

City of Indian Wells

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Meeting Minutes (Long)

Thursday, April 7, 2005

1:30 PM

City Council Chambers

City Council

WELCOME TO A REGULARLY SCHEDULED MEETING OF THE CITY COUNCIL/REDEVELOPMENT AGENCY. ALL PERSONS WISHING TO ADDRESS THE CITY COUNCIL/RDA SHOULD FILL OUT A BLUE PUBLIC COMMENT REQUEST FORM BEFORE THE MEETING BEGINS. GIVE IT TO THE CITY CLERK. WHEN THE MAYOR HAS RECOGNIZED YOU, PLEASE COME FORWARD TO THE PODIUM AND STATE YOUR NAME AND ADDRESS FOR THE RECORD. A 3-MINUTE TIME LIMIT IS REQUESTED. PLEASE NOTE THAT YOU MAY ADDRESS THE CITY COUNCIL/ RDA ON AN AGENDA ITEM AT THE TIME IT IS DISCUSSED, BUT ONLY AFTER BEING RECOGNIZED BY THE MAYOR.

PLEASE TURN OFF CELL PHONES AND PAGERS

1. CONVENE THE CITY COUNCIL, PLEDGE OF ALLEGIANCE AND ROLL CALL

[1:37:54] Mayor Byrd reconvened the City Council/RDA of the City of Indian Wells at 1:37 p.m. on April 7, 2005 in the City Hall Council Chambers.

PRESENT: Mayor Percy Byrd, Mayor Pro Tem Ed Monarch, Council Member Conrad Negron, Council Member Robert Bernheimer and Council Member Mary Roche

2. APPROVAL OF THE FINAL AGENDA

[1:38:41]

A motion was made to Approve the Agenda as Submitted. The motion carried unanimously.

3. APPROVAL OF MEETING MINUTES

[1:38:55]

A. March 17, 2005 Regularly Scheduled Meeting Minutes.

A motion was made to Approve the Minutes as Submitted. The motion carried unanimously.

4. PROCLAMATIONS AND PRESENTATIONS

[1:39:09]

- A. Proclamation Proclaiming the Month of April 2005 as Child Abuse Prevention Month in the City of Indian Wells.

Mayor Byrd presented a proclamation recognizing the month of April 2005 as Child Abuse Prevention month in the City of Indian Wells.

- B. Proclamation Proclaiming the Month of April 2005 as Sexual Assault Awareness Month in the City of Indian Wells.

Mayor Byrd presented a proclamation recognizing the month of April 2005 as Sexual Assault Awareness month in the City of Indian Wells.

5. PUBLIC COMMENTS

[1:40:01] Walter McIntyre reported that "Operation Shoes" provided over 6,500 pairs of shoes to the victims of the Tsunami. He stated only 60% of the funding provided by the City for shipping costs was used. Mr. McIntyre then presented the Council with a shoe plaque and individualized BonHomme Richard caps.

6. PUBLIC HEARINGS

- A. Public Testimony on Funding Request by Eisenhower Medical Center for \$5 Million and Potential Indian Wells Urgent Care Center. Page 13.

[1:42:34] Michael Landes, President of the Eisenhower Medical Center Foundation, spoke.

Mayor Byrd opened the public hearing at 1:45 p.m. to hear testimony in favor or against the funding request by Eisenhower Medical Center for \$5 million and potential Indian Wells Urgent Care Center.

Mr. Don Hanrahan, residing in Indian Wells, suggested a trauma center rather than an urgent care center be located in Indian Wells.

Mr. Stanley Pace, residing in Indian Wells, spoke in favor of the request.

Mr. Denny Booth, residing in Indian Wells, spoke in favor of the request as long as the funds are used for building purposes only and the funds are not from the City's operating fund.

Ms. Mary Smith, residing in Indian Wells, spoke in favor of the request.

Mr. Landes and Mr. Aubrey Serfling, President/CEO of Eisenhower, answered the two questions/comments posed by residents.

Mayor Byrd CONTINUED the public hearing to the April 21, 2005 City Council meeting.

