 11.01.080(Q) - Vendor Sales in City Parks; d) 11.01.080(W) - Possession/Consumption of Alcohol in City Parks, pursuant to PDMC Section 9.58.040.

SUCCESSOR AGENCY TO THE PALM DESERT REDEVELOPMENT AGENCY

Q. MINUTES of the March 28, 2019, Regular Meeting of the Board of Directors of the Successor Agency to the Palm Desert Redevelopment Agency.

Rec: Approve as presented.

Rec: Approve as presented.

S. COMPLIANCE ANALYSIS & INVESTMENT REPORTS for the Months of January 2019 and February 2019 (Joint Consideration with the Palm Desert City Council - Item D above).

Rec: Receive and file.

PALM DESERT FINANCING AUTHORITY

T. MINUTES of the Financing Authority Meeting of September 27, 2018.

Rec: Approve as presented.

PALM DESERT HOUSING AUTHORITY

U. MINUTES of the Housing Authority Meeting of March 28, 2019.

Rec: Approve as presented.

V. CLAIMS AND DEMANDS AGAINST THE CITY/HOUSING TREASURIES - Warrant Dated 3/22/2019 (Joint Consideration with the Palm Desert City Council - Item C above).

Rec: Approve as presented.

Ms. Aylaian requested that Item L be removed for separate consideration, and Councilman Jonathan noted that he would be ABSTAINING from the vote on Item G.

Upon a motion by Harnik, second by Nestande, and 5-0 vote of the City Council, Successor Agency Board, Financing and Housing Authority Boards (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None; ABSTAINING: Jonathan on Item G alone), the balance of the Consent Calendar was approved as presented.

XIII. CONSENT ITEMS HELD OVER

Ms. Aylaian remarked that this item was requested for separate consideration because a modification was requested only for recommendation #1, adding the words, “subject to minor modifications approved by the City Manager, City Attorney, and Director of Public Works.” Remainder of the recommendation would be the same. She said this resulted from staff needing to address some technical issues on the certificate of insurance provided by the architect.

Responding to question, staff confirmed that the correct name of the architectural firm was Sillman Wright Architects (instead of Stillman Wright as it had appeared on the agenda).

Upon inquiry about recommendation #2 to appropriate $90,000 from General Fund to the Building Maintenance Capital Improvement Project Fund, inasmuch as the fiscal analysis indicates no impact, Ms. Aylaian responded that the cost of the design services is $90,000. She added that there is no impact beyond the $90,000 at this point; but if the project continues on to construction, an appropriation for that cost would be required.

Further answering, Ms. Moore stated the $90,000 amount is General Fund money set aside for this purpose; subject request would be applied to the same fund. She went on to explain that funds will be budgeted in Fiscal Year 2019-2020 and confirmed that the $90,000 for this specific request was not budgeted for FY 2018-2019. Responding to comment that this represented an unbudgeted use of the General Fund and question why it wasn’t part of any one of the existing Capital Improvement Accounts, she believed it was coming forward at this time from the Unobligated General Fund Reserve Account in order to get the architect started on the project so that some of the work can be done during Council’s summer recess. She went on to say that since the FY 2019-2020 Budget will not be presented to City Council until late June, that timing would be too late; the request was being made now to proceed with this part of the project, and remainder of design and actual construction are being included in the proposed FY 2019-2020 Budget. She clarified that the monies are coming from the General Fund Building Maintenance Fund when FY 2019-2020 commences; however, since there was no Capital Project included in FY 2018-2019, the funds needed appropriation at this time. She went on to confirm that the requested funds were coming from Fund 450, which is tied to the General Fund and set aside for the requested purpose, but will not affect General Fund 110.

Councilmember Harnik moved to, by Minute Motion: 1) Award subject contract to Sillman Wright Architects, San Diego, California, in the amount of $90,000 for design consulting services related to interior improvements of the City Council Chamber, subject to minor modifications approved by the City Manager, City Attorney, and Director of Public Works; 2) appropriate $90,000 from Unobligated General Funds to the Building Maintenance Capital Improvement Project Fund for this purpose; 3) authorize the City
Manager to execute said Agreement and any necessary Change Orders – if above actions are approved, funds will be available in Project Account No. 4504161-4400100. Motion was seconded by Councilmember Kelly and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

XIV. RESOLUTIONS


Staff confirmed that it wished to withdraw this matter from today’s agenda.

