

MINUTES

REGULAR PALM DESERT CITY COUNCIL MEETING

THURSDAY, MAY 23, 2019

CIVIC CENTER COUNCIL CHAMBER

73510 FRED WARING DRIVE, PALM DESERT, CA 92260

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
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
Matt Martello, Asst. Chief, Palm Desert Police/Riverside Co. Sheriff's Dept.
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: Desert Rose - 75406 Orange Blossom Lane
(APN 634-062-013), Palm Desert
Negotiating Parties:
Agency: Lauri Aylaian/Janet M. Moore/Veronica Tapia/City of
Palm Desert/Palm Desert Housing Authority
Property Owner: Francisco De Leon
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 4:02 p.m.

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

- A. REPORT ON ACTION FROM CLOSED SESSION.

Mr. Hargreaves reported that direction was given in Closed Session, but no reportable actions were taken.

**VI. PLEDGE OF ALLEGIANCE TO THE FLAG OF
THE UNITED STATES OF AMERICA - Palm Desert Youth Committee Member
Timothy Fitzpatrick**

VII. INVOCATION/INSPIRATION - Councilman Sabby Jonathan

VIII. AWARDS AND PRESENTATIONS

- A. PRESENTATION OF UPDATE ON PALM DESERT YOUTH COMMITTEE
ACTIVITIES BY MEMBER TIMOTHY FITZPATRICK.

Mr. Fitzpatrick said he was a high school senior on the Committee and made a report on its activities of late, including the recent Youth-Senior Technology Workshop held at the Joslyn Center. He said the Workshop is an outreach where Committee Members go to the Center and assist seniors there with their technology to help them understand and use it. Additionally, in April the Youth Committee held a Sustainability Party at Abraham Lincoln Elementary School in conjunction with Earth Day. Committee's last meeting of the year was held two weeks ago; they will be observing a recess over the summer and start up again in September, coinciding with the school year.

Mayor Weber commented that the City has received a lot of feedback about how much seniors at the Joslyn Center appreciate the Technology Workshops provided by the Youth Committee. She also wished Mr. Fitzpatrick all the best in his future endeavors.

B. PRESENTATION OF PROCLAMATION DECLARING MAY 20-24, 2019, AS “NATIONAL PUBLIC WORKS WEEK” IN THE CITY OF PALM DESERT.

Mayor Weber noted that hundreds of schoolchildren from Lincoln Elementary School visited City Hall this morning on a field trip for the occasion of National Public Works Week. Staff from the Corporation Yard brought over many pieces from the City’s heavy equipment fleet and displayed them in the Civic Center parking lot for all to see. Further, she commented that Engineering Assistant Christina Canales made cupcake favors for the occasion; the whole Department really got into the spirit and involved in the week-long event.

On behalf of the entire City Council, Mayor Weber went on to present a proclamation to Mr. Garcia, who was joined in front of the dais by members of the Public Works Department. Councilmembers then joined the group for a photograph. Mr. Garcia offered that Public Works puts the ‘civil’ in Civil Engineering and that Palm Desert has a great team that keeps the City’s infrastructure up and running, making it truly the jewel of the Coachella Valley. Mayor Weber concurred that Palm Desert’s streets and other facilities were really incomparable.

IX. ORAL COMMUNICATIONS - B

MR. BRAD ANDERSON, Rancho Mirage, CA, spoke about the Coachella Valley Mosquito and Vector Control District. He referred to the recent reports of West Nile Virus present in the Coachella, Indio, and Thermal areas, as well as in Palm Springs; last year it also occurred Palm Desert and Indian Wells. He emphasized that he was not associated with the Vector Control District at this time but was a former employee with firsthand knowledge of facts since 2016-17. He added that when the West Nile breakout in Indian Wells and Palm Desert occurred, there were known mosquito breeding sites that weren’t seen for at least five months, and he was reprimanded for going to those sites at that time. He addressed those facts because since that time he’d been very critical of the District. Last Saturday he received correspondence from the District’s attorney threatening litigation; although, it was very vague but related to the report he’d made of two mosquito sites on the street where he lives and represented how extreme things are at the District presently. He welcomed any sort of litigation they could bring so it could be out in the open. He said he knew Palm Desert’s representative Doug Walker, who’d been appointed to the District since 2007. He was afraid the District was headed for grand jury investigation or similar circumstance because of the aforementioned practices and other discrepancies he’d raised when attending District Meetings – usually the only member of the public attending. He felt the spraying that was being

done now could be avoided with more proactive efforts – getting mosquitos in the drains before they fly. He reminded the public to take care of any water sources on their properties and let the District do their job.

MR. SCOTT WOLF, Development Director of the Coachella Valley Rescue Mission (CVRM), Indio, CA, provided an informal update of activities and statistical data for services provided to Palm Desert and the Coachella Valley. He expressed deep appreciation to Councilmembers and the entire City of Palm Desert for their support – community involvement, engagement, and support is vital to the mission, which they could not achieve without the community. He said during calendar 2018 CVRM served 2,066 unduplicated individuals with more than 360,000 meals, 100,000 bed-nights of shelter, and many other programs and services available there. CVRM operates the only shelter between the Colorado River, San Diego, and Riverside that provides emergency services. He said they also provide long-term residential programs and a family shelter for mothers and their children, and they are currently operating at full capacity. In 2019 CVRM started to receive homeless patients from local hospitals, discharged from those facilities per new State laws; individual clients served on a daily basis come from all over the Coachella Valley and surrounding regions. In 2018, 86 of those reported originating from the City of Palm Desert; in the first four months of 2019, CVRM served over 1,000 unduplicated individuals – on track to exceed 2018's numbers. So far this year, they have served a total of 28 clients from Palm Desert, six of which are currently receiving services in their long-term programs, and an additional two clients from Palm Desert have found permanent housing through their rapid re-housing model. Today he also wished to thank City Council for considering CVRM's application for Capital CDBG (Community Development Block Grant) Funding, which, if approved, will provide the purchase of desperately needed kitchen equipment to replace that which has far exceeded its warranties and is no longer cost-effective continuing to maintain. Although, he said over the last eight years, that equipment had been instrumental in providing well over 2,000,000 meals. Further, for many years, CVRM has been fortunate to have the support of individual cities locally and is eternally grateful for the amount of support provided by the City of Palm Desert. However, he said they need the City's help more than ever before to move forward into the future – as the Coachella Valley's population grows, so does the demographic served by CVRM. The Mission is vitally important to the Coachella Valley – restoring broken lives and returning those men and women to the community as healthy and productive parents, employees, and citizens. CVRM needs the City's help to continue making the community stronger and to build a better tomorrow.

MR. DAVID TOLTZMANN, Bursera Way, Palm Desert, stated he'd been coming forward for the past two years complaining about noise and STRs (Short-Term Rentals), but was happy to report that things were getting better. While he still has STR issues and noise, they are not as bad, attributing the change to the City Code Compliance Department's efforts with swing shift staffing that had made a huge difference. He really appreciated them, their continued support and long hours, because the situation was getting better.

MR. WALLY MELENDEZ spoke on the issue of education, asking City Councilmembers to use their influence to encourage College of the Desert (COD) to enhance its services by initiating a bachelor's degree program so that local students wouldn't have to transfer and relocate to another post secondary institution after receiving their two-year associate's degree at COD.