Continued

B. Fire Access Maintenance District No. 1 Special Election and Levy Assessment:

[2:01:51] Deputy City Clerk Anna Grandys stated due to a typographical mistake on the return envelope, the City has requested and received a peremptory writ from the Riverside Superior Court extending the election until 8:00 p.m. on Thursday, April 21, 2005. She stated the recommendation is to open the Public Hearing, hear any testimony and continue the Public Hearings ordering the levy and collection of the assessments to the May 5, 2005 Council meeting.

Council Member Bernheimer requested the extraordinary costs associated with this mistake be pasted on the consultant responsible for the mistake.

Mayor Byrd opened the public hearing at 2:04 p.m. to hear testimony in favor or against Resolution Bill Nos. 2005-__ relating to certification of election results and levy and collection of assessments.

Mr. Denny Booth, residing in Indian Wells, requested the audience not speak while the matter is being presented.

- B1. Approve Resolution Bill No. 2005-__ Certifying the Results of the Fire Access Maintenance District No. 1 March 5, 2005 Special Election. Page 16.

It was determined to CONTINUE the Public Hearing ordering the levy and collection of assessments, and other related agenda matters, to the 1:30 p.m. May 5, 2005 City Council meeting.

A motion was made that this matter be Continued. The motion carried unanimously.

- B2. Resolution Bill No. 2005-__ Ordering the Levy and Collection of Assessments Within the City of Indian Wells' Fire Access Maintenance District No. 1 [FAMD] for Fiscal Year 2005-2006. Page 16.

It was determined to CONTINUE the Public Hearing ordering the levy and collection of assessments, and other related agenda matters, to the 1:30 p.m. May 5, 2005 City Council meeting.

A motion was made that this matter be Continued. The motion carried unanimously.

- C. Resolution Bill No. 2005-09 Ordering the Levy and Collection of Assessments for the City of Indian Wells Fire Tax Standby and Availability Charges for Fiscal Year 2005-2006 Pursuant to City Ordinance No. 170. Page 41.

[2:05:46] Mayor Byrd opened the public hearing at 2:07 p.m., to hear testimony in favor or against Resolution Bill No. 2005-09; hearing none, Mayor Byrd closed the public hearing.

It was determined to APPROVE Resolution No. 2005-08 [Resolution Bill No. 2005-09] to read as follows:

RESOLUTION NO. 2005-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE CITY OF INDIAN WELLS FIRE TAX STANDBY AND AVAILABILITY CHARGES PURSUANT TO CITY ORDINANCE NO. 170

A motion was made by Council Member Negron, seconded by Council Member Roche, that this matter be Approved. The motion carried unanimously.

- D. Ordinance Bill No. 2005-05 Amending the Planned Sign Program for the Miramonte Resort & Spa. Page 45.

[2:07:49] Mayor Byrd opened the public hearing at 2:09 p.m. to hear testimony in favor or against Ordinance Bill No. 2005-05; hearing none, Mayor Byrd closed the public hearing.

It was determined to INTRODUCE Ordinance Bill No. 2005-05 to read as follows:

ORDINANCE BILL NO. 2005-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING THE PLANNED SIGN PROGRAM FOR THE MIRAMONTE RESORT AND SPA

A motion was made by Council Member Roche, seconded by Mayor Pro Tem Monarch, to Introduce For First Reading this file. The motion carried unanimously.

7. ORDINANCES FOR ADOPTION

- A. Ordinance Bill No. 2005-04 Municipal Text Amendment to Improve Code Enforcement to Facilitate Property Abatement and Municipal Code Clean Up. Page 52.

[2:09:49] It was determined to ADOPT for second reading Ordinance No. 570 [Ordinance Bill No. 2005-04] to read as follows:

ORDINANCE NO. 570

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING THE MUNICIPAL CODE PERTAINING TO CODE ENFORCEMENT WITHIN THE CITY OF INDIAN WELLS

A motion was made by Council Member Negron, seconded by Council Member Bernheimer, that this matter be Adopted. The motion carried unanimously.