With City Council concurrence, Resolution No. 2019-14 was withdrawn from consideration on this agenda.

XV. ORDINANCES

A. For Introduction:

None

B. For Adoption:

None

XVI. NEW BUSINESS

A. REQUEST FOR ADOPTION OF THE PALM DESERT “STATEMENT OF INVESTMENT POLICY, AS AMENDED” (JOINT CONSIDERATION WITH THE SUCCESSOR AGENCY TO THE PALM DESERT REDEVELOPMENT AGENCY, PALM DESERT FINANCING AUTHORITY, AND PALM DESERT HOUSING AUTHORITY).

Deputy City Treasurer Thomas Metz stated adoption of the Palm Desert “Statement of Investment Policy, As Amended,” was requested as part of the Finance Department’s annual review process. He said several changes were being recommended, either to make the Policy more conservative or to align it more closely with the State Investment Code.

Mayor/Chair/President/Chairman Weber added that this matter was presented to the Audit, Investment & Finance Committee on March 26 and given approval.

Mayor Pro Tem/Vice Chair/Vice President/Vice Chairman Nestande moved to waive further reading and adopt the Palm Desert Statement of Investment Policy, As Amended,
with: 1) City Council Resolution No. 2019-15; 2) Successor Agency Resolution No. SA-RDA 076; 3) Financing Authority Resolution No. FA-69; 4) Housing Authority Resolution No. HA-91. Motion was seconded by Councilmember/Director/Commissioner/Member Kelly and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

B. CONSIDERATION OF UNIVERSITY PARK COMMUNITY FACILITIES DISTRICT (CFD) BOND REFUNDING (JOINT CONSIDERATION WITH THE PALM DESERT FINANCING AUTHORITY).

Senior Management Analyst Veronica Tapia commented that of the $70 million originally issued in 2006-2007 for this CFD, approximately $28 million remains for property owners to pay debt service on annually. She noted that the economic downturn occurred subsequent to this debt issuance, and the majority property owner here currently is University Park Investor LLC (UPI) at 63%. They have completed the entitlement process, are now in the grading permit process and asked the City to see if any cost savings could be achieved with a refunding. She went on to say that the City has engaged its municipal advisor for such review, and he came back with a savings of $4.65 million over remaining life of the bond, which is approximately $273,000/year going back to property owners. Generally, she said if there is a net present value (NPV) savings of around 3%, it’s said to be a good cost savings for refund; this particular issue is conservatively estimated to have 11.45% NPV, with staff believing there is slightly more if refunding is closed by the September 2019 call date. Therefore, staff was requesting authority to engage the finance team and move forward with documentation required to refund. The Audit, Investment & Finance Committee nominated two of its members for the selection subcommittee to choose an underwriter from the pool approved by City Council in 2018. She pointed out that there will be no impact to the General Fund, with all costs associated with the financing team needed to accomplish the refunding being borne by the cost of issuance. She offered to answer questions.

Councilman/Commissioner Jonathan commended staff for its work on this item. He added that periodically the City refinances/refunds debt and asked staff if there was a process for systematically reviewing savings opportunities.

Ms. Tapia answered that, generally, staff responds whenever a pool participant comes forward to alert the City that a particular savings would benefit the homeowners/property owners; or if the property owner comes in to specifically request the City take a look. Further responding, she confirmed that the City had not initiated such a review previously and reiterated that it waits for an affected property owner to make a request instead.
Councilman/Commissioner Jonathan said he would leave it to staff’s discretion, but felt it prudent to initiate review for potential opportunities.

Councilmember/Commissioner Harnik moved to, by Minute Motion, authorize:
1) City Manager and the Finance Officer (Director of Finance of the City of Palm Desert) to begin working with the financing team to prepare necessary preliminary documentation for issuance of Refunding Bonds for University Park 2006A bonds – including entering into engagement letters and agreements with the financing team for their services; 2) staff to select an underwriter from the approved Underwriters Pool, based on criteria established in the Request For Qualifications (RFQ) dated June 4, 2018, and prioritized by the refunding needs of the CFD. Motion was seconded by Mayor Pro Tem/Vice President Nestande and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

C. REQUEST FOR AUTHORIZATION TO GO TO BID FOR OPERATIONS OF THE 2019/2020 EL PASEO COURTESY CART PROGRAM AND CONSIDERATION OF FUTURE PROGRAMS.