X. MAYOR AND COUNCILMEMBER REPORTS & REMARKS TO THE COMMUNITY

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

1. International Council of Shopping Centers RECon 2019 - said on Saturday a number of City representatives, including Economic Development, Marketing staff, Mayor Pro Tem Nestande, and she traveled to ICSC RECon in Las Vegas for their annual convention. It was three hard-working days obtaining much valuable information and attending important meetings. She would be providing a written report for the City Manager to distribute as she sees fit. Of particular note to her was a whole fleet of self-driving cars on the Las Vegas Strip. She looked forward to a lot of good return from the meetings conducted there.
2. Memorial Day Observances Valleywide – reminded and encouraged everyone to check out the numerous Memorial Day events being held locally, and hoped folks would attend one of them to stop and remember the occasion, because she always felt better after taking the time to do so.

B. Councilman Sabby Jonathan Committee Reports and General Comments.

1. Retirement Luncheon for Police Capt. Jason Huskey – earlier this week he and Ms. Aylaian attended the lunch, and he was pleased to present a City proclamation to honor his service. It was a very touching event, with Capt. Huskey's family being there, even his parents surprising him by attending, with appropriate accolades bestowed for his 29 years of service to our community.
2. "Top 10" Dinner at Palm Desert High School – earlier this week, he and Councilmember Kelly attended the dinner honoring the top 10 students graduating from Palm Desert High School. It was an amazing and impressive group of students who are going to amazing places, such as Harvard, Berkeley, and other fine institutions. He and Councilmember Kelly encouraged them to do that and perhaps come back to Palm Desert afterward.
3. Utility Undergrounding – said there was an article catching his attention related to a City project, "Electrical Lines cause Camp

Blaze.” It was now known that the electrical transmission lines owned and operated by Pacific Gas & Electric caused the Camp Fire, responsible for 85 people lost and nearly 19,000 structures destroyed, and 153,000 acres burned. He added that the City’s Fire Chief has advised that fires like that may begin anywhere, and as everyone saw, can quickly spread to cities and inhabited communities. He encouraged the City to keep moving forward with its undergrounding project, because when there are no transmission lines, then there won’t be the same kind of causes for fire creating that tragedy.

C. Councilmember Kathleen Kelly Committee Reports and General Comments.

None

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

1. International Council of Shopping Centers RECon 2019 - added to Councilmember Harnik’s comments about attending RECon, saying that really good things are in store for Palm Desert. She looked forward to sharing that news publicly once things are finalized in the future. One thing she could report was that Palm Desert met with a representative of Westfield Mall, had great conversations and met with some very interesting retailers that would really complement the City of Palm Desert.

E. Mayor Susan Marie Weber Meeting Summaries Report for the Period of April 27-May 10, 2019.

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

1. Palm Desert Area Chamber of Commerce - congratulated the Chamber for their first annual Business Education Summit, held on May 14. She said since it was their first, it was not as large as perhaps they desired, but felt like a good start. There were a lot of well-versed speakers, and City staff also conducted one of the break-out sessions to talk about what Palm Desert was doing at that particular time. She was certain the City looked forward to next year’s event.
2. Spring Concert Series Continues – Mayor Weber reminded everyone that tonight in Civic Center Park musical group The Fancies will perform. Next Thursday will be Britain’s Finest - Beatles Tribute to round out the Spring Concert Series, and the events were all a great time for everyone attending.

3. Public Works Appreciation - again thanked Public Works for presentation to the schoolchildren today and for the public to see them in action.

F. City Council Requests for Action.

1. Assembly Bill 392 - after seeing that AB 392 was moving forward in the State Legislature, Councilman Jonathan explained that the bill proposes shifting the burden onto police officers for feeling confident that it's truly necessary to shoot to protect themselves. This changes the bar to a point where most law enforcement officials feel it's not workable and, actually, presents great danger. If it hadn't already, he requested that Legislative Review Committee consider the matter and make a recommendation back to City Council.

Ms. Aylaian responded that the Legislative Review Committee was meeting next Friday, and this bill would be placed on the agenda of proposed legislation being reviewed.

2. Update on the Portola/I-10 Interchange Project - Councilmember Harnik recalled talking about this project at Council's Goal-Setting Session, and she was very keen to find out how the project is coming along, the design, and future steps to be taken, because this was a once-in-a-lifetime opportunity.
3. City of El Monte Rule 20A Credits Available - referring back to Councilman Jonathan's comments about the importance of moving forward with utility undergrounding, staff informed City Council this week that the City of El Monte was offering to sell 20A Credits. She explained for the uninitiated that this is a methodology allowing accomplishment of undergrounding in public places at a lesser expense. She went on to say that City Council has previously urged staff to explore ways of being able to jump on these opportunities even before the City's Master Plan is in effect. Therefore, she was requesting staff to fully and expeditiously assess whether there is some way to take advantage of the subject offer, as well as others that may come along.
4. 44845 San Clemente Circle - vacant house owned by the Successor Agency to the Palm Desert Redevelopment Agency, now an attractive nuisance. Councilmember Kelly heard from neighbors, who, first and foremost, complimented Code Compliance and Public Works for being as responsive as possible to the adverse conditions on this empty property. However, those same neighbors find that having a perpetually empty/abandoned house in the neighborhood is a horrific burden that should not be allowed to persist, because it inherently

attracts mischief-makers. She understood that the house has not been demolished because the California Department of Finance did not approve the expenditure for it as requested by the Successor Agency. Therefore, she asked staff to fully explore all alternatives for having the house demolished or to move forward with the property plan to relieve neighbors of this burden. Further, she requested that options include demolition at City expense, if necessary, as the situation had reached a point where the City needs to understand its choices and look at them closely, because the current state of affairs could be penny wise and pound foolish with having to continually send City staff there to address issues.

5. President's Plaza - Councilmember Kelly understood that City Council had an upcoming Study Session about the project and requested some specific steps be taken in the interim so that the Study Session could be as productive as possible. She said Council was advised that the current design for the property results in elimination of more parking places than was forecast in the 2017 Council-approved conceptual plan. Affected businesses have indicated their distress about the loss of parking places. Therefore, she felt it would be critical for staff to engage with those stakeholders to get their feedback on alternative ways to get closer to the forecast loss in the approved conceptual plan. She emphasized that the engagement opportunity was needed for input in response to alternatives in order to be informed at the Study Session. She reiterated that the engagement must occur prior to the Study Session, currently scheduled for June 26. She suggested Community Development be involved in this effort, since they've had most of the historic contact with businesses about President's Plaza.

Councilman Jonathan expressed concern about some statements made that were more presumptive than factual regarding parking spaces. Further, he was aware that staff had engaged rather intensively with stakeholders already and will continue to do so, and his understanding was that purpose of the June 26 Study Session was exactly for engaging with stakeholders and getting their feedback. It will be an unusual type of Study Session that will not be limited to staff reports, so he wasn't sure that the action being requested was necessary at this time.

Councilmember Kelly countered that as was acknowledged in Councilman Jonathan's earlier invocation, good government happens when differing perspectives are brought to the dais. She related that her perspective reflected that a Study Session is not the optimal place to have a deep-dive form of engagement with affected businesses.