8. CONSENT CALENDAR

A. Landscape and Lighting District No. 91-1:

- A1. Approve Resolution Bill No. 2005-10 Initiating Proceedings for Annual Levy of Assessments and Declaring Intention to Levy Annual Assessments for the Indian Wells Landscape and Lighting District No. 91-1 Pursuant to the Provisions of Part 2 of Division 15 of the California Streets and Highways Code, and Calling for a Property Owner Protest Ballot Proceeding for all Proposed Assessment Increases in Any Zones Therein for Fiscal Year 2005-2006. Page 56.

It was determined to APPROVE Resolution No. 2005-09 [Resolution Bill No. 2005-10] to read as follows:

RESOLUTION NO. 2005-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, INITIATING PROCEEDINGS FOR ANNUAL LEVY OF ASSESSMENTS AND DECLARING ITS INTENTION TO LEVY ANNUAL ASSESSMENTS FOR THE INDIAN WELLS LANDSCAPE AND LIGHTING DISTRICT NO. 91-1 FOR FISCAL YEAR 2005-06 PURSUANT TO THE PROVISIONS OF PART 2 OF DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE

This Matter was Approved on the Consent Agenda.

- A2. Approve Resolution Bill No. 2005-11 for Preliminary Approval of the Annual Levy Report for the Indian Wells Landscape and Lighting District No. 91-1 for Fiscal Year 2005-06. Page 62.

It was determined to APPROVE Resolution No. 2005-10 [Resolution Bill No. 2005-11] to read as follows:

RESOLUTION NO. 2005-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, FOR PRELIMINARY APPROVAL OF THE ANNUAL LEVY REPORT FOR THE INDIAN WELLS LANDSCAPE AND LIGHTING DISTRICT NO. 91-1 FOR FISCAL YEAR 2005-06

This Matter was Approved on the Consent Agenda.

B. Street Lighting District No. 2000-1:

- B1. Approve Resolution Bill No. 2005-12 Initiating Proceedings for Annual Levy of Assessments and Declaring Intention to Levy Annual Assessments for the Indian Wells Street Lighting District No. 2000-1 Pursuant to the Provisions of Part 2 of Division 15 of the California Streets and Highways Code for Fiscal Year 2005-06. Page 135.

It was determined to APPROVE Resolution No. 2005-11 [Resolution Bill No. 2005-12] to read as follows:

RESOLUTION NO. 2005-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, INITIATING PROCEEDINGS FOR ANNUAL LEVY OF ASSESSMENTS AND DECLARING ITS INTENTION TO LEVY ANNUAL ASSESSMENTS FOR THE INDIAN WELLS STREET LIGHTING DISTRICT NO. 2001-1 FOR FISCAL YEAR 2005-06 PURSUANT TO THE PROVISIONS OF PART 2 OF DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE

This Matter was Approved on the Consent Agenda.

- B2. Approve Resolution Bill No. 2005-13 for Preliminary Approval of the Annual Levy Report for the Indian Wells Street Lighting District No. 2000-1 for Fiscal Year 2005-06. Page 140.

It was determined to APPROVE Resolution No. 2005-12 [Resolution Bill No. 2005-13] to read as follows:

RESOLUTION NO. 2005-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, FOR PRELIMINARY APPROVAL OF THE ANNUAL LEVY REPORT FOR THE INDIAN WELLS STREET LIGHTING DISTRICT NO. 2001-1 FOR FISCAL YEAR 2005-06

This Matter was Approved on the Consent Agenda.

- C. Approve Authorization for Mayor to Sign Amendment to Memorandum of Understanding for the Fringe Toed Lizard Habitat Conservation Plan. Page 156.

This Matter was Approved on the Consent Agenda.

- D. Approve Agreement with Coachella Valley Mosquito and Vector Control District for Full-Time Vector Control Technician and a Supplemental Appropriation [Non-budgeted]. Page 158.

This Matter was Approved on the Consent Agenda.

