

MINUTES

REGULAR PALM DESERT CITY COUNCIL MEETING

THURSDAY, OCTOBER 10, 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 3:02 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
Andy Firestine, Assistant City Manager
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
Admin. Sgt. Francisco Velasco, Palm Desert Police/Riv. Co. Sheriff's Department
Grace L. Rocha, Deputy City Clerk

III. ORAL COMMUNICATIONS - A (CLOSED SESSION ITEMS)

None

IV. ADJOURN TO CLOSED SESSION

Request for Closed Session:

- A. Conference with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9(d)(1):
 - 1) Lorraine Salas and Karina Quintanilla v. City of Palm Desert, Riverside County Superior Court, Case No. PSC 1903800
- B. Conference with Legal Counsel regarding significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2):
 - Number of potential cases: 2
- C. Conference with Labor Negotiator pursuant to Government Code Section 54957.6:
 - 1) Agency: Lauri Aylaian/City of Palm Desert
Employee Organization: Palm Desert Employees Organization
 - 2) Agency: Lori Carney/City of Palm Desert
Employee: Lauri Aylaian, City Manager

With City Council concurrence, Mayor Weber adjourned the meeting to Closed Session of the City Council at 3:02 p.m. She reconvened the meeting at 4:40 p.m.

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

- A. REPORT ON ACTION FROM CLOSED SESSION.

None

VI. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA - Mayor Pro Tem Gina Nestande

VII. INVOCATION/INSPIRATION - Councilmember Kathleen Kelly

VIII. AWARDS AND PRESENTATIONS

- A. PRESENTATION OF PROCLAMATION DECLARING OCTOBER 2019 AS "NATIONAL ARTS AND HUMANITIES MONTH" IN THE CITY OF PALM DESERT.

On behalf of the City Council, Mayor Weber presented a proclamation to the Art In Public Places Commission members present, Chair Donna Jean Darby, Carol Adney, Maureen Boren, Elizabeth Hauer, and Lesley Miller.

Chair Donna Jean Darby thanked the City Council for the recognition and their efforts to promote arts and culture in our community.

- B. ANNOUNCEMENT OF RISK MANAGER STEPHEN ARYAN AS THE WINNER OF THE “CAPSTONE AWARD” BY THE JOINT POWERS INSURANCE AUTHORITY (JPIA).

Ms. Carney stated that the City’s Risk Manager Stephen Aryan received the Capstone Award by the JPIA. She praised all the good work he does in mitigating liability to the City. She presented a segment of the video that was provided to JPIA when making their final selection.

Mayor and Councilmembers thanked Mr. Aryan for his service to the City.

IX. ORAL COMMUNICATIONS - B

MS. ELEONORA MALACHOWSKA, Via Vittorio, Palm Desert, stated she was the owner of Karen’s Café on Country Club Drive. She was recently notified by Code Compliance that she was violating Palm Desert Municipal Code Chapter 25, regarding signage. She has a restaurant situated in the back of an industrial area that is not visible to the main street. Her landlord refuses to install a marquee, because it’s too expensive. The mailing address for the restaurant is Country Club Drive, but the physical location of the restaurant is actually on Springfield Lane, making it difficult for potential customers to find the restaurant. Having a sign outside directing customers to the Café will help them locate her. She is very well liked by customers and she would like the City Council’s assistance with this situation. Back in 2002 and 2014, she came to City Council meetings on the same issue and somehow the City helped by suspending Chapter 25, allowing businesses to have directional signs. Right now the economy is not any better, and if she loses her sign, it will affect her business. She asked the City Council to suspend Chapter 25 again.