Therefore, she requested that there be some engagement and opportunity for back and forth in preparation for the Study Session.

6. City Review of Drought Policy for Neighborhood Yards - Mayor Pro Tem Nestande observed that the City had been enforcing a drought policy when then-Governor Jerry Brown issued a Statewide Emergency Drought Declaration. She said that allowed residents' turf to go brown and, in many cases, let their yards completely go with weeds and being unkept. Consequently, she was requesting staff revisit the City's policy in place before the drought, because it's been over for at least a year. She wanted to make neighborhoods beautiful again by allowing residents to either water yards so that turf returns or require that they be desert-scaped.

G. City Council Consideration of Travel Requests/Reports.

None

XI. STAFF REPORTS AND REMARKS

A. City Manager

1. City Manager's Meeting Summaries Report for the Period of April 29 - May 10, 2019.

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

2. Dog Park Attack Follow-Up from May 9 Public Comment

Ms. Aylaian recalled for City Council the woman who came forward at the last meeting to speak about a dog attack at one of the dog parks, and City Council requested a report back about it. She said owner of the particular involved dogs was identified, and the City is pursuing banning them from the parks after due process is afforded in order to present his side of the story. Simultaneously at its upcoming meeting, the City's Parks & Recreation Commission will be asked to discuss the use of dog parks and possible changes to them in policy or ordinance, including how to address incidents like this in the future. She said if the Parks & Recreation Commission has specific suggestions for revision of an ordinance, that information will come back before City Council at a future date.

B. City Attorney

None

C. City Clerk

None

D. Public Safety

1. Fire Department

Chief Davis addressed May being Mental Health Month and provided tips for the community to help keep themselves mentally healthy:

- Ensure you talk about your feelings.
- Keep active.
- Eat well.
- Take a break.
- Accept who you are.
- Care and support each other, whether it's your coworkers or family members.
- Do something you're good at.
- Keep in touch with your peers, coworkers, and family members.

He went on to say that each year there's a specific campaign to raise awareness for mental health, with the color being lime green; it would be one of the reasons you see people wearing lime green this month.

2. Police Department

Lt. Martello announced the upcoming "Coffee With a Cop" being held Wednesday, May 29, at the Coffee Bean in Westfield Mall from 12:00 p.m. - 2:00 p.m. He said this was a way to create a relaxed and neutral atmosphere for people to come in and talk face-to-face, get to know the Deputies, Community Service Officers (CSOs), and share ideas or concerns with them. He hoped everyone would come out to join them there.

XII. CONSENT CALENDAR

PALM DESERT CITY COUNCIL

- A. MINUTES of the Regular City Council Meeting of May 9, 2019.
Rec: Approve as presented.
- B. CLAIMS AND DEMANDS AGAINST THE CITY TREASURY - Warrants Dated 4/19/2019, 4/26/2019, and 5/3/2019.
Rec: Approve as presented.
- C. CLAIMS AND DEMANDS AGAINST THE CITY/HOUSING TREASURIES - Warrant Dated 4/26/2019 (**Joint Consideration with the Palm Desert Housing Authority - Item U below**).
Rec: Approve as presented.
- D. APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE by Embassy Suites by Hilton Palm Desert, 74700 Highway 111, Palm Desert.
Rec: Receive and file.
- E. APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE by La Fe Wine Bar, 73900 El Paseo, Suite 2, Palm Desert.
Rec: Receive and file.
- F. RESIGNATION of Ralph Raya - Citizens' Sustainability Committee.
Rec: Receive with very sincere regret.
- G. REQUEST FOR APPROVAL of the Purchase of Gas and Diesel Fuel from Beck Oil, Inc., During Fiscal Year 2019-2020 in an Amount Not to Exceed \$200,000 for the City's Fleet and Equipment and Desert Willow Golf Resort Maintenance Vehicles and Equipment.
Rec: By Minute Motion: 1) Waive bid irregularities in the Beck Oil, Inc., bid; 2) approve the purchase of gas and diesel fuel from Beck Oil, Inc., Coachella, California, during FY 2019-2020 for City fleet and equipment in an amount not to exceed \$100,000, and Desert Willow maintenance vehicles and equipment in an amount not to exceed \$100,000 – funds are available in General Fund Account No. 1104331-4217000 - Auto Fleet-Supply Automotive Gas and in Account No. 5204195-4803100 - Desert Willow Maintenance Facility.

- H. REQUEST FOR APPROVAL of an Agreement with Willdan Financial Services to Conduct a Comprehensive Fee Study and Full Cost Allocation Plan in an Amount Not to Exceed \$35,855 (Contract No. C37610).

Rec: By Minute Motion, authorize City staff to enter into an agreement with Willdan Financial Services to conduct a Comprehensive Fee Study and Full Cost Allocation Plan in an amount not to exceed \$35,855.

- I. REQUEST FOR APPROVAL of Change Order and Revised Memorandum of Understanding Between the California Joint Powers Insurance Authority and City of Palm Desert, Authorizing Additional Work for the ADA Assistance Program, in the Amount of \$37,500 (Contract No. C36480).

Rec: By Minute Motion: 1) Approve a Change Order and Revised Memorandum of Understanding between the California Joint Powers Insurance Authority and City of Palm Desert, authorizing additional work for the ADA (Americans with Disabilities Act) Assistance Program, in the amount of \$37,500; 2) authorize the City Manager to execute the Revised Memorandum of Understanding and any related documentation.

- J. REQUEST FOR APPROVAL of Amendment No. 1 to the Historic Property Preservation Agreement, "Mills Act Contract," for Property Located at 73697 Santa Rosa Way (APN 627-102-024) (Palm Desert Wave House, LLC, Applicant).

Rec: By Minute Motion, approve/authorize: 1) Amendment No. 1 to the Historic Property Preservation Agreement, "Mills Act Contract," for property located at 73697 Santa Rosa Way (APN 627-102-024); 2) Mayor to execute said Amendment.

- K. REQUEST FOR APPROVAL of the Extension of Contract for Professional Services to the Family YMCA of the Desert for Management and Staffing of the Palm Desert Aquatic Center for \$165,000, Plus Reimbursement of All Costs (Contract No. C36621).

Rec: By Minute Motion: 1) Extend subject contract for Professional Services to Family YMCA of the Desert, Palm Desert, California, for Management and Staffing of the Palm Desert Aquatic Center in the amount of \$165,000, plus reimbursement of all costs; 2) authorize the Mayor to execute said contract extension – funds are available in Account Nos. 2424549-4802101 - Aquatic Contracted Labor, 2424549-4309000 - Professional-Other, 2424549-4309300 - Professional-Other, Administrative Expenses, and 2424549-4801100 - COGS - Food & Merchandise.

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- L. REQUEST FOR RATIFICATION of Change Order Nos. 1 and 2 to Contract No. C37000 - Desert Willow Pump Panel Replacement Project and for Acceptance of Work for the Project (Project No. 861-18) (Huntington Beach Electric, Huntington Beach, CA).

Rec: By Minute Motion, ratify/authorize the following for subject project:
1) Change Order No. 1 in the amount of \$6,300 for cost of installing new cable connectors; 2) Change Order No. 2 in the amount of \$3,000 for reconfiguration of cable connections to service meters; 3) City Clerk to file a Notice of Completion for project – funds are available in Account No. 4414195-4809200 - Desert Willow Golf Capital.