- E. Approve the Readoption of the City's Current Annual Investment Policy. Page 167.
This Matter was Approved on the Consent Agenda.
- F. Approve Request to Match Employees' Share of United Way 2005 Contribution in the Amount of \$2,900 [Budgeted]. Page 180.
This Matter was Approved on the Consent Agenda.
- G. Approve Declaration and Disposition of Surplus Items. Page 182.
This Matter was Approved on the Consent Agenda.
- H. Receive/File Monthly Report and Treasurer's Reconciliation. Page 185.
This Matter was Approved on the Consent Agenda.
- I. Approve Cove Commission Warrants and Demands. Page ____.
This Matter was Approved on the Consent Agenda.
- J. Approve FAMD Warrants and Demands. Page 220.
This Matter was Approved on the Consent Agenda.
- K. Approve City Warrants and Demands. Page 222.
This Matter was Approved on the Consent Agenda.

Passed The Consent Agenda

A motion was made by Council Member Bernheimer, seconded by Council Member Roche, including all the preceding items marked as having been adopted on the Consent Agenda. The motion carried unanimously.

9. GENERAL BUSINESS

- A. Recommendation to Award Contracts to Michael Brandman Associates and EPC Land Planning, Inc. for Update of Land Use Element of the General Plan. Page 223.

[2:10:45] It was determined to AWARD contracts to Michael Brandman Associates and to EPC Land Planning, Inc. in the amount totaling \$48,825 for the comprehensive update to the Land Use Element of the General Plan.

A motion was made by Council Member Bernheimer, seconded by Council Member Roche, that this matter be Approved. The motion carried unanimously.

- B. Recommendation to Award Contracts to Michael Brandman Associates and EPC Land Planning, Inc. for Review of City's Hillside Management Plan. Page 247.

[2:12:24] It was determined to AWARD contracts to Michael Brandman Associates and to EPC Land Planning, Inc. in the amount totaling \$13,000 for the review of the City's Hillside Management Plan.

A motion was made by Council Member Roche, seconded by Council Member Negron, that this matter be Approved. The motion carried unanimously.

- C. Recommendation to Approve 2005 Desert Sun Snapshots Sponsorship. Page 253.

[2:14:21] It was determined to DENY the Sponsorship Agreement with the Desert Sun for an one-year sponsorship of the Desert Sun's Snapshot section in the amount of \$6,300 and the supplemental appropriation for same.

A motion was made by Mayor Pro Tem Monarch, seconded by Council Member Negron, that this matter be Denied. The motion carried unanimously.

- D. Consideration of Authorization to Commission a City Hall Entrance Sculpture by William Ware. Page 257.

[2:20:30] Mr. William Ware, artist of "The Indian Well" sculpture, spoke on the specifics of the sculpture, its costs and the possibility of a bigger sculpture in the future.

A motion was made by Mayor Byrd, and seconded by Council Member Roche, that this matter be Approved.

A substitute motion was made by Council Member Bernheimer, and seconded by Mayor Pro Tem Monarch, that the matter be CONTINUED for 45 days to allow for staff review of the artist's credentials, for an expert art opinion of the proposed sculpture and for the Marketing Committee to review the proposed sculpture.

City Attorney Stephen Deitsch stated that pursuant to Roberts Rules, the substitute motion should be voted on first. Then if it is not moot and the Council chooses to, the Council can then vote on the original motion.

It was determined to CONTINUE the matter for 45 days to allow for review of artist's credentials, for an expert art opinion of the proposed sculpture and for the Marketing Committee to review the proposed sculpture.

A motion was made by Council Member Bernheimer, seconded by Mayor Pro Tem Monarch, that this matter be Approved. The motion carried by the following vote:

Votes: AYES: 3 - Monarch, Negrón and Bernheimer
NOES: 2 - Byrd and Roche

10. MATTERS FROM STAFF

[3:07:10] City Attorney Stephen Deitsch stated the City Council met earlier this morning in closed session to discuss items #A to F as listed on the agenda and no reportable action was taken.

Public Works Director Tim Wassil reported the Senior Housing Phase II is on hold until the Miles Crossing project is finalized.

Planning Director Corrie Kates reported a valley-wide construction and demolition ordinance will be brought forward to Council shortly, as well as the building code updates. He also updated the Council on the housing element update.

Marketing Director Nancy Samuelson reported the next sales mission is scheduled for May 4-5, 2005 in Dallas and Houston, Texas. She also reported on the Pageant of the Masters.