Mr. Alvarez reviewed background of the Courtesy Carts Program in follow-up to City Council’s February 28 Study Session, including that it offers a free shuttle service on El Paseo for visitors, guests, and residents in the period of October - May. Two carts are operated from 11:00 a.m. - 6:00 p.m. daily; a third cart is available upon request for persons needing accessibility and for special events throughout the year. Presently, he said carts are hailed individually, and riders can hop on in a safe location; there are also eight (8) designated locations along the street identified with a yellow-colored ground identification symbol. Courtesy Cart Program is funded through the General Fund, with current contract set to expire in May. Further, at the aforementioned Study Session, staff presented and discussed various options for modifying, enhancing, and engaging the program to move it forward. He recalled those being:

- Retaining existing program and going forward with a new contract.
- Contracting with an outside vendor (similar to FRED [Free Ride Everywhere Downtown] and Around Town programs) to provide an enhanced opportunity with app managed by a third party, including their ownership of the carts and managed insurance (like Uber).
- Adding a mobile phone application to the existing program.
- Expanding program, possibly off El Paseo onto San Pablo Avenue, trips to The Living Desert, or Westfield, etc.
- Opportunities for advertising on the vehicle – interior or exterior.
- Opportunities for enhancing visibility of the carts by providing on-board overhead identification, an additional visual queue that the service is available; possibly illuminated signage for vehicle roof with “El Paseo Courtesy Cart,” or “Free Shuttle,” etc.
Mr. Alvarez went on to say staff has developed several recommendations, both from input received and things it has looked at in greater detail. One definite recommendation is authorization to advertise a Request For Proposals (RFP) in order to go forward with new contract for next fiscal year (2019-2020). He added that the RFP was being designed as a one-year contract with two, one-year extensions, if City Council so authorizes. Additionally, he said staff recommends retaining the carts as City-owned and insured, providing the same level of service with two carts and operating hours of 11:00 a.m. - 6:00 p.m. He stated staff will continue looking at other ways for enhancement within the scope of the contract – modifying hours based on peak season and weekend demand, accordingly, with third cart available as needed. Estimated budget amount for FY 2019-2020 is approximately $140,000.

He elaborated that other recommendations provided in the printed staff report included there currently being some unallocated funds in the Economic Development Department budget for FY 2018-2019 to move forward now with identification on the carts themselves. Bids would be secured for rooftop- affixed signage, illuminated at night for increased visibility – cost for three carts estimated at $15,000. Staff also recommends adding a mobile phone application to track the current cart systems, providing notification to riders as the vehicles arrive at their geographic location. Mobile phone application is available through SunLine Transit Authority, and City staff has been working with them on its development in order for the City to utilize existing expertise and information already gathered for this purpose. Along with the above, if the City is going to employ a mobile phone application, it needs to prepare additional marketing materials for greater exposure to the program. This could include additional street decals, rack cards, or other advertising, with an estimated budget of $5,000 for next fiscal year (2019-2020).

Lastly, he sought City Council feedback regarding on-board advertising. Staff recommended advertising within the cart and developing a policy to be brought back before City Council for adoption, regarding who advertises – only City businesses or El Paseo businesses, City events or other major events throughout the year. Initial concept being considered is a digital screen inside the cart with looped message displaying throughout the ride. Circulation of the carts is recommended to remain on El Paseo, that being intended focus of the effort at this time. However, he foresaw opportunities for expansion in the future once the San Pablo Corridor comes online, as well as additional energy and movement on the 111 Corridor. In summary, Mr. Alvarez restated that staff’s request for the El Paseo Courtesy Carts was to go out to RFP and to include a couple of the aforementioned items in FY 2019-2020 Budget for marketing, along with the mobile phone application.
Councilmember Harnik assured her colleagues that the El Paseo Parking and Property Improvement District Board would be very happy with the proposal, because they were strongly supportive of enhancing the program. She said they’ve been talking about and working on it over the past year, feeling it very important to their operations. She called attention to the ridership table comparing 2016-2017 to 2017-2018 in the staff report, pleased by the increase. She also loved the mobile phone app and felt it would be a tremendous asset. Additionally, she and Mayor Pro Tem Nestande, as part of the City’s Marketing Committee, had opportunity to receive a presentation on market positioning. She was struck by the need to use “Palm Desert” more often, especially in looking at sample signage in this presentation, agreeing that it should say “El Paseo” and “Courtesy Cart,” but urging that it prominently include “Palm Desert” in a larger typeface, if possible. She acknowledged seeing City’s “PD” logo on the carts currently, but it doesn’t necessarily say “Palm Desert” to everyone. Further, given that this is a pretty straightforward contract with 30-day termination clause, and considering the cost both in dollars and staff time, she felt it may be prudent to make a two-year contract with one, two-year extension, instead of one and one, providing more time before the next RFP comes due.