MR. MICHAEL MALONE, Pitahaya Street, Palm Desert, stated that after reading *The Desert Sun* newspaper and previous City Council minutes, he felt compelled to address the following with the City Council: 1) He is concerned about the excessive City sponsorship of \$200,000 to Fashion Week and \$100,000 to the Food & Wine events, stating there is a lot of money coming in at the gate that’s not coming back to the City, questioning where the money is going; 2) the claim that 75% of attendees to the 2019 Fashion Week and Food & Wine events were making purchases on El Paseo, and anticipating it will increase to 85% for 2020, is fine, but if the City allows for an insurance agency, a lawyer’s office or plumbing company on El Paseo, those percentages will likely go down and possibly eliminate existing businesses; 3) the CV Link project reminds him of the \$100 million project Governor Brown proposed with the train that nobody wanted, and after spending millions, there still isn’t a rail system. He said the City didn’t need the CV Link, adding that the cities of Rancho Mirage and Indian Wells don’t want it, therefore, the project is cut into three pieces that no longer serves its original function or what it was made out to be; 4) the open desert land off Monterey Avenue is for sale, which is a red flag to him, because it will one day become a strip mall with parking lots, and houses on

top of each other. He said the City Council needed to consider a “Stop Building Plan,” otherwise, Palm Desert will lose its asset, which is the desert; 5) Golf Cart Parade - this will be the 55th year of the parade and there are talks about spending \$10,000 to hire a consulting firm for ideas on how to continue or enhance it, which would be a waste. He said the way to attract people to the parade is by providing celebrity power. Also, Council can’t expect people to stay after any of these functions without something for families; there is nothing that contributes to kids.

Mayor Weber noted that even though Councilmembers couldn’t respond to concerns made by speakers under Oral Communications due to the Brown Act, staff takes note and reaches out at a later date. Additionally, residents can call City Hall and make an appointment with Councilmembers individually to express concerns, ideas, or any other issue.

MR. WALLY MELENDEZ complained that Council has not assembled on time for its 4:00 p.m. City Council meetings, it started with first being late 15 minutes, then 30 minutes, and today it was almost one hour. However, his main point today was for Council to consider doing something about upgrading College of the Desert services by making it possible for students to obtain their bachelor’s degree from the College.

X. MAYOR AND COUNCILMEMBER REPORTS & REMARKS TO THE COMMUNITY

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

1. Child Sexual Abuse Prevention - attended the presentation given by Diane Cranley on Sunday. She was glad to see representation from the YMCA, Washington Charter School, Bermuda Dunes Learning Center, and other local schools.
2. Joint Powers Insurance Authority (JPIA) - noted some Councilmembers are attending this conference. The JPIA is providing sessions on cyber security and city liability and responsibility.
3. Mobility 21 - Southern California Transportation Summit - reported she attended this Summit where they discussed 2020 priorities relating to transportation.
4. Coachella Valley Economic Partnership (CVEP) - attended a presentation on how Joshua Tree is being impacted by climate change.

5. Paint El Paseo Pink Walk - announced the event starts on Saturday, October 12, 2019, at 8:30 a.m. on El Paseo. The event helps support the Desert Cancer Foundation.

- B. Councilman Sabby Jonathan Committee Reports and General Comments.
None

- C. Councilmember Kathleen Kelly Committee Reports and General Comments.
None

- D. Mayor Pro Tem Gina Nestande Committee Reports and General Comments.
None

- E. Mayor Susan Marie Weber Meeting Summaries Report for the Period of September 14-27, 2019.

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

1. Y Be Fit Event - announced City Manager Lauri Aylaian and Debbie Thompson won first place in their category.

2. Sal Rosenthal - extended the City's condolences to the family. She said Sal was the former Captain of the Citizens on Patrol (COPs), and he set the precedence that is being followed to date. The City is grateful for the COPs Program and to Sal for his contribution.