Deputy City Clerk Anna Grandys reported there are 14 vacant seats on various Commissions and Committees and that the application process has begun.

11. COUNCIL MEMBERS' COMMENTS AND STATUS REPORTS

[3:11:30]

A. Council Member Roche

No report.

B. Council Member Bernheimer

Council Member Bernheimer informed the Council that a reception for the Mayor of Mexicali is scheduled for April 8, 2005 at Desert Willow. He stated TAC is involved in the changes at the CVA.

C. Council Member Negrón

Council Member Negrón reported the CVAG Executive Committee has approved the number signs for Highway 111. He reported on the luncheon with Senator Diane Feinstein.

D. Mayor Pro Tem Monarch

Mayor Pro Tem Monarch reported on his satisfaction with the Children's Museum strategic meetings and overall direction.

E. Mayor Byrd

Mayor Byrd reported on the water conservation letters received from school children and he announced his appointment to the Southern California Water Commission. He reported on the luncheon with Diane Feinstein relating to transportation.

12. RECESS CITY COUNCIL MEETING TO A REGULARLY SCHEDULED MEETING OF THE REDEVELOPMENT AGENCY BOARD

[3:17:42] At 3:17 p.m., Mayor Byrd RECESSED the City Council meeting to a regularly scheduled meeting of the Redevelopment Agency Board.

13. CLOSED SESSION

Mayor Byrd stated the City Council/RDA held a Closed Session earlier today to discuss the following agenda items:

- A.** Conference with Real Property Negotiator Pursuant to Government Code Section 54956.8. Property: 30.2 Acre Vacant Parcel Located North of Highway 111 and East of Eldorado Drive, and the disposition of interests owned by the Agency of APN 633-150-021, 633-150-058, 633-150-069 and 633-150-075. City Negotiator: City Manager. Negotiating Parties: Dick Monfort. Under Negotiation: Price and Terms of Payment.

No reportable action was taken.

- B.** Conference with Real Property Negotiator Pursuant to Government Code 54956.8. Property: Generally Located on the Northside of Miles Avenue and Highway 111, also Known as APN 633-150-011, 633-310-004, 633-310-005, 633-310-006, 633-310-008, 633-310-009, 633-310-010, 633-310-011, 633-310-013, 633-310-016, 633-310-017, 633-410-012 and 633-410-017. City/Agency Negotiator: City Manager/Executive Director. Negotiating Parties: Jerson Investment, LLC and Jerry Fogelson. Under Negotiation: Price and Terms of Payment.

No reportable action was taken.

- C. Public Employee Performance Evaluation Pursuant to Government Code Section 54957. Title: City Manager.

No reportable action was taken.

- D. Public Employee Performance Evaluation Pursuant to Government Code Section 54957. Title: City Attorney.

No reportable action was taken.

- E. Conference with Labor Negotiators Pursuant Government Code Section 54957.6. City Designated Representative: City Manger. Unrepresented Employee: City Attorney.

No reportable action was taken.

- F. Conference Concerning Palm Springs Desert Resort Convention and Visitors Bureau (Joint Powers Agency) Pursuant to Government Code section 54956.96 (JPA Closed Session under Government Code Section 54957). Discussion Will Concern: Public Employee Discipline/Dismissal/Release. Title: Executive Director. City Representative: Council Member Bernheimer.

No reportable action was taken.

14. **ADJOURNMENT**

At 3:18 p.m., Mayor Byrd ADJOURNED the City Council/RDA Meeting to a scheduled study session meeting of the City Council/RDA to be held at 10:00 a.m. on April 14, 2005 in the City Hall Executive Conference Room/Council Chambers; to a scheduled study session meeting of the City Council/RDA to be held at 10:00 a.m. on April 21, 2005 in the City Hall Executive Conference Room/Council Chambers; and thereafter to a regularly scheduled afternoon session meeting of the City Council/RDA to be held at 1:30 p.m. on April 21, 2005 in the City Hall Council Chambers.

Respectfully Submitted,

Greg Johnson, City Manager/City Clerk