Mayor Pro Tem Nestande noted that Councilmember Kelly invited SunLine officials to the February 28 Study Session, and Mr. Alvarez mentioned contacting them about the mobile app here today, but she wondered if SunLine had made any comment about financial aspects or cost-benefit of operating a third cart.

Mr. Alvarez responded that staff Business Advocate Deborah Glickman followed up with SunLine to discuss the mobile phone application, but he didn’t think they got into any of the pros or cons of adding a third cart. He submitted that the two existing carts are being used extensively but didn’t think it beneficial to add a third cart at this time, because it was being used as needed for special events and a good fit in that regard. Councilmember Kelly added that SunLine can be available to the City on an ongoing basis to assist staff with assessment of these questions as additional data is acquired.

In answer to question about the definition of El Paseo for purposes of the Courtesy Cart Route, given requests for it to go past the Historical Society of Palm Desert and to The Galen at Palm Springs Art Museum in Palm Desert, Mr. Alvarez confirmed the cart system has been utilized on El Paseo from its initiation at Highway 111 on one end to termination at Highway 111 on the other end. He said this encompasses the entire stretch west to east from Entrada del Paseo, which is location of the Palm Springs Art Museum in Palm Desert. Further responding to question about when input on the advertising policy should be received, he agreed that it would be appropriate to receive some feedback and/or direction for staff here in order to develop
a draft policy for the vehicles (e.g. inside or outside and the types of businesses to be marketed).

Councilmember Kelly noted she understood staff's recommendations here to include staff exploration of advertising options and presumed that City Council would first want some analysis to be presented before being able to constructively discuss how the policy should be adopted, such as boundary lines that can be lawfully drawn in compliance with the First Amendment.

Mr. Alvarez concurred and said staff intended to return to the City Council with a proposed policy and recommendations. Upon inquiry about whether or not staff wanted to know if City Council favored limiting the scope of El Paseo Courtesy Cart advertising to only El Paseo businesses, he said that was something staff would be exploring – if/how it can be limited, and if so, how to implement.

Given staff's comment about analyzing what is aligned with the First Amendment, Councilmember Harnik felt digital advertising would be appropriate inside the cart., adding she would welcome more information in order for City Council to make a decision.

Councilman Jonathan liked what was being presented; it was a great step forward, albeit a baby step, while he thought the City was ready for an adult step – great for El Paseo, but a missed opportunity. He called attention to the staff report's second reference under Strategic Plan Objectives, Transportation Priority No. 3, to “De-emphasize the use of single/low occupancy vehicles and optimize multiple modes of travel.” He felt it City Council’s responsibility to move forward here by expanding the Courtesy Cart Program well beyond El Paseo and really use it as a way to define and create the Downtown City Core – one of the Strategic Plan’s primary objectives. He believed it appropriate to expand to The Living Desert, Street Fair, etc. Further, he didn’t think an app that merely lets people know where the cart is would be particularly beneficial; an app like the one used for FRED and other vendors, where a person can actually hail the Courtesy Cart for a direct pick-up, is much more useful.

Mayor Pro Tem Nestande felt once the Downtown Core was established, including San Pablo Corridor improvements, would be the appropriate time to expand service. She questioned the demand for it presently for someone who’d been at The Living Desert walking around, getting hot, sweaty, and touching animals, wanting to then go shopping on El Paseo.