- M. REQUEST FOR ACCEPTANCE of Contract No. C37620 – Installation of Inclusive Playground Equipment at the Joe Mann Park (Project No. 925-19) (Great Western Recreation, LLC, Logan, UT).

Rec: By Minute Motion: 1) Ratify Change Order No. 1 in the amount of \$12,905.10 to subject contract, for statutorily required bonds that were not included in the original scope of work, as well as replacement of wood fibers for ADA accessibility; 2) ratify deductive Change Order No. 2 in the credit amount of \$2,050; 3) accept as complete the installation of inclusive playground equipment at Joe Mann Park by Great Western Recreation, LLC; 4) authorize the Mayor to execute the Notice of Completion; 5) authorize the City Clerk to record the Notice of Completion.

- N. REQUEST FOR APPROVAL of the Sale and Consumption of Alcoholic Beverages at the Henderson Community Building, 72559 Highway 111, for Fiscal Year 2019-2020.

Rec: By Minute Motion, approve/authorize: 1) Exception to Palm Desert Municipal Code Section 9.58.010 - Consumption of Alcoholic Beverages on Public Property - for the sale and consumption of alcohol at the Henderson Community Building, 72559 Highway 111, for FY 2019-2020; 2) City Manager to execute any California Department of Alcoholic Beverage Control documents, as required.

- O. REQUEST FOR APPROVAL of *Music in the Air* by Mario Pikus as the Public Art Component for Palm Desert Garage Town, 73660 Dinah Shore Drive (Desert GT LLC, Applicant).

Rec: By Minute Motion, approve *Music in the Air* by Mario Pikus as the public art component for Palm Desert Garage Town located at 73660 Dinah Shore Drive, Palm Desert.

- P. REQUEST FOR APPROVAL of Jimmy Descant's Sculpture *The Strength of Sky* as a Replacement for Mario Pikus' *Music in the Air* in the 2019/2020 El Paseo Sculpture Exhibition.

Rec: By Minute Motion, approve Jimmy Descant's sculpture *The Strength of Sky* as a replacement for Mario Pikus' *Music in the Air* in the 2019/2020 El Paseo Sculpture Exhibition.

- Q. REQUEST FOR REVIEW AND APPROVAL of Outside Agency Funding (Charitable Contributions) for Fiscal Year 2019-2020.

Rec: By Minute Motion: 1) Approve the award of charitable contributions in the amount of \$132,428 to the listed agencies, with associated restrictions and conditions; 2) accept the modifications to the Outside Agency Funding Guidelines for FY 2020-2021; 3) pending approval of the FY 2019-2020 City of Palm Desert Financial Plan, authorize the City Manager to execute any documents necessary to effectuate the actions taken herewith.

SUCCESSOR AGENCY TO THE PALM DESERT REDEVELOPMENT AGENCY

- R. MINUTES of the May 9, 2019, Regular Meeting of the Board of Directors of the Successor Agency to the Palm Desert Redevelopment Agency.

Rec: Approve as presented.

- S. CLAIMS AND DEMANDS AGAINST SUCCESSOR AGENCY TREASURY - Warrants Dated 4/19/2019 and 4/26/2019.

Rec: Approve as presented.

PALM DESERT HOUSING AUTHORITY

- T. MINUTES of the Housing Authority Meeting of May 9, 2019.

Rec: Approve as presented.

- U. CLAIMS AND DEMANDS AGAINST THE CITY/HOUSING TREASURIES - Warrant Dated 4/26/2019 (Joint Consideration with the Palm Desert City Council - Item C above).

Rec: Approve as presented.

- V. HOUSING COMMISSION MINUTES for the Meeting of April 10, 2019.

Rec: Receive and file.

- W. REQUEST FOR AUTHORIZATION of the Use of Lowe's Home Centers, Inc., Home Depot U.S.A., Inc., and HD Supply Facilities Maintenance for Purchase of Materials, Supplies, and Appliances for Fiscal Year 2019-2020.

Rec: By Minute Motion, authorize use of: 1) Lowe's Home Centers, Inc., (Contract No. HA38670A) for the purchase of materials, supplies, and appliances, pursuant to Palm Desert Municipal Code (PDMC) Sections 3.30.160(L) and 3.30.160(E) for FY 2019-2020 in an amount not to exceed \$220,000 (includes approximately \$115,000 for purchase of appliances and approximately \$105,000 for materials and supplies); 2) Home Depot U.S.A., Inc., (Contract No. HA38670B) for purchase of materials and supplies, pursuant to PDMC Sections 3.30.160(L) and 3.30.160(E) for FY 2019-2020 in an amount not to exceed \$45,000; 3) HD Supply Facilities Maintenance (Contract No. HA38670C) for purchase of materials and supplies pursuant to PDMC Sections 3.30.160(L) and 3.30.160(E) for FY 2019-2020 in an amount not to exceed \$210,000; 4) disposal and recycling of inefficient, damaged, obsolete, and non-functioning appliances, as appropriate, in accordance with EPA standards and declare as surplus at the time they are removed from the properties – monies have been included in the FY 2019-2020 proposed Palm Desert Housing Authority's Operating Budget, in the appropriate Authority Account.

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

XIII. CONSENT ITEMS HELD OVER

None

XIV. RESOLUTIONS

- A. RESOLUTION NO. 2019 - 22 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, AUTHORIZING THE LEVY OF A SPECIAL TAX IN COMMUNITY FACILITIES DISTRICT NO. 2005-1 (UNIVERSITY PARK) FOR FISCAL YEAR 2019-2020.

Ms. Moore stated this item reflected the annual request to levy a special tax for the Community Facilities District on the tax roll and was a pretty standard action.

Councilmember Harnik moved to waive further reading and adopt Resolution No. 2019-22. Motion was seconded by Mayor Pro Tem Nestande and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

XV. ORDINANCES

A. For Introduction:

None

B. For Adoption:

None

XVI. NEW BUSINESS

- A. CONSIDERATION OF EXERCISING THE OPTION TO EXTEND BY ONE YEAR THE MANAGEMENT AGREEMENT BETWEEN CITY OF PALM DESERT, KEMPER SPORTS MANAGEMENT, AND THE PALM DESERT RECREATIONAL FACILITIES CORPORATION, TO OPERATE AND MANAGE THE DESERT WILLOW GOLF RESORT, AND AMENDING SAID AGREEMENT TO REFLECT STATE LABOR CODE.

Management Analyst Christopher Gerry noted that in addition to seeking direction regarding a contract extension with Kemper Sports Management (“Kemper Sports” or “Kemper”) for operation and management of Desert Willow Golf Resort (“Desert Willow”), this request seeks to include a provision for prevailing wage requirements in the existing contract. He recalled for City Council that the City issued an RFP (Request For Proposals) to operate and manage Desert Willow in October 2016; City staff received three proposals from that solicitation. After evaluation by a review committee, it unanimously recommended Kemper Sports as operator. In April 2017 City Council approved a three-year agreement with Kemper Sports that included two, one-year extensions. He said although the agreement was approved about two years ago, this was the appropriate time to consider an extension due to notification requirements within the existing contract and the time associated with conducting an RFP process, if so directed. Should Council desire to exercise its option to extend, he related that staff has prepared an amendment for consideration. If not, he said staff would begin the RFP process shortly and return with a recommendation in the fall.

