



Cathedral City

CITY COUNCIL MINUTES

CITY COUNCIL CHAMBERS 68-700 AVENIDA LALO GUERRERO CATHEDRAL CITY, CA 92234

Wednesday, August 10, 2016 REGULAR MEETING 6:30 PM

- **CALL TO ORDER**

Mayor Stan Henry called the Regular Meeting of the City Council to order at 6:35 p.m.

- **PLEDGE OF ALLEGIANCE**

Council Member John Aguilar led the Pledge of Allegiance.

- **INVOCATION (MOMENT OF REFLECTION)**

Council Member Mark Carnevale offered the Invocation.

- **ROLL CALL**

Present: 5 - Mayor Stan Henry, Mayor Pro Tem Gregory S. Pettis, Council Member Shelley Kaplan, Council Member Mark Carnevale, and Council Member John Aguilar

- **AGENDA FINALIZATION**

- **STATEMENT OF PARTICIPATION BY THE DEPUTY CITY CLERK**

1. PUBLIC COMMENT

Primitivo Trujillo, Cathedral City, was called to speak. He reported that Ocotillo Park is a great addition to his neighborhood and he feels that the design of the park has something for everyone and is exactly what the neighborhood needed. He stated that the park gets used by all ages. He stated that there is a problem with graffiti, however, the residents are working together along with the City and they are interested in holding neighborhood watch meetings. He feels that there may be a need of drought tolerant trees in the future. He would like to have a community clean-up day in the fall. He thanked the Council for the park.

2. CONSENT AGENDA

Approval of the Consent Agenda

A motion was made to approve the following Consent Agenda Items. The motion carried by the following vote:

Aye: 5 - Mayor Henry, Mayor Pro Tem Pettis, Council Member Kaplan, Council Member Carnevale, and Council Member Aguilar

2.A. [2016-307](#) Receive and file Payment of Claims and Demands

This item was approved.

Enactment No: M.O. 6617

- 2.B. [2016-310](#) City Council Minutes of June 20, 2016, June 29, 2016 and July 13, 2016**

This item was approved.

- 2.C. [2016-258](#) 2016-2017 California Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP) Grant**

This item was approved.

Enactment No: M.O. 6618

- 2.D. [2016-289](#) Award a Contract to Westcon Construction Group, Inc. for the Construction of ADA Ramp Improvements along Vista Chino, 30th Avenue and McCallum Way in the amount of \$62,890 and related costs.**

This item was approved.

Enactment No: M.O. 6620

- 2.E. [2016-291](#) Payment to the Coachella Valley Conservation Commission (CVCC) for the Cathedral Canyon Drive Bridge Conservation Easement Endowment**

This item was approved.

Enactment No: M.O. 6621

- 2.F. [2016-292](#) Contract award to Hardy & Harper, Inc. in the amount of \$939,000 for Construction of the Date Palm Drive/Cathedral Canyon Drive Pavement Rehabilitation Improvements**

This item was approved.

Enactment No: M.O. 6622

- 2.G. [2016-293](#) Permitting of Tobacco Retailers**

This item was approved.

Enactment No: Ord 780

- 2.H. [2016-294](#) Amendment Four to AB 2766 Memorandum of Understanding (MOU) between CVAG and Member Jurisdictions regarding the Regional PM10 Street Sweeping Program**

This item was approved.

Enactment No: M.O. 6623

2.I. [2016-295](#) Agreement with the City of Palm Springs for the Construction and Maintenance of the Cathedral City Whitewater Bike Path.

This item was approved.

Enactment No: M.O. 6624

2.J. [2016-302](#) Approval of the Final Map of Parcel Map No. 36584 located at the Southwest Corner of San Luis Rey Drive and Mission Drive.

This item was approved.

Enactment No: M.O. 6625

2.K. [2016-303](#) Healing Field 2016

This item was approved.

Enactment No: M.O. 6626

2.L. [2016-305](#) CCHS Annual Homecoming Parade

This item was approved.

Enactment No: M.O. 6627

3. PUBLIC HEARINGS

4. LEGISLATIVE ACTIONS

4.A. [2016-299](#) Submission to the Voters of a Question Proposing to Change from a General Law City to a Charter City

City Manager Charles McClendon, indicated that the latest draft with all of the revisions that been directed and it is before the City Council again to receive public comments and make final edits and provide direction to staff on how to proceed.

Denise Cross, Cathedral City, was called to speak. She questioned the following:

Will the fines remain the same as in General Law?

Can the Charter be changed by Council or voters?

Can the Council raise property taxes?