Councilman Jonathan agreed, adding that the City would find out. Part of his concern was about parking for The Living Desert sometimes being all the way down Portola Avenue to Haystack. He felt there was an opportunity here for people to park in the structure at The Gardens, spend some time on
El Paseo, then go up to Living Desert for a couple of hours, if they have an annual membership. He said there was also the McCallum Theatre, Street Fair, or College of the Desert itself, and eventually CV/Link. Notwithstanding, he didn’t have a problem waiting, as he heard his colleagues’ comments and concurred it may be premature to take it to the next level. The one-year contract allows San Pablo to get under development, then the Courtesy Cart Program can be reevaluated. He was also intrigued that there may be some professional expertise and assistance available for expanding it even beyond the Downtown City Core eventually to a network of shuttles going out to JW Marriott Desert Springs, Desert Willow, and the University area, hoping Councilmember Kelly had more information in this regard.

Councilmember Kelly said it was well known that transportation is evolving by the second, and SunLine is now identifying areas for exploration of a pilot rideshare program that integrates with both local transportation options in cities and with SunLine trunk services. Moreover, it was her firm belief that the extent of transportation alternatives furnished by providers other than the City would be revealed over the next 1-2 years. She said then the City can determine how it can strategically supplement transportation options to achieve its own objectives of spurring/supporting businesses. Therefore, she felt 1-2 years’ commitment to the existing Courtesy Cart Program makes very good sense, because City Council unanimously recognizes that it should be doing this much to support El Paseo businesses, with consideration for the rest at a future juncture. Councilman Jonathan concurred.

Councilmember Harnik thought The Living Desert issue was an important one to look at going forward, agreeing that when they hold an event where parking spills out on Portola Avenue, it needs City consideration. Although, she felt it should be a co-op opportunity with The Living Desert where they contribute toward it; it shouldn’t be all taxpayer funds.

Councilman Jonathan said he was persuaded and moved to, by Minute Motion: 1) Authorize staff to advertise a Notice Inviting Sealed Bids for Operation of the El Paseo Courtesy Carts in FY 2019-2020 (Contract No. C38440); 2) approve an expenditure in an amount not to exceed $15,000 for signage on the three (3) Courtesy Carts – funds are available in the Economic Development Fund; 4) direct staff to develop an advertising policy and strategy for the Courtesy Carts. Motion was seconded by Mayor Pro Tem Nestande and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

XVII. CONTINUED BUSINESS

None

XVIII. OLD BUSINESS
None

XIX. PUBLIC HEARINGS

A. REQUEST FOR CITY COUNCIL REVIEW OF PLANNING COMMISSION RESOLUTION NO. 2754 FOR ADMINISTRATIVE USE PERMIT 19-0001 TO ALLOW A STABLE FOR UP TO THREE (3) HORSES ON A RESIDENTIAL ESTATE PROPERTY LOCATED AT 77630 DELAWARE PLACE (Marc and Jenny Gerhardt, Applicants).

Assistant Planner Nick Melloni reviewed the staff report and chronology of events for the case. After the Zoning Administrator's decision was issued on January 30, 2019, the case was appealed on February 14, with residents' primary concerns being impacts caused by odor, dust, flies, and potential impacts to viewsheds. At its March 5, 2019, meeting, Planning Commission upheld Zoning Administrator’s decision to approve the application, and on March 20, City Council requested a review. He called attention to a map showing general location of the project near the City's eastern boundary, between Washington Street and Warner Trail, adding it is the only part of City featuring the RE (Residential Estate) zoning designation. He said this property is 1+ acres, rectangular in shape, and currently features a single-family residence under construction by the property owners/applicants in the subject case. Properties immediately north of the site are zoned single-family residential (R-1), with a minimum lot size of 8,000 square feet, compared to RE being a minimum of 40,000 square feet.

Mr. Melloni went on to say that the City’s Zoning Ordinance allows horses in the RE zone, subject to applicant obtaining an Administrative Use Permit (AUP) approved by the Zoning Administrator and reviewed for things like minimum setback, maximum number of horses, areas for the horse enclosure, along with operational guidelines to ensure odor is not an issue. He said the Applicant specifically requested approval for two (2) horses on their yard; however, there is provision to allow an additional pony, which is in line with the Ordinance. Further, he said the Code requires a minimum 100-foot separation from properties that are not also zoned RE, and since properties to the north are R-1, the larger setback is required; subject proposal complies with all development standards. He provided an illustration of the horse shelter, which is within scale as an accessory structure to the existing primary home. He stated that in staff's analysis, it concludes that the subject application complies with all Municipal Code requirements, as summarized in table shown in the printed staff report – minimum lot size, maximum number of horses, etc. He added that as part of the Planning Commission Resolution, as well as in the initial decision, conditions of approval were drafted to ensure regular maintenance of the property by the Applicant. This includes daily waste cleaning and its removal from the property at least weekly, more often, if necessary, if determination
made that odor becomes an issue; and there is compliance with all standards. Additionally, since this is an Administrative Use Permit (AUP), staff imposed a non-transferrable condition, meaning any new operator would have to come in and go through the process again to receive approval so that they would understand the City’s expectations for maintaining horses on their property. In closing, Mr. Melloni said staff recommends that City Council reaffirm the Planning Commission’s decision to uphold for the project, thereby approving the stable.