- F. City Council Requests for Action.
 1. Review of City's Support to Desert X - Councilman Sabby Jonathan stated Desert X is planning to collaborate with Saudi Arabia for a large scale art exhibition in that country. He noted Saudi Arabia has appeared to have used chemical weapons near civilian populations, they were criticized last year regarding the Washington Post Columnist who was killed and dismembered in the Saudi Consulate Office, and Saudi Arabia has faced condemnation from various international organizations, including the United Nations, Amnesty International, and Rights Watch. As a result, three of the Desert X board members have resigned. He said the City supports Desert X financially and in other ways; therefore, his request is for staff to prepare a letter expressing the City's concern, both to the Convention & Visitors Bureau (CVB) and Desert X, that their collaboration with this regime causes concern and may result in the City's potential

reconsideration of future funding. He asked that the draft letter be placed on a future agenda for consideration and City Council concurrence.

2. Palm Desert Businesses Postcard Survey - Mayor Pro Tem Gina Nestande noted she was the City Council's liaison for the Palm Desert Area Chamber of Commerce. She reported that on behalf of the City, Business Advocate Deborah Glickman mailed out a postcard surveying local businesses on how the City could be more business friendly, although she felt the City already strived to be. She doesn't know what happened, but it didn't make it to people's mailboxes, so she would like to make a better effort, because she would like more businesses to respond. At her last Chamber meeting, Palm Desert businesses claimed they did not receive the postcard.

Ms. Aylaian agreed to look into it with the Economic Development Department and determine whether more time or more encouragement should be given to existing businesses to obtain a better response.

G. City Council Consideration of Travel Requests/Reports.

1. League of California Cities (LOCC) - Homelessness Workshop - Councilman Jonathan stated he would be willing to go to this workshop, but preferred that a City staff member attended. He is also trying to convince CVAG into funding and sending one of their Homelessness Committee members to go as well. He believed the City needed to know what is being said, as they provide best practices and current information. The workshop is on Monday, November 4, 2019, in Sacramento; total travel cost would amount to about \$1,300.

Ms. Aylaian pointed out this was not an out-of-state travel request, and approval for this type could be given under her purview, provided there is money in the budget, which there is.

Ms. Klassen explained Section G was added to the agenda when AB1234 (Local Ethics) was enacted as a way for Councilmembers to report back on certain activities of travel to out-of-state places that have been approved administratively or as part of the budget.

XI. STAFF REPORTS AND REMARKS

A. City Manager

1. City Manager's Meeting Summaries Report for the Period of September 16-27, 2019.

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

2. Concerts in the Park - reminded everyone about the concerts and playing this evening was Amanda Castro Jazz Band. The concert series continue every Thursday through the month of October and ending on Halloween - October 31.

B. City Attorney

None

C. City Clerk

None

D. Public Safety

1. Fire Department

Mayor Weber thanked the Fire Department for their participation and efforts in the Mini-Muster Program, as they have been out at all the schools educating 3rd graders on fire prevention.

2. Police Department

None

XII. CONSENT CALENDAR

PALM DESERT CITY COUNCIL

- A. MINUTES of the Regular City Council Meeting of September 26, 2019.

Rec: Approve as presented.

- B. CLAIMS AND DEMANDS AGAINST THE CITY TREASURY - Warrants Dated 9/13/2019 and 9/20/2019.

Rec: Approve as presented.

- C. CLAIMS AND DEMANDS AGAINST THE CITY/HOUSING TREASURIES - Warrants Dated 9/20/2019 and 9/27/2019 (**Joint Consideration with the Palm Desert Housing Authority - Item P below**).

Rec: Approve as presented.

- D. COMPLIANCE ANALYSIS AND INVESTMENT REPORTS for the Months of May, June, July, and August 2019 (**Joint Consideration with the Successor Agency to the Palm Desert Redevelopment Agency - Item N below**).

Rec: Receive and file.

- E. FINANCE COMMITTEE MINUTES for the Meeting of May 28, 2019.

Rec: Receive and file.

- F. APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE by Wildest Greens, 72990 El Paseo, Suite 3, 4 & 5, Palm Desert.

Rec: Receive and file.