Mr. Gerry went on to say that relative to prevailing wage requirements, staff has been performing an in-depth review of Labor Code provisions relative to municipal golf courses. As a result, staff recommends incorporating Labor Code provisions within the existing and future management and operation agreements at Desert Willow. He noted that all employees at Desert Willow currently appear to be receiving prevailing wages, based on the job classifications and duties; however, enforcing Labor compliance is ultimately responsibility of the contractor. Labor Code provisions are included within the proposed amendment, as presented, but if City Council prefers not to

elect a contract extension, he said staff recommends removing Section 1 and approving the proposed amendment. Lastly, he said since the draft amendment is currently under review by Kemper Sports, staff recommended also requesting approval with minor modifications as approved by the City Attorney. He offered to answer questions.

Responding to question, he confirmed that the original contract contained a provision for two, one-year extensions. Further responding, he affirmed that exercising both of those extensions at once was an available option for the City Council and that the existing contract contained a termination clause of approximately six months, by end of the calendar year.

Councilmember Harnik thanked staff for being well ahead of the deadline on this matter.

Councilman Jonathan offered that Kemper Sports had done an amazing job, in terms of finances at Desert Willow, customer satisfaction, and special events, making it a real jewel in Palm Desert. He was very pleased with their performance and felt it would make sense to go ahead and exercise both one-year extensions. First, because three years have gone by so quickly, much less one year's time; part of the reason he was recommending that option was in the event that something completely unexpected happened and the City was not pleased, there is opportunity to terminate the contract. Moreover, he suggested accepting staff's recommendation revised to exercise both one-year extensions.

Mayor Weber agreed that Kemper Sports had done an exemplary job, thinking that over the last 20-some years they've definitely set the standard for how the City wanted its golf resort run. However, in the face of all the discussions, comments, and time people have put in asking the City Council to go out for an RFP, she felt it would be a disservice if the City didn't say it wasn't renewing the contract to January 30, 2021; but instead was going out to RFP. She was very appreciative that staff took the time to give a whole breakdown on dates that would be followed, with Kemper Sports clearly being one of the vendors doing the RFP since they did so the last time it was conducted. She doubted they were the least bit concerned about competing with others. However, out of respect for other people that have questioned why the City keeps the contract without going out to public RFP, she felt they were owed that consideration for the purposes of transparency. Although, she felt the City would clearly want to vote to incorporate State Labor Code into the contract, that part of the recommendation she didn't question here at all. Nonetheless, she didn't think extending the contract by one year to 2021 was appropriate at this time; the City should still consider going out to RFP, as has been discussed by City Council several times. Further, in this instance, the process would be done appropriately, timewise, giving lots of

people notice that this was what the City was doing, including Kemper Sports.

Councilmember Kelly agreed that it was healthy for the City to conduct an RFP in 2016, because it created opportunity for competition, was responsive to residents who were concerned, and lastly, was highly effective in affirming just what a standout job Kemper Sports does. Her sense of this matter was that it's too soon to repeat that process; it's one that's expensive in people-time and people-emotion, both for the City and for Kemper Sports, and for other folks who might participate. Therefore, she was prepared to support the two-year extension now, thinking of the expiration of that time as about the right juncture to go to the effort of another RFP.

Mayor Pro Tem Nestande concurred with Councilmember Kelly, and she also clearly heard Mayor Weber's comments, seeing both sides. Even so, she was prepared to approve the extension. However, when the City does go out to RFP next, she wanted to eliminate the clause that restricts a vendor from making a proposal if it has another contract within a 20-mile radius. She felt that was a flaw in the last process and wanted it removed in the next round.

Councilmember Harnik appreciated her colleagues' comments, noting that there was one constant comment during such discussions, and that was that an RFP is an in-depth and arduous process that is expensive in both time and financial expenditures. She said there are times when good governance meant not spending that time when it's unnecessary; this was one of those times. The transparency provided in the last three years to anyone who wanted to see what Kemper Sports was doing was abundant. She, too, agreed that the City should go forward with Kemper and allow them to continue doing great work. If after the two years' extension the City chooses to go back out to RFP, she urged staff to ensure enough process time, as was proposed in today's staff report. At this time, she would support a two-year extension.

Councilman Jonathan moved to, by Minute Motion: 1) Approve an amendment to Contract No. C35730 and exercise both options to extend by one year (totaling two years) the agreement between the City of Palm Desert, Kemper Sports Management, and the Palm Desert Recreational Facilities Corporation, to operate and manage Desert Willow Golf Resort, subject to any minor modifications approved by the City Attorney; 2) amend said contract to incorporate Labor Code provisions through duration of the Management Agreement.

Councilman Jonathan noted that he was, perhaps, one of the loudest proponents/advocates for the RFP process for major contracts, because he thought it was a very healthy process. If there's angst or expense involved, he felt it was generally an excellent investment, as demonstrated by the process undertaken three years ago. In addition to the benefits outlined by

Councilmember Kelly, he knew that the City came out with a better contract, in many ways, from both perspectives. He agreed with the comments that three years or four years was just too soon to go through that process again, given Kemper's performance. Considering an RFP after a five-year experience would make more sense.

Councilmember Harnik seconded Councilman Jonathan's motion.

In answer to Mayor Weber's request for clarification regarding the amount of time allowed for bidders to respond in the last RFP process, quoted in the staff report as, "On October 3, 2016, staff issued a Request For Proposals," Mr. Gerry answered that the deadline was October 31, giving 28 days' time.

Mayor Weber stated that she disagreed with the comment that the City followed procedures and did everything perfectly well, as she didn't believe that was the case. Further, she felt that was the reason for so much discussion after the fact – the RFP was issued quickly, the follow-up was quickly, and while she was told the solicitation was published in magazines, there was no time for it to be published in any magazine, so it wasn't quite a proper RFP. While she respected the fact that City staff would normally have done everything above-board on an RFP, in this case she felt it was a rush to get it done. She referred to Kemper Sports/Desert Willow General Manager Derek White in the audience today, stating that she knew he was accustomed to completing and submitting such applications, and she respected the fact that it takes much time to go through. But in this instance, she just didn't think it was a normal RFP; that's why she changed her mind and didn't think it should be extended. Instead, the City should be going out for a proper RFP, because as noted in the staff report, the steps outlined were the City would prepare the RFP, then go out with it and get an answer - almost two months later; whereas, in the subject instance, it was done in only 20-some days. That is the reason she believed this should be open to the public to put in their two cents; she could not support a two-year extension. Although, based on everything the City's seen with Kemper, she doubted they were concerned, didn't think it was an issue, and didn't think anyone questioned the way Kemper has run Desert Willow. But with all the comments that have been made, City Council should consider it very carefully and go out to a proper RFP. She added that the way the motion was made currently meant this would not be looked at again for another two years, cautioning that it's already been 20-some years already without a proper RFP that really concerned her. She then asked for guidance regarding whether or not the two recommendations could be voted on separately, as she was fully in favor of including the Labor Code provisions in the contract but could not support a contract extension.

Ms. Aylaian responded that if the maker of the motion agreed, City Council could consider the recommendations in two separate motions.