Upon question, referring to the printed staff report’s Table 1 that sets forth Ordinance standards compared to the subject project, showing conformity to each criteria, for the legal basis City Council would have for overturning both the Zoning Administrator’s approval and the Planning Commission’s affirmation, Mr. Stendell replied that the Municipal Code doesn’t leave a lot of latitude for this specific case. Presently, he said it states that the Planning Commission’s decision is final. After consulting with the City Attorney, they determined that, ultimately, City Council has full discretion over this permit. However, per the Municipal Code, City Council has requested review for conformity to the broader zoning designation; and it’s being treated as a public hearing.

In further response to question of whether or not City Council has a basis for denial even when the application is in full conformity, Mr. Hargreaves said in his prior review of the Ordinance compared to the subject case, he concluded that the City Council does not have absolute discretion. Findings would have to be made under the Ordinance that the application was not consistent with it. Upon his review of PDMC 25.64.040(D)(3), “Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity in which the project is located,” he said that was the parameter that City Council would need to rely upon.

Mayor Weber declared the public hearing open and invited testimony SUPPORTING or OPPOSING the review of Case No. AUP 19-0001.

MS. CHRISTINE SCHWARTZ, Edinborough Street, Palm Desert, said her residence was directly behind the subject property. She stated they went over to measure the property from the Applicant’s back patio pillar to her wall, and it was 172 feet. She thought then if the stable has to be 100 feet from her wall, it will be almost at the applicant’s house. Additionally, she wondered if with the pasture, it meant the horses could come right up to her wall, or if it needed to be further away from it. She noted that her husband has COPD (Chronic Obstructive Pulmonary Disease) and is on oxygen around 18 hours/day, which is worrisome for the effects of this application being so near their residence. She said yesterday the wind and dust were very bad in the neighborhood, and their main concern was health-related.
She believed the applicant got a bum deal on the property, because it wasn’t ready for horses nor enough room for them on the lot. It wasn’t fair to the horses, the applicant, or any of the neighbors.

MS. RENATE BURNSKNOBLAUCH, Devonshire Street, Palm Desert, said first, she was never notified of this issue. Second, Palm Desert is a city, not the countryside like Yucca Valley. She related that her daughter-in-law lives on five acres there and at one time had a couple of horses; before that she lived on Clancy Lane in Rancho Mirage where they had an acre of land and two horses, but it was inadequate for exercise or anything else. Further, her main concern was odor and dust; as she, too, has the start of COPD and was not yet on oxygen, but probably would be soon. She was also concerned about this application’s effect on all the other homes in the area, believing the Ordinance should be reviewed and possibly changed, as this is not an appropriate place for horses.

DR. JEFF SUDERMAN, Edinborough Street, Palm Desert, thanked the City Council for its time and work on behalf of this fine city. He felt this matter very important and picked up where legal counsel left off earlier in the hearing, believing there were two matters related to horses on the subject property where the Code has been violated. First is the City saying that the site is physically suited for this purpose, which he said while the site may be, the neighborhood is not. Secondly, the City states the permit would not be detrimental to public interest, health, safety, convenience, welfare, or materially injurious to property or the vicinity, etc.; here again, he thought it was. His major concern, while there were several that Mr. Melloni mentioned, is a key word the City keeps missing: health – with two citizens bringing it up already, and it’s significant. He said this neighborhood abuts playgrounds, playschools, churches, and apartment buildings; so it’s not just a few neighbors, but a neighborhood issue. Therefore, they believe the decision should be overturned, because the City is violating two of its own principles. Additionally, he requested a review of City Zoning for this region, as he didn’t believe the City has decided merely to allow three horses on the subject property, but 210 horses in the neighborhood – with 70 one-acre lots there, making it a bigger issue for the playgrounds and citizens impacted. He said up to this point, the City has consistently communicated that the land use code is sacrosanct and being followed. However, he thought everyone knew the City would never allow 210 horses there, leading him to believe there was a degree of latitude to the decision and encouraged the City to use it, even though it has chosen not to up to now. Lastly, he felt the Estate designation on the subject property was legacy zoning left over from before there was a neighborhood in the area and requested a process review, given that he had called attention to many process gaps in this case’s handling. They ranged from City staff discouraging the chances of appeal to Councilmembers giving him different answers on even what or how this process would be. He believed there was opportunity for clean-up, yet
acknowledging that the City does many more things right than it does wrong, again thanking City Council for its work, advocacy, and support of him and his neighbors here.