- G. EMERGENCY SERVICES COORDINATOR'S Monthly Report - August 2019.

Rec: Receive and file.

- H. REQUEST FOR APPROVAL of the Agreement for Exchange of Real Property with Marrakesh Country Club (Contract No. C39450).

Removed for separate consideration under Section XIII, Consent Items Held Over. Please see that portion of the Minutes for Council discussion and action.

- I. REQUEST FOR APPROVAL of a One-Year Lease Agreement with Anthony Westergaard for Operation of Remote-Controlled (RC) Racetrack on Vacant City-Owned Parcel – Painters Path (APN 640-091-010) (Contract No. C39460).

Removed for separate consideration under Section XIII, Consent Items Held Over. Please see that portion of the Minutes for Council discussion and action.

- J. REQUEST FOR APPROVAL of Change Order No. 1 – Contract No. C38740 with VectorUSA for Local Area Network Cabling Upgrades in City Hall.

Rec: By Minute Motion, approve Change Order No. 1 in the amount of \$22,623.57 to subject contract with VectorUSA, Rancho Cucamonga, California, for additional network drops added to the project – funds are available in Account No. 5304190-4404000.

- K. REQUEST FOR AUTHORIZATION of Payment to Superior, LLC, a CentralSquare Company, for Annual Computer Software Maintenance in the Amount of \$86,894.70.

Rec: By Minute Motion, approve payment to Superior, LLC, a CentralSquare Company, Lake Mary, Florida, in the amount of \$86,894.70 to provide computer software maintenance for one year – funds are available in Account No. 1104190-4336000.

SUCCESSOR AGENCY TO THE PALM DESERT REDEVELOPMENT AGENCY

- L. MINUTES of the September 26, 2019, Regular Meeting of the Board of Directors of the Successor Agency to the Palm Desert Redevelopment Agency.

Rec: Approve as presented.

- M. CLAIMS AND DEMANDS AGAINST SUCCESSOR AGENCY TREASURY - Warrant Dated 9/27/2019.

Rec: Approve as presented.

- N. COMPLIANCE ANALYSIS AND INVESTMENT REPORTS for the Months of May, June, July, and August 2019 (**Joint Consideration with the Palm Desert City Council - Item D above**).

Rec: Receive and file.

PALM DESERT HOUSING AUTHORITY

- O. MINUTES of the Housing Authority Meeting of September 26, 2019.

Rec: Approve as presented.

- P. CLAIMS AND DEMANDS AGAINST THE CITY/HOUSING TREASURIES - Warrants Dated 9/20/2019 and 9/27/2019 (Joint Consideration with the Palm Desert City Council - Item C above).

Rec: Approve as presented.

Councilman Jonathan requested Items H and I be removed for separate consideration and action under Section XIII, Consent Items Held Over.

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

XIII. CONSENT ITEMS HELD OVER

- H. REQUEST FOR APPROVAL of the Agreement for Exchange of Real Property with Marrakesh Country Club (Contract No. C39450).

Councilman Jonathan thanked Mr. Gayler for his tireless pursuit of this agreement with Marrakesh Country Club, stating that after a couple of years he has enabled this utility underground project to move forward. He asked if the land in question will continue to be zoned "Open Space."

Project Administrator Ryan Gayler responded that unless the City Council chooses to change it, it will remain zoned open space.

Councilman Jonathan moved to, by Minute Motion: 1) Approve the Agreement for Exchange of Real Property with Marrakesh Country Club; 2) authorize the City Manager to execute same. Motion was seconded by Kelly and carried by a 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None)

- I. REQUEST FOR APPROVAL of a One-Year Lease Agreement with Anthony Westergaard for Operation of Remote-Controlled (RC) Racetrack on Vacant City-Owned Parcel – Painters Path (APN 640-091-010) (Contract No. C39460).

Councilman Jonathan asked if the City was leasing this land for \$1 a year to an entity that was for profit or a nonprofit charitable organization.