Randy Winbiggler, Cathedral City, was called to speak. He stated that it would be nice to see a woman on the City Council. He has concerns with eliminating the directly elected Mayor seat and Council's ability to give themselves annual CPI increases through the adoption of a City Charter. The survey results indicate that residents do not want to eliminate the directly elected Mayor seat. He stated that citizens are just now finding out about the proposed charter and many residents are asking that the Charter question be postponed until a later date when the residents can be more educated. They are also asking to take out the Directly Elected Mayor Seat and allow the residents to vote on it seperately.

Bethany Ballard, Cathedral City, was called to speak. She indicated that she is opposed to becoming a Charter City. She stated that she feels there are no provisions for the following:

*transparency or citizen oversight
residents to have a greater voice
protection of private property
preservation of US Constitutional rights
amending or revoking the Charter
against corporate takeover of City assets
unfair policies, ordinances, codes or zoning changes
to elected Mayor, Clerk or Manager
effective way to reach the residents with city news for major changes*

She feels that the Charter is about the following:

*economic development
urbanization
more big businesses
more multi-family developments and apartment buildings
more people*

She also feels that the survey misrepresented what the Charter is.

Dale Jag, Cathedral City, was called to speak. He feels that the people need to be allowed to participate in the creation of the City Charter. In reviewing the Charter he along with other residents have found many areas of concern and referred to the City of Bell and the issues that presented themselves with them being a Charter City. He expressed his concern with eliminating the Directly Elected Mayor Seat. He urged the Council to postpone the Charter question.

Shilo Herrling, Cathedral City, was called to speak. He feels that this is an important issue that should be completely reviewed with community input. He would like to see this question postponed and if not to please consider the following:

*The Directly Elected Mayor Seat as a separate ballot question
Who will set limits on fees for members sitting on boards and commissions, etc.*

He urged the Council to re-think this issue.

Sandy Ramsey-Woods, President, AFSCME Local 3961, was called to speak. She indicated that they have reviewed the proposed language for the Charter and have serious concerns about Article II, Contract, Public Financing and Franchises. On behalf of AFSCME Local 3961, she requested that the following language be inserted in Section 200 as part (A) "The City shall utilize its own forces in carrying out the business of the City and will not enter into contracts for the performance of work where those services are of a kind that City employees could perform adequately and competently, with reasonable training if necessary, unless the work is specialize or will last less than six months in total duration."

Antonio Bacio, Cathedral City, was called to speak. He indicated that he supports moving forward as a Charter City.

Alan Carvalho, Cathedral City, was called to speak. He indicated that he supports moving forward as a Charter City.

Karen Panico-Willis, Cathedral City, was called to speak. She indicated that she has participated in discussion on the City Charter. She feels that becoming a Charter City should be voted on by the people.

Mayor Pro Tem Greg Pettis, announced that the Firefighters Association is in support of AFSCME's recommendation.

Mayor Stan Henry, stated that there has been many meetings regarding the proposed City Charter. He indicated that a list of FAQ's were prepared by the City Attorney and he requested that the City Attorney read them out loud for the record.

City Attorney Eric Vail read the following:

1. Does the Charter give the City any additional eminent domain powers?

No. The eminent domain powers of general law and charter cities are identical. Article I, Section 19 of the California Constitution and the Eminent Domain Law (Code of Civil Procedure section 1230.010 et seq.) govern the use of eminent domain powers and apply to all state and local agencies. The courts have held that eminent domain is a matter of statewide concern.

2. Does the Charter give the Council the ability to raise their salaries?

No. The charter sets the Council's salary at what it is today and provides for annual automatic adjustments equal to Consumer Price Index (CPI), but not to exceed 3% annually. The charter does not authorize the Council to take any action to increase its salary beyond the CPI adjustments. The charter also requires an automatic decrease in Council salaries that match decreases experienced by any employee bargaining group.

3. Does the Charter give the Council any additional taxation powers?

No. The charter expressly states in Section 102 that the charter does not confer an increased power to tax, and the City's power to tax is limited to the powers of general law cities.

4. Does the Charter give the Council the ability to spend public money advocating for City ballot measures?

No. While the expenditure of tax dollars is a "municipal affair" and the courts have held that a charter may include provisions authorizing public financing of campaigns, the proposed charter for Cathedral City does not contain such a provision. Therefore, the City will still be subject to the rule that public resources cannot be used in campaigning.

5. Can the Council amend the Charter by their own actions?

No. The charter is a voter-approved document and can only be repealed or amended by a vote of the people.