MR. SCOTT CROFOOT, Edinborough Street, Palm Desert, after asking when the subject zoning was approved and finding out from City staff that it was 1997, commented that meant there were probably not any houses on the street then. So he felt there needed to be a review of that area’s zoning for future use.

MR. JON CURRIE, Sussex Street, Palm Desert, said his residence was about a block away from the subject property. First, he wished to say that he loved living in Palm Desert and thanked City Council for having this hearing and listening to the residents. To the best of his knowledge, he was perplexed that no one in the neighborhood knew anything about the subject case until there was a hearing about it just going through. Normally, he would have expected residents to be noticed that the case was being considered from the beginning, seeming to him that the democratic process was skipped here. On a related note, he formerly lived in the City of Agoura Hills in western Los Angeles County also incorporated around 1973, but when it was, Agoura Hills made it very clear that equestrian property was to be desired there and a big part of its heritage. He added that Agoura Hills did so by making a separate section of equestrian-only properties, with tracts of the type he lived in being barred from this. He understood zoning principles, but it made no sense that an R-3 [sic] was butted up against R-1, and then assuming that the R-1 just goes on about its own business while the R-3 [sic] is allowed to do anything on its property.

MS. ZELDA SMITH, Edinborough Street, Palm Desert, concurred with neighbors who’d already spoken about their concerns for dust and odor, adding that she receives two allergy shots per week and takes allergy medications. In addition to the dust, flies, and odor, she was very concerned about her future health and offered to provide her health records in this regard. Additionally, she was also worried about well-being of the horses.

MR. WINDRIE WONG, Hastings Street, Palm Desert, said his home was about a block away from the property under consideration. He, too, was concerned about the process. He started to look into the matter but, upon going to the website and Planning Commission link, found that there were no minutes available for the March 5 meeting. He felt the process would be more complete if minutes of that meeting were available where everyone had registered their concerns and the public could go through them. This was because his recollection of the deliberations, and though he couldn’t remember which one, was that one of the Planning Commissioners indicated they had horses, representing a conflict in his mind if that person is partial to horses. With the minutes, he would have been able to confirm his
recollection. He also remembered another member stating they don’t live in Palm Desert, and he needed all the records available in order to present his case today. He added that there were minutes available of meetings prior to March 5 and hoped to get some more information as he followed this process.

With no further public testimony being offered, Mayor Weber declared the public hearing closed.

Mayor Pro Tem Nestande noted that under California State Law, any time a home is sold, the buyer is to be provided with a several-page-long Natural Hazard Disclosure Statement. This document tells everything about the property/home you’re going to purchase – environmental, zoning – and the seller and buyer both have to sign-off on it. While uncertain when this property was purchased or when speakers here today purchased theirs, she speculated that they probably received the Natural Hazard Disclosure Statement reflecting they were near horse property.

Councilmember Kelly stated she’d read everything folks had submitted for this item, listened very carefully to testimony, and what came across to her most dramatically was everyone who’s concerned assumes a “worst-case” scenario – that horses inherently create dust, odor, and flies. However, it was also clear to her that the conditions being imposed here are designed to make sure that the worst-case scenario does not occur. She said there was really no factual basis to fear that the presence of horses is going to cause more dust than the lot has caused without horses, reiterating that the conditions afford protection; and the City provides assurance that the conditions will be met. She went on to say that part of Palm Desert’s identity was affording a full range of housing options; it is not a one-size-fits-all city but one that tries to assure both the wealthiest and those of most-challenged means can all access amenities that assure a good life. She said part of that included preserving some space for larger lots, as in the subject instance, which can accommodate a limited number of horses. She hadn’t heard anything here causing her to question either the policy or its application, with a pretty substantial 100-foot setback – equaling one-third of a football field – to assure that ill effects will not be suffered, especially with the specific conditions put in place. She summarized by urging everyone to look at this from the perspective of the life that the conditions assure instead of the worst-case scenario that might happen without those conditions.