Management Analyst Jennifer Nelson replied it's to an organization that is for profit.

Councilman Jonathan questioned if it was appropriate for a City to subsidize the operations for such an entity.

Mr. Hargreaves explained the City does a lot of things to encourage for profit businesses. In this case, this is an operation that has been ongoing for some time where there is not a lot of profit. He said the land is not worth much, and this was more a recreational opportunity for the community than an opportunity to make a profit.

Ms. Nelson offered Mr. Anthony Westergaard, the Applicant, was available to answer questions.

Councilman Jonathan said he wasn't objectionable to the goal, however, the City needed to make sure it was not using public funds for private benefit. He said there may be a solution by setting some types of limits. The City may need documentation from the owner that the operation is not hugely profitable and/or that the owner is not taking a huge salary, including placing some provision within the lease agreement.

Mr. Hargreaves agreed to research it further and bring back this item at a later date.

Councilman Jonathan moved to continue this item to a date uncertain. Motion was seconded by Weber.

Councilmember Harnik thought the City was only extending the lease.

Mr. Stendell explained the prior operator went out of business, and this agreement was a new lease for a new operator. The old lease expired in June 2018, and there has been a period of non-use. He offered to tidy up the lease with Council's recommendations.

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

XIV. RESOLUTIONS

None

XV. ORDINANCES

A. For Introduction:

None

B. For Adoption:

None

XVI. NEW BUSINESS

A. REQUEST FOR APPROVAL OF CITY OF PALM DESERT MEDIA PLAN FOR FISCAL YEAR 2019-2020.

Tourism and Marketing Manager Thomas Soule noted the staff report that outlines the proposed Media Plan for this year's tourism ad campaign. The Media Plan was approved by the Marketing Committee at its meeting of October 1. Staff will support the deployment of the City's new ad campaign, which is currently in development, and will be brought before the City Council at its December City Council meeting.

Councilmember Kelly moved to, by Minute Motion: 1) Approve the Media Plan for Fiscal Year 2019-2020; 2) Authorize media buy expenditures with IdeaPeddler, Austin, Texas, per Contract No. C37181 in an amount not to exceed \$409,000 – funds are available in Advertising Media Buys, Account No. 1104417-4322100. Motion was seconded by Nestande.

Councilmember Harnik noted the Marketing Committee is very excited about the new marketing Plan.

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

B. REQUEST FOR AUTHORIZATION AND APPROVAL OF VARIOUS ACTIONS RELATING TO IMPLEMENTATION OF THE PALM DESERT iHUB PROJECT.

Mr. Alvarez stated the following actions reflect a summary and ratification of a couple of items that have occurred relative to the Palm Desert iHUB Project. The Palm Desert-iHUB is office space the City will be leasing, and the City will have a partnership with California State University, San

Bernardino - Palm Desert Campus (CSUSB-PD), along with Coachella Valley Economic Partnership (CVEP). The goal of the Palm Desert iHUB is to foster, encourage, and attract new startup technology based businesses. In addition, CSUSB will occupy 32% of the office space to bring facility offices that will facilitate a cyber security program in Palm Desert. This is in consultation with the CSUSB-Palm Desert Campus. Cal State will provide a high-speed broad band connection to the office space, which is located at 37-023 Cook Street, across from CSUSB-Palm Desert Campus. In previous actions and approvals, the City Council entered into leases with the Sinatra Project, including a sublease. Those items are attached to the staff report for City Council ratification, as those actions were taken in Closed Session. Staff is also asking for approval to ratify the project budget at \$1.4 million. There are some details in the staff report that outline some other partnerships with Cal State and their portion of the tenant improvements, along with the portion of the lessor who will be participating. One last item being requested is authorization for the City Manager to execute any change orders within the 10% contingency in order to move forward with a 10-week schedule for completion of the tenant improvements. The tenant improvements are under construction and scheduled to be completed by the end of the year. Staff will then work with Cal State to open up the facility, along with CVEP who will be operating the facility for the City.