6. Under the Charter does the Council have additional power to levy fees and fines?

Yes as to fines, and no as to fees. All local agencies, including charter cities, are subject to the limitations in Articles 13C and 13D of the California Constitution on setting fees. Fees may not exceed the agency's reasonable costs. Charter cities may set fines for violations of city regulations at amounts higher than general law cities may set fines. Section 103 of the proposed charter allows the City Council to determine the maximum fines that may be levied for violations of City regulations.

7. How will public procurement and contracting work under the Charter?

For public works projects, the City will no longer be required to follow the procedures in the Public Contracts Code. Sections 200 and 201 of the charter provide that the City will have the power to establish standards, procedures, rules or regulations relating to public works contracts and purchases of goods, services and property.

8. Does the Charter give the City the ability to avoid prevailing wage laws?

No. The Legislature has determined that for a charter city to receive any state funding for public works projects, the charter city must pay prevailing wages. Therefore, Cathedral City must pay prevailing wages on all public works projects or else risk losing significant funding.

He added that the Charter does not allow for any additional compensation for Council participation on commissions or committees.

Mayor Stan Henry asked that the following language be added to the Charter as Section 104. The City recognizes and values the work performed by its employees and will endeavor where deemed reasonably feasible by the City

Council to utilize the labor of its employees for the performance of general municipal services. Mindful of Government Code Sections 34800, 34900 and 54981, as well as the provisions of the Meyers, Millias Brown Act, the City shall not contract with any public or private entity for services performed by employees if the City as of the adoption date of the Charter without first undertaking a meet and confer process with the affected employees or where represented, their recognized bargaining group regarding both the decision to contract the service and its effects. Notwithstanding the forgoing, nothing in this section is intended to limit the authority of the City Council to contract for services in the following circumstances: (1) temporary services during a declared emergency; (2) a service to provide temporary employees to fill a vacancy during the recruitment to fill the vacancy; (3) for professional or specialized service including without limitation legal counsel, auditing, real estateservices, financial advisors, and similar services; (4) insurance, bonding or participation in shared risk pools; (5) participation in joint powers authorities providing services in addition to or outside of general municipal services; (6) local or regional task forces in which multiple jurisdictions combine employees and or contractors to provide a specific service or function.

Mayor Pro Tem Greg Pettis suggested including language that contracts come back to the City Council for approval.

Shilo Herrling, Cathedral City, was called to speak. He thanked the City Council answering the questions that he had.

Tyrone Pearson, Cathedral City, was called to speak. He suggested having a provision for pensions included in the Charter.

Valerie Schechter, Cathedral City, was called to speak. She stated that she is in favor of a rotating Mayor and the Charter.

Denise Cross, Cathedral City, was called to speak. She questioned again if fines and penalties are included in the Charter.

City Attorney Eric Vail, stated that the Charter does not have a provision to raise or impose taxes and as a Charter City they have no more right to impose taxes than a General Law City.

Mayor Stan Henry, indicated that he is the one that brought forward eliminating the Directly Elected Mayor Seat and explained why. He suggested that a lifetime cap be added to Section 605 and that it be set at a maximum of \$2,500. He suggested that the year 2022 be added to Section 601 as the year to go to district elections if the City has not met the 65,000 population threshold at that time. He would like the process of the rotating Mayor to be adopted by Ordinance.

Mayor Pro Tem Greg Pettis, stated that he is in favor of having a Rotating Mayor. He stated that he is comfortable with the changes that were proposed by Mayor Henry.

Council Member John Aguilar, stated that he is in favor of all of the proposed amendments this evening. He feels very strongly that the City go to district elections. He supports having a rotating Mayor.

Council Member Shelley Kaplan, appreciates the input of the community. He indicated that he was a member of the sub-committee. He stated that the Charter is simple and only focusses on key areas. The residents have the power to vote in favor or opposed to becoming a Charter City. He supports the additional language that was proposed this evening.

Council Member Carnevale, stated that he is in favor of becoming a Charter City. He thanked all those who came forward to express their concerns and suggestions.

City Attorney Eric Vail stated that the following would be the edits that will be made to the Charter based on the comments that were made during the meeting:

Add Section 104 as it was read into the record by the Mayor with the inclusion of language that any contract shall be brought to the City Council at a regular meeting for consideration.

Edit Section 203 to add single-family.

Edit Section 601 to add subsection (b) or the regular general municipal election held in 2022, whichever is the first to occur.

Edit Section 603 to add rotating to the first sentence. Also add language that states the process for appointing the Mayor and Mayor Pro Tem shall be implemented by Ordinance.

Edit 605 to add not to exceed a maximum of \$2,500 per month.