Upon Mayor Weber's request, Councilman Jonathan agreed to amend his motion to, by Minute Motion, approve an amendment to Contract No. C35730 and exercise both options to extend by one year (totaling two years, to June 30, 2022) the agreement between the City of Palm Desert, Kemper Sports Management, and the Palm Desert Recreational Facilities Corporation, to operate and manage Desert Willow Golf Resort, subject to any minor modifications approved by the City Attorney. Councilmember Harnik agreed to second it, as amended.

Councilman Jonathan added that he attended the recent Desert Willow President's Committee earlier this week as alternate designee and received the good news that out of more than 100 properties, Desert Willow received the #1 award as the most outstanding facility in the organization. He said what makes that unprecedented is that it was the second time Desert Willow has received that award. He offered hearty congratulations for this accomplishment.

Mayor Weber called for the vote on the amended motion, and it carried by 4-1 vote (AYES: Harnik, Jonathan, Kelly, and Nestande; NOES: Weber).

Councilman Jonathan moved to, by Minute Motion, authorize amendment to Contract No. C35730 to incorporate Labor Code provisions through duration of said Management Agreement between the City of Palm Desert, Kemper Sports Management, and Palm Desert Recreational Facilities Corporation. Motion was seconded by Councilmember Harnik and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

Mayor Weber again noted Kemper Sports/Desert Willow General Manager Derek White's attendance tonight and offered congratulations for the aforementioned awards and another thank you for his personal involvement in the contract with the City, because she felt he had personally seen to the success of Desert Willow, for which she was very grateful.

B. REQUEST FOR AWARD OF CONTRACT IN THE AMOUNT OF \$830,773.04 TO SOUTHSTAR ENGINEERING FOR CONSTRUCTION MANAGEMENT SERVICES FOR SAN PABLO PHASE 1 STREETScape IMPROVEMENTS PROJECT (CONTRACT NO. C35520E, PROJECT NO. 691-16).

Senior Engineer Randy Bowman stated that construction management services will include everything from resident engineer on hand to not only monitor the contractor's progress, but also to help City staff with documentation for change orders, unforeseen occurrences, and assist with as-needed on-site construction engineering, as well as full-time construction inspection on this very complex, 120-pay-item project with many specialty elements. Responding to question, he said the initial report contained in the agenda packets was a placeholder, since staff had not finished conducting

its evaluation of the two proposals received. The replacement report contains actual recommendation for award of contract to Southstar Engineering, documenting amount of the contract to be awarded and filling in blanks left in the original placeholder version. Further responding, he confirmed there were two proposals received, and of the two, Southstar Engineering was the more expensive fee proposal. He added that there was significant discussion amongst the evaluation committee about the two proposals, with Southstar Engineering's found to be more detailed in its technical approach to the project, as well as in relevant experience quoted, which he personally verified by speaking with their past clients. Everything lined up that Southstar had the better technical proposal.

Councilmember Kelly moved to, by Minute Motion: 1) Award subject contract in the amount of \$830,773.04 to Southstar Engineering, Riverside, California; 2) authorize the Director of Finance to set aside a 20% contingency from Unobligated Measure "A" funds for subject contract; 3) authorize the City Manager, or her designee, to review and approve written requests for use of the contingency for unanticipated conditions, per Section 3.30.170(A) of Ordinance No. 1335; 4) appropriate money from Unobligated Measure "A" Fund 213; 5) authorize the Mayor to execute said agreement – if approved, funds will be available in Measure "A" Special Revenue Fund, Account No. 2134342-4400100. Motion was seconded by Mayor Pro Tem Nestande and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

C. INFORMATIONAL REVIEW OF PALM DESERT MUNICIPAL CODE CHAPTER 8.38 - PERSONAL USE OF CANNABIS, AND REQUEST TO PROVIDE DIRECTION TO STAFF REGARDING POTENTIAL REGULATION OF SMOKE TRESPASS IN RESIDENTIAL NEIGHBORHOODS.

Principal Planner Eric Ceja recounted that back in April, City Council asked staff to bring forward an informational report regarding the City's Cannabis Ordinance. It was provided here in the agenda packets and included staff's request for direction on proceeding with additional regulation.

Councilmember Harnik asked for more information about Cathedral City's ordinance and if dealing with the matter of smoking was the same whether it was tobacco or cannabis, as she was concerned about it.

Mr. Ceja answered that potentially, the manner in which the City deals with either tobacco or cannabis smoke may be very similar. He added that the City does have each a separate Tobacco and Cannabis Ordinance; however, there is cross-referencing between the two. Specifically, for cannabis use, the City references its Tobacco Ordinance quite a bit. In looking at other cities that have this ordinance, and speaking with the local city about theirs, there are enforcement challenges. He said by the time that a Code or Police officer responds, the nuisance is essentially over, creating the enforcement

challenge. In answer to question about who should be called for such an issue - Code or the Police, he said in the city studied, it used their Code Compliance Department.

Councilmember Kelly asked whether the City's current Nuisance Ordinance included foul odors, and City Code Compliance Supervisor Pedro Rodriguez confirmed that the current ordinance talks about nuisance odors, but it's rather vague.

Mayor Pro Tem Nestande raised the issue of single-family homes with children where a next-door neighbor smokes marijuana and smoke drifts over where the children can breathe it. She inquired what could be done, and Mr. Ceja said he didn't have a good answer. She felt this was something lacking in City Code. Mr. Ceja added that in the ordinances studied, there was no reference to single-family or multi-family commercial properties, families/non-families; although, it made reference to those odors crossing the property line.

Councilmember Harnik pointed out that likely meant nuisance odors would be covered – cannabis and tobacco.

Mayor Weber noted that the Code says, "...within 1,000 feet of school grounds," and that she considered school grounds going up to the sidewalk. But on Rutledge Way, all the houses there were within 1,000 feet of the school, leading her to question how that was handled, because it seemed like an odd ordinance to have if everyone there was precluded from enjoying their cannabis.

Mr. Ceja replied that was part of the State's program put into effect that no one could smoke within 1,000 feet of a school or daycare, as far as enforcement.

Mayor Weber said when the City first talked about issue, it made sense, with a school building being one place and a business being some distance away. The distance of 1,000 feet seemed reasonable; now that Council was looking at a neighborhood that could be wrapped all the way around it, she questioned how it could be addressed.

Mr. Ceja responded it presents the same Code Compliance challenge – getting an officer to respond – right now the City was relying on neighbors of the school to be aware of the issue. Mayor Weber inquired what happens if she sees a neighbor right across the street from the school with cannabis while the City has an ordinance prohibiting it within 1,000 feet, and she calls Code Compliance, Mr. Ceja answered that his report didn't include the Code Compliance protocol.

Councilman Jonathan remarked that the City's Cannabis Ordinance was in some ways wed to the City's Smoking Ordinance, i.e., cannabis smoking is not allowed within offices, restaurants, within a certain number of feet of public places, public parks, etc. However, he noted Mr. Ceja's report was addressing strictly the personal use of cannabis in someone's residence, including backyard. His understanding of the Nuisance Ordinance was that it didn't address cannabis odor or smoking odor; in fact, where smoking has been challenged as a nuisance issue, it's been determined that unless the City specifically prohibits, it's not a nuisance, because smoking kind of stands on its own. He asked staff for confirmation if that was also their understanding in a case where one neighbor was smoking cannabis/marijuana and the other neighbor complained about the odor.