Mayor Pro Tem Nestande asked when Cal State expected to open up the cyber security program to potential students.

Mr. Alvarez replied the last update from Cal State is they are currently out looking for full-time faculty to open the cyber security program. He said if it doesn't start in January 2020 at the beginning of the semester, it would be in the spring (April) of 2020.

Councilman Jonathan moved to, by Minute Motion, acknowledge/authorize:

1) City Council's approval of a seven-year lease with Sinatra and Cook Project, LLC, located at 37023 Cook Street, Suite 102, to establish the Palm Desert iHUB (PD iHUB) (Contract No. C39440A); 2) City Council's approval of a seven-year sublease with California State University, San Bernardino (CSUSB), at 37023 Cook Street, Suite 102 (Contract No. C39440B); 3) project budget of \$1,400,000 to design and construct tenant improvements at the PD iHUB; 4) City Manager to approve required change orders relating to the PD iHUB tenant improvements up to the authorized 10% contingency totaling \$140,000 – funds are available in Economic Development Fund, Account No. 4254430-4395000. Motion was seconded by Harnik.

Councilmember Kelly stated this has been in the works for quite some time, and for those who may be new to this development, she perceives it to be the most momentous step that's been taken since she has been on the City Council, and the most newsworthy development as well. This project has the potential to both diversify the economy and support the expansion of

programs as CSUSB-Palm Desert with more STEM (Science, Technology, Engineering, and Math) offerings, providing local students broader choices. She's so pleased that this has enjoyed the unanimous enthusiasm of the City Council and the hard-working staff that brought this forward.

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

XVII. CONTINUED BUSINESS

None

XVIII. OLD BUSINESS

None

XIX. PUBLIC HEARINGS

- A. REQUEST FOR APPROVAL OF A ZONING ORDINANCE AMENDMENT, AMENDING THE EL PASEO OVERLAY DISTRICT AND THE DOWNTOWN DISTRICT TO ALLOW PROFESSIONAL OFFICE USES ON THE GROUND FLOOR FRONTING EL PASEO, SUBJECT TO A CONDITIONAL USE PERMIT, AND FOR ADOPTION OF A NOTICE OF EXEMPTION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), Case No. ZOA 19-0002 (City of Palm Desert, Applicant).

Associate Planner Kevin Swartz recalled for the City Council that in March 2019, staff proposed allowing office uses on El Paseo within the one-mile corridor from Highway 74 to Portola Avenue. As part of the request, staff placed strict conditions by not allowing them on corner lots and prohibiting them to abut one another. Staff also looked at the types of office uses that would be allowed and not allowed, and requiring a Conditional Use Permit (CUP). Staff looked at the idea of limiting office uses per block with a 15% cap based on the building linear frontage. In June 2019, staff brought back an item just focusing on allowing office use on the east end with the same restrictions, but it would only be for east of San Luis Rey. This item didn't seem favorable based on comments from the El Paseo merchants and Business Improvement District Association. Today, staff is proposing to allow office use on the ground floor, subject to a CUP throughout the one-mile corridor. Staff believes the CUP will allow staff and Planning Commission to look at land-use compatibility. If the City Council decides to move forward, staff believes the CUP is the best tool to utilize. The restrictions just mentioned would not be part of it, but staff will look at each application in some sort of form. For instance, staff will review the types of office uses, how they engage with the street, the exterior facade must be preserved or enhanced to remain retail in nature. Staff will look at facade

treatments such as material or a patio. Staff will even consider having the office look at being next to a coffee shop, bagel shop, and how they can collaborate together. The corner properties are to be maintained for restaurants and retail as noted in the Gibbs Study. With regard to density, instead of capping on certain ones, both staff and the Planning Commission, as part of the CUP, would understand the overall goal for El Paseo is to preserve the street as retail environment. Again, offices are prohibited from abutting one another; the idea is to spread them out throughout the corridor. Overall, staff believes this is the best concept moving forward, and it was presented to the El Paseo Association, but at that time, he did not have a copy of the draft Ordinance. It was later circulated to them and the Planning Department has not received comments in opposition or in favor. Lastly, if the proposed Ordinance is approved, the City Council can issue a zoning ordinance amendment at any time. Also, staff can update the City Council on the number of applications received and the number of office use permits issued.