A motion was made by Mayor Pro Tem Pettis, seconded by Council Member Kaplan, to approve a Resolution of the City Council of the City of Cathedral City ordering the submission to the qualified electors of the City a Measure proposing the adoption of a Charter for the City at the General Municipal Election to be held on Tuesday, November 8, 2016. The motion carried by the following vote:

Aye: 5 - Mayor Henry, Mayor Pro Tem Pettis, Council Member Kaplan, Council Member Carnevale, and Council Member Aguilar

5. COUNCIL REPORTS

Council Member John Aguilar, announced that a community hearing on the Development of the City's Community Assessment for Fair Housing Document will be held on August 11, 2016. This is an important document that is used to receive Federal Funding.

Council Member Shelley Kaplan, announced the DATA Program is looking for mentors.

Mayor Stan Henry, reported that he went to Sacramento to testify in support of the Agua Caliente Tribe Compact.

6. CLOSED SESSION

Eric Vail, City Attorney announced that the City Council will adjourn to Closed Session to discuss the items listed on the Agenda.

The City Council adjourned to Closed Session at 8:32 p.m.

6.A. [2016-268](#) Conference with Real Property Negotiator Pursuant to Government Code Section 54956.8.

Property Location: Approximately 13.8 acres at the Northwest Corner of East Palm Canyon Drive and Date Palm Drive.

Negotiating Parties: City of Cathedral City as Successor Agency to the former Redevelopment Agency and the City Urban Revitalization Corporation,

Property Owners: City Urban Revitalization Corporation

Under Negotiations: Property Negotiations

6.B. [2016-298](#) Conference with Real Property Negotiator Pursuant to Government

Code Section 54956.8.

Property Location: Approximately 3 acres at the Southwest Corner of East Palm Canyon Drive and West Buddy Rogers Drive; APN's 687-193-003 & 004; 687-193-007 through 010; 687-195-002 through 010 and 687-195-012.

Negotiating Parties: City of Cathedral City as Successor Agency to the former Redevelopment Agency, the City Urban Revitalization Corporation, Tri-Vestco and Guy Whitten

Property Owners: City Urban Revitalization Corporation and Guy Whitten

Under Negotiations: Property Negotiations

6.C. [2016-300](#) Conference with Real Property Negotiator Pursuant to Government Code Section 54956.8.

Property Location: A.P.N. 687-510-049 and 687-501-050, Parcels 6 and 7, Margot Murphy Way.

Negotiating Parties: City of Cathedral City and the City Urban Revitalization Corporation.

Property Owners: City Urban Revitalization Corporation

Under Negotiations: Property Negotiations

6.D. [2016-301](#) Conference with Legal Counsel - Anticipated Litigation, Pursuant to Government Code Section 54956.9 (a) and (d)(4):

One Potential Case

The City Council reconvened at 9:15 p.m.

Eric Vail, City Attorney, announced that the City Council met in Closed Session to discuss the following:

Conference with Real Property Negotiator Pursuant to Government Code Section 54956.8 for the following:

6A. Property Location: Approximately 13.8 acres at the Northwest Corner of East Palm Canyon Drive and Date Palm Drive.

Negotiating Parties: City of Cathedral City as Successor Agency to the former Redevelopment Agency and the City Urban Revitalization Corporation,

Property Owners: City Urban Revitalization Corporation

Under Negotiations: Property Negotiations

6B. Property Location: Approximately 3 acres at the Southwest Corner of East Palm Canyon Drive and West Buddy Rogers Drive; APN's 687-193-003 & 004; 687-193-007 through 010; 687-195-002 through 010 and 687-195-012.

Negotiating Parties: City of Cathedral City as Successor Agency to the former Redevelopment Agency, the City Urban Revitalization Corporation, Tri-Vestco and Guy Whitten

Property Owners: City Urban Revitalization Corporation and Guy Whitten

Under Negotiations: Property Negotiations

6C. *Property Location: A.P.N. 687-510-049 and 687-501-050, Parcels 6 and 7, Margot Murphy Way.
Negotiating Parties: City of Cathedral City and the City Urban Revitalization Corporation.
Property Owners: City Urban Revitalization Corporation
Under Negotiations: Property Negotiations*

6D. *Conference with Legal Counsel - Anticipated Litigation, Pursuant to Government Code Section 54956.9 (a) and (d)(4):*

One Potential Case

There was no reportable action taken.

ADJOURN

Mayor Stan Henry adjourned the Regular City Council Meeting of August 10, 2016 at 9:15 p.m.

STANLEY E. HENRY, Mayor

ATTEST:

GARY F. HOWELL, City Clerk