Mr. Stendell referred back to Mr. Rodriguez's response about nuisance language being rather vague, adding that the City could cite on just about anything. The challenge is having a judge uphold it, which he felt would be unlikely based on what he's seen regarding Code Compliance.

Mayor Pro Tem Nestande stated a constituent contacted her about the situation, having five children in a single-family home and living next door to someone smoking marijuana. The constituent's children can smell the smoke, and if they're breathing secondhand cannabis smoke, Mayor Pro Tem Nestande asked if there was medical evidence saying they could potentially be getting high from it. Mr. Stendell responded that there wasn't any to his knowledge.

Councilmember Kelly said while she was no expert, common sense would dictate they would have to be in a closed space for there to be sufficient secondhand smoke to create an impact. Out in open space, across property lines, she didn't expect that to be the case; although, she certainly understood people's concerns.

Responding to question, Mr. Hargreaves called attention to the staff report, quoting Cathedral City's ordinance, stating, "...unreasonably interfere with the use and enjoyment of property," which is the basic nuisance standard. He concurred with Mr. Stendell in that the more defined the terms, the easier to enforce. He added that offensive odor was one thing, noting that people could argue about whether cannabis is an offensive odor, and reasonable minds may differ. If the City specifically listed *an excessive amount of cannabis smoke being an unreasonable interference*, it would be a much easier target for Code Compliance. He was unfamiliar with the number of complaints received, pointing out that it would be counterproductive to solve problems that didn't exist. He had spoken with Cathedral City staff about enforcing the aforementioned clause, and they hadn't been; apparently, it hasn't been that kind of a problem. Although, he certainly empathized with parents in the matter – describing an extreme example where next door

neighbors like to party all the time in close quarters, and with smoke coming over, it would be offensive. He agreed with Mayor Pro Tem Nestande's comment that this was uncharted territory.

Councilman Jonathan summed up that this matter was on today's agenda because it was requested, in fact, he had done so probably because he had the same constituent interaction as Mayor Pro Tem Nestande, given the specific details. He wanted to see if there was something the City could do. After considering the discussion, staff presentation, and especially legal counsel's cogent comments, he believed regulation was more of a last option – the less government in people's faces, the better, unless it's necessary. He felt that this hasn't risen to a level of necessity yet. There was one complaint, it was a real issue for that person; it sounded like there were some options – if it continues and they want it addressed as a nuisance, City may be able to take a look. For now, until it becomes more of an issue, he urged caution and holding off on any further action for now. Mayor Pro Tem Nestande and Councilmember Kelly concurred.

Councilmember Harnik moved to, by Minute Motion, receive and file the report without any further direction being given to staff. Motion was seconded by Councilmember Kelly and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

XVII. CONTINUED BUSINESS

None

XVIII. OLD BUSINESS

- A. REQUEST FOR AWARD OF CONTRACT TO PACIFIC TENNIS COURTS, INC., IN THE AMOUNT OF \$366,663 FOR THE FREEDOM PARK PICKLEBALL COURT IMPROVEMENT PROJECT (CONTRACT NO. C38340, PROJECT NO. 713-17).

Landscape Supervisor Randy Chavez reviewed the printed report and recommendation requesting award of contract to Pacific Tennis Courts, based on a design approved by City Council in June 2018. He offered to answer questions.

Mayor Pro Tem Nestande moved to, by Minute Motion: 1) Award subject contract in the amount of \$366,663 to Pacific Tennis Courts, Inc., Moorpark, California, for the Freedom Park Pickleball Court Improvement Project; 2) authorize Director of Finance to set aside a 10% contingency for the project in the amount of \$36,666; 3) authorize the City Manager, or designee, to review and execute Change Orders up to the contingency amount; 4) appropriate \$403,329 to the Project Account from Fund 451 - Capital Projects;

5) authorize the Mayor to execute subject contract – if approved, funds will be available from Capital Project Fund 451 and reimbursed from bond proceeds. Motion was seconded by Councilmember Kelly and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

XIX. PUBLIC HEARINGS

- A. REQUEST FOR APPROVAL OF ADJUSTED RATES FOR BURRTEC WASTE AND RECYCLING SERVICES UNDER CONTRACT NO. C27410, AND REQUESTING THE COUNTY OF RIVERSIDE COLLECT THE ASSOCIATED COSTS FOR INDIVIDUALLY BILLED RESIDENCES ON THE TAX ASSESSOR'S PROPERTY TAX ROLL FOR FISCAL YEAR 2019-2020.

Senior Management Analyst Heather Horning commented that the subject request was for approval of the annual rate increase for the City's waste hauler, Burrtec, for both waste and recycling rates. Proposed rate charts were included with the staff report, resulting in an approximate increase of 1.852% for residential customers, which, for a typical customer with a 96-gallon cart, equaled 24¢ per month. She said staff also requested approval for billing individually billed residences through the County of Riverside Property Tax Rolls, as the City has done since 2015. In order to continue the process, an annual public hearing is required, and she closed by offering to answer questions. Responding to question about what Riverside County's administrative charge was for billing individual residences, she believed the charge was 12¢ per parcel administrative fee with an approximate 33¢ assessment fee. Further responding to another question, she said for tax roll billing the charge includes refuse and green waste, and residential recycling is currently free.

Councilmember Harnik inquired about the recycling fee, recently addressed at SCAG General Assembly (Southern California Association of Governments), after being told by the State about having to recycle a certain percentage of material by a certain date. Cities started down the path and everyone signed up with foreign countries to take that recycling, primarily China. However, she noted that they haven't taken this material for years, only recently formally saying that they weren't, and she questioned how that impacted the City and who was paying for it.

Ms. Horning replied that was a very large question. She went on to say Councilmember Harnik was correct, recyclable material was being sold to China, but they recently passed the Sword Act and stopped taking it. Previously, the City's free recycling was covered by Burrtec's sale of those materials. She agreed that the world of recycling is changing, and the ability to cover the cost of it will also likely change in the future; it hasn't changed presently because of the current franchise agreement in place. The current franchise agreement expires in 2023, and staff expects a lot of rate changes

as a result. Further, she said the State is implementing rule-making for Assembly Bill 1383 - Organics Recycling, and many changes are expected with that as well. For this year, she said it hasn't made it to the level of residential rates.

Councilmember Harnik pointed out that meant Burrtec was operating under current contract with the City that anticipated their being able to sell recyclable material to cover the cost of same, but now they were unable to do so.

Councilmember Kelly said that with the depth and breadth of that issue, it likely deserved separate discussion. What she heard here was that the current rate adjustments proposal doesn't pertain to recycling.

Mayor Weber noted that while only trash was being discussed here, the recycling issue would likely affect rates in the future.

Mayor Weber declared the public hearing open and invited testimony SUPPORTING or OPPOSING the subject request.

MR. FRANK ORLETT, Vice President of Burrtec Waste and Recycling Services, confirmed that the current rate increase didn't reflect the recycling market change. He added that they have been talking with staff about it and are working together to deal with the issue that's been a significant negative impact to Burrtec's revenue.