Councilmember Kelly noted that on page 4 of the staff report, subpart A captures what staff describes as a requirement, in that the exterior facade must be preserved or enhanced to remain retail in nature, questioning what that meant.

Mr. Swartz replied staff wouldn't want an applicant to stucco the exterior and just have an entry, staff wants to preserve the aesthetic as retail with a storefront glass, awnings, or decorative material.

Councilmember Kelly wonders whether that meaning was widely enough understood to be taken for granted, because she was confused by it, thinking there had to be products displayed or exactly what would constitute retail in nature. Also, subpart B of the staff report refers to a desire to have the occupant consider providing an outdoor patio, which may not be feasible. When she looks at Exhibit "A" of the Ordinance, she couldn't find it reference, she only found language that stated, *"to creating vibrancy on the street,"* under Section C - Conditional Uses.

Mr. Swartz explained that a patio wouldn't be required as part of the CUP, stating it may be one of the facade treatments that an office use could put in for their employees to dine at.

Councilmember Kelly added that subpart C refers to a preference that the office collaborates with a small coffee shop or a deli, but what confuses her about it, is that she understood the City was pursuing potential office uses to draw people to the street who would then support existing restaurants. Therefore, the creation of a competitive food source that would keep the people at the site of the office instead of encouraging them to move about the street was contrary to the goal.

Mr. Swartz said he understood Councilmember Kelly's point, and the idea behind it was that it would help breakup the front facade by providing a different use next to an office use. He said the City receives a lot of requests for pop-ups, which is a new thing in retail, so maybe collaborating the two was just an idea.

Mayor Pro Tem Nestande asked staff to elaborate on the CUP process, in terms on how the City Council can play a role in the final decision, questioning if a Councilmember would be able to call it up. One of the things she read was that the City Council could amend the zoning, but wondered if it had input on what businesses would be allowed.

Mr. Swartz said the City Council could provide input. For instance, an applicant can submit a CUP to the Planning Department, staff would review, which generally takes two to three months, then it goes to the Planning Commission. The City Council receives a packet of whatever goes before the Planning Commission, and after that meeting, the City Council has 15 days to call the item up.

Councilmember Harnik suggested modifying the language and eliminating the bullet point, but wondered if that would still achieve the purpose of what the City is trying to accomplish on the street.

Mr. Swartz answered yes, stating staff spells it out so that people or City Council has an understanding of what staff is looking for.

Mayor Weber requested clarification on a previous statement that staff had not heard back from the El Paseo merchants.

Mr. Swartz responded he had discussed it with them, and they seemed favorable, but they wanted to see the actual language in the ordinance. Tourism and Marketing Manager Thomas Soule circulated the draft Ordinance to them, but staff had not heard or received any comments.

Mayor Weber declared the public hearing open and invited public testimony FAVORING OR OPPOSING this matter.

MS. SUE KOLBAS, Highway 111, Palm Desert, stated she represented a client who is interested in office space on El Paseo. She said her client would definitely enhance the street, given it's a luxury brand, and her client understands the concept of El Paseo and what it is. She's also in agreement with what a previous speaker said under Oral Communications about being careful as to what goes into El Paseo. She has a lot of clients throughout the state of California, having been in real estate for almost 30 years, and recently as a financial advisor at Merrill Lynch. She chose to step back into this in order to have a say in this matter, adding she's very selective about

whom she's talking to about El Paseo and other areas in the city and the Valley. She wants to preserve the beauty and the lifestyle, but you can't control growth, it's inevitable. She said her client is very interested, and he would be an asset to the street, adding he is very aware of the aesthetics and the mission and perception of El Paseo. She encouraged Council to amend the Ordinance.