Councilman Jonathan first addressed issues surrounding the process in this matter. Staff’s report indicated that notice went out to property owners within 300 feet and listed 35 homes being notified. He thought that was in compliance with City policy, and Mr. Melloni concurred. Regarding comments about the minutes, he fully understood, as did the City Council,
noting that it was actually kind of a short time period to have minutes on the website with the whole process that has to occur for this and defended City staff for doing the best job possible. Further, he said every possible step was being taken to expedite the process of posting minutes on the website.

Mr. Melloni pointed out that the minutes also have to appear back before the Planning Commission to ensure that they’re consistent. He added that preliminary minutes from the March 5 Planning Commission Meeting were included in the agenda packet before City Council and also posted on the website for this item on today’s agenda. Additionally, the Public is able to contact the Planning Department at any time to request this information.

Councilman Jonathan continued, saying the comments he’d heard, letters he’d read, and e-mails received all certainly resonated with him and were valid. He said our homes are very much sacred in so many ways, and if someone threatens our home and its peaceful enjoyment, it is a very sensitive issue and would be the same for him as the neighbors here. However, he thought Councilmember Kelly’s comments also had validity – the Zoning Ordinance is intended to mitigate the impacts about which residents are concerned. From his standpoint, it was difficult to deny an application when it’s in compliance with the Zoning Ordinance; that becomes arbitrary, and one time it may work in your favor, the next time it may work against. The whole point of the process was to be objective, not subjective, and even though the concerns resonated, he could not find a way to appropriately overturn the previous conclusions. Further, he was encouraged that staff placed additional restrictions beyond those required by the Ordinance, including horses being kept within the approved stable and daily cleaning versus a lesser requirement, etc. He was hopeful that between the Zoning Ordinance itself and these additional restrictions placed on the Applicant that the kinds of fallouts residents are concerned about will not, in fact, materialize. Lastly, he submitted that if the Applicant is not in compliance, the permit shall be revoked, which is the fail-safe.

Councilmember Harnik felt everything had been said that needed to be from her perspective.

Mayo Weber stated she also agreed with what had been said. She went on to remind everyone that the City’s Code Compliance Department is very proactive; if there are any problems with any of the stated restrictions, the City should be called, Code Compliance will go out to investigate immediately, and she reiterated that the permit can be revoked. She added that the property owner is fully aware of this fact. She called attention to the 300-foot radius of notification and list of addresses to which notice was given, as shown in the public record for this item. But she was discomforted when people said they didn’t receive notice after the City followed its procedures as closely as possible. She asked staff to give this an additional review.
Other than that, she said the City has followed the process – the owner followed instructions and did everything he was supposed to do, the Zoning Administrator sent out the 15-day notice to approve the AUP (Administrative Use Permit) for the 300-foot radius, and the City followed all requirements. She observed that this is what Planning Commission reviews – following City ordinances to the letter and doing as Council has directed. City Council has reviewed all of this; but if it decides at a later date to make changes to future acquisitions of property, it may consider doing so.

Councilmember Kelly moved to waive further reading and adopt Resolution No. 2019-16, reaffirming the Planning Commission's decision to uphold the Zoning Administrator's approval of Administrative Use Permit 19-0001. Motion was seconded by Mayor Pro Tem Nestande and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

On behalf of the entire City Council, Mayor Weber thanked everyone who took time to write letters and e-mails, or came forward to speak at this meeting. She said all of this becomes part of the public record, and she provided a reminder for residents to call the City immediately if any problems are experienced.

XX. ADJOURNMENT

With City Council concurrence, Mayor Weber adjourned the meeting at 5:37 p.m.

SUSAN MARIE WEBER, MAYOR

ATTEST:

RACHELLE D. KLASSEN, CITY CLERK
CITY OF PALM DESERT, CALIFORNIA