Councilmember Harnik thanked Burrtec for its support, particularly coming out to participate with the Youth Committee in its Sustainability Party at Abraham Lincoln Elementary School. Additionally, she thanked Mr. Mike Vito, and Burrtec in general, for making presentations about recycling to both the Sustainability and Youth Committees, and she really appreciated it.

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

Councilman Jonathan moved to: 1) Waive further reading and adopt Resolution No. 2019 - 23, approving adjusted rates in Exhibits 3A, 3B, 3C, and 3D for Burrtec under Contract No. C27410, and requesting the County of Riverside to collect the associated costs for individually billed residences on the Tax Assessor's Property Tax Roll for FY 2019-2020; 2) by Minute Motion, authorize the City Manager to execute any documents necessary to effectuate the actions taken herewith. Motion was seconded by Councilmember Kelly.

Councilmember Harnik stated she absolutely supported the rate increase, as it's appropriate for what the City's done, noting that the staff report said the

City had made an error previously by not implementing the correct increase, and she was glad it was now being caught up. She advised her colleagues that the recycling issue needs to be discussed at some point; it was a big issue, with pallets not being purchased and sitting on the docks for years. She believed China had been the largest purchaser of such material, and now they've rejected it altogether – the problem has gotten considerably worse. She noted that the City has had a longtime relationship with Burrtec; she thought it was time to look at the issue and see how it could be handled fairly for both them and the community.

Councilman Jonathan offered that the Sustainability Committee could be taking a look at this matter. Mayor Pro Tem Nestande agreed, adding that Burrtec has spoken with the Committee, and that she, herself, has met with Burrtec representatives a few times, recalling that she brought the recycling issue up at a recent City Council Meeting. She suggested that a Study Session on it may be needed.

Mayor Weber recommended that her colleagues make their comments on this issue as a "City Council Request For Action" at the appropriate time on the agenda.

Mayor Weber then called for the vote on the motion, and it carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

For purposes of clarification:

Councilman Jonathan moved to: 1) Waive further reading and adopt Resolution No. 2019 - 23, approving adjusted rates in Exhibits 3A, 3B, 3C, and 3D for Burrtec under Contract No. C27410, and requesting the County of Riverside to collect the associated costs for individually billed residences on the Tax Assessor's Property Tax Roll for FY 2019-2020; 2) by Minute Motion, authorize the City Manager to execute any documents necessary to effectuate the actions taken herewith. Motion was seconded by Councilmember Kelly and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

- B. REQUEST FOR SUBMISSION OF THE PROGRAM YEAR 2019 ACTION PLAN TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD), AUTHORIZATION FOR THE COMMUNITY DEVELOPMENT DIRECTOR TO BE THE CERTIFYING OFFICIAL TO EXECUTE ALL FEDERAL DOCUMENTS MOVING FORWARD, AND RATIFICATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING RECOMMENDATIONS IN PROGRAM YEAR 2018.

Management Analyst Christopher Gerry confirmed that the item here represented multiple requests related to CDBG. First was consideration of the HUD Annual Action Plan, including the next program year's CDBG

funding recommendations. Additionally, staff requested a change in the certifying official from City Manager to the Community Development Director to sign for all Federal documents pertaining to the CDBG Program. Lastly was a request to ratify the previous program year's CDBG funding recommendations due to a staffing error. He went on to say that in next program year, the City will receive approximately \$400,000 in new CDBG Funds in addition to \$46,000 Program Funds, totaling approximately \$446,000. He said considering that some of the program categories have funding limitations, the proposed program year budget includes \$80,000 in Program Administration, \$60,000 in Public Services, and remaining balance of \$306,000 in Public Facilities Improvements. Since the proposed budget takes somewhat of a different approach than previous program years, he went on to make a PowerPoint presentation regarding some of the atypical recommendations in it.

Mr. Gerry continued, stating that HUD allows entitlement communities to allocate up to 20% of their funds for Program Administration, and the recommendation here is to budget the full 20% of \$80,000. He said it appeared most entitlement communities typically keep a majority of their administrative funds, due to the extensive amount of work associated with coordinating the CDBG Program. He displayed a graph of 10 similarly funded CDBG communities located within California – Palm Desert in the middle, with the next five consecutive larger communities to the left, and the next five smaller communities to the right, making a complete data set of communities relatively the same in entitlement size. He went on to say the funding range he compared was about \$118,000 on average across the 11 jurisdictions. On an annual or three-year average, most communities he surveyed typically retained a substantial amount of their administrative funds for staffing and overhead costs in this labor-intensive program. He explained the next funding category of Public Service that's capped at 15%, generally used for operational costs to provide services to low- and moderate-income households.

Regarding Fair Housing Services, he said this was a Federal requirement as a recipient of HUD Funds, which has been previously funded under Program Administration. The Public Facilities and Improvement category doesn't have any funding restrictions and is intended for capital projects, either on public property or property owned by non-profit organizations. He added that the proposed City budget recommends a renovation project in the Council Chamber that includes appropriate ADA (Americans with Disabilities Act) improvements, as a complimentary project that offers independent utility to that project, the subject recommendation is for the construction of various ADA improvements in the parking lot area of City Hall, since the respective area is part of the ADA path of travel leading up to the Council Chamber. He said HUD has an activity defined as "Architectural Barriers," which allows

funding for ADA improvements under certain conditions, and this project fits within those parameters.

Councilman Jonathan noted that out of the \$446,000 of CDBG Funds, \$80,000 will be utilized to administer the program, meaning that almost 20% of funds will be going toward Administrative Costs instead of intended purposes. He added that this was the program that the City looked at having Riverside County administer, and for the normal convoluted reasons, the City couldn't just do so when it wanted, given a three-year waiting period. He was hoping to reduce those Administrative Costs and put more of the money toward actual programs and services.

Mr. Gerry confirmed that to be the case and that the City was still in the three-year period, believing that it was next year or the following that the City could be part of the Urban County Program.

Councilmember Kelly agreed that was the City's hope and she embraced it, but inquired whether having the County administer the Program necessarily resulted in lower Administrative Costs. Mr. Gerry responded that although he'd coordinated the \$4,000,000-\$5,CDBG Program previously in City of Anaheim, as well as in other cities he'd worked at, he couldn't speak to the Metropolitan Program/Urban-County model, having never worked with it. However, he imagined that there are still quite a few costs, e.g. environmental clearance, monitoring of organizations, and other activities still involved, which he would really need to dive into first.

Councilman Jonathan observed that part of the expectation was greatly reduced staff time with the Metropolitan/Urban model.

Mayor Weber declared the public hearing open and invited testimony SUPPORTING or OPPOSING the subject Community Development Block Grant (CDBG) matter. With no public testimony offered, she declared the public hearing closed.

Councilmember Kelly moved to, by Minute Motion: 1) Request submission of the Program Year 2019 Action Plan, including funding recommendations for the Community Development Block Grant (CDBG) Program to the U. S. Department of Housing and Urban Development (HUD); 2) authorize the Community Development Director to be the Certifying Officer to execute all Federal documents moving forward; 3) ratify CDBG funding recommendations based upon the contracted amounts in Program Year 2018. Motion was seconded by Councilmember Harnik and carried by 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

XX. ADJOURNMENT

With City Council concurrence, Mayor Weber adjourned the meeting at 5:42 p.m.

SUSAN MARIE WEBER, MAYOR

ATTEST:

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