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

Councilman Jonathan thanked staff, because he knew this has been a long and whiney road to get to this point, stating the collective understanding about this issue has evolved. He agreed with Ms. Kolbas' comments, stating that essentially this Amendment sends out the word to potential developers lessees, and property owners that the primary purpose of El Paseo is retail and entertainment, and to the extent that office use can enhance that primary goal, then it is welcomed. Also, within that basic goal, there is going to be some considerations, because Council doesn't want office use to consume or substitute retail and entertainment. The City is also sending the message that it's open to office space on the ground floor on El Paseo if it meets the basic goals as outlined in the Ordinance. He likes that the City Council has an opportunity to weigh in, however, suggested staff notify Council specifically, by adding it as a separate item on the City Council agenda or by a separate memo, alerting them they have approved a CUP for ground floor office use on El Paseo. Mayor Pro Tem Nestande concurred, stating she preferred an email.

Councilmember Harnik praised staff's efforts on this matter, stating they fine tuned the Ordinance. She is comfortable with the checks and balances that have been put in place, the CUP process, and the added alert to the City Council, which alleviates many of the concerns. With the CUP process, staff and the Planning Commission will review each application and make their findings to protect the integrity and character of El Paseo. However, she suggested modifying the language to Section C - Conditional Uses, and eliminating the bullet points, because she felt they were overreaching. She believed that if left broad to give some discretion to the Planning Commission and the CUP process, is where the City ends up with the best result.

Councilmember Kelly concurred, stating the actual bullet points under Exhibit "A" are not as restrictive as the ones listed in the staff report. She could live with the first two bullet points, but the last one certainly could lead staff or Planning Commission to push an office professional use toward something that might not make sense for that particular use by requiring them to consider collaborating with some ancillary retail use. Therefore, she would prefer modifying the ordinance as proposed by Councilmember Harnik. She would like to disavow any implication that there is a preference for offices that

manage to sell food on site, because it would send the wrong signal to staffing and Planning Commission. The goal is to move about the street and not stay at the office use and having all their needs met at one location.

Mayor Pro Tem Nestande was open to eliminating the third bullet point.

All Councilmembers discussed eliminating all three bullet points, given there will be a CUP process, the checks and balances in the Ordinance, and a review by staff and the Planning Commission. Additionally, the alert to the City Council provides for an opportunity to call up a Planning Commission decision.

Councilman Jonathan moved to: 1) Waive further reading and pass Ordinance No. 1350A to second reading, approving Zoning Ordinance Amendment ZOA 19-0002, amending Section 25.28.040 - El Paseo Overlay District (EPOD) and Section 25.18.040 - Downtown District (DD) of the Palm Desert Municipal Code (PDMC), to allow professional office uses on the ground floor fronting El Paseo, subject to a Conditional Use Permit (CUP) and the criteria on which the CUP will be reviewed, **with the following modification to the Ordinance under Section 25.28.040- C1 as follows: 1)Type of office uses. The Planning Commission will be reviewing the type of office uses on how they energize/engage interest along the street, and enhance its primary use as a retail/entertainment center**; 2) By Minute Motion, adopt a Notice of Exemption in accordance with CEQA. Motion was seconded by Kelly and carried by a 5-0 vote (AYES: Harnik, Jonathan, Kelly, Nestande, and Weber; NOES: None).

Councilman Jonathan pointed out that existing first floor office space is grandfathered on El Paseo under the proposed Ordinance.

XX. ADJOURNMENT

With City Council concurrence, Mayor Weber adjourned the meeting at 5:59 p.m.

SUSAN MARIE WEBER, MAYOR

ATTEST:

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