

REPORT TO THE CITY COUNCIL



DATE: December 3, 2013

TITLE: Health & Wellness Center Budget Update

PREPARED BY: Amy Aguer, Director of Finance & Administration

RECOMMENDATION

Review and provide direction to Staff.

DISCUSSION

The Health & Wellness Center ("H&WC") has proven to be a wonderful resource for the residents of Desert Hot Springs. The services provided at the Health & Wellness Center include:

1. A medical and dental clinic, including laboratory and x-ray facilities
2. A community gym, with state-of-the-art exercise equipment
3. The Boys & Girls' Club
4. The Aquatic Center

The residents of Desert Hot Springs have been historically medically underserved; access to proper medical and dental care is a significant challenge for many residents. The new health clinic includes space for both doctors and dentists. It offers screening services in its laboratory & x-ray facilities. These are services that are desperately needed in the City of Desert Hot Springs. A recent Health Fair was attended by several hundred people.

The Boys and Girls Club has over 1,000 young people registered, offering daily after school programs and activities for youth. This part of the facility is being used from approximately 2 pm to 6 pm. This creates a safe environment for the City's young residents and encourages the youth to participate in positive activities. This has resulted in reduced juvenile disturbance afternoon calls to the Police Department.

Our contract with the Boys and Girls Club calls for the City to provide direct annual funding in the amount of \$250,000/year. The City is also responsible for paying the following utilities for the Boys & Girls Club portion of the H&WC facility: water, gas, electricity, light, heat, power and other utilities. The Boys & Girls Club in turn, pays for the following utilities: telephone, fax, internet, cable TV and/or satellite TV. Two checks, in the amount of \$125,000, have been previously issued to the Boys and Girls Club. The first check was paid 3/14/13. The second check was paid 6/20/13. The contract was executed on February 2, 2010. The contract calls for payment to be made on the anniversary of the effective date of the agreement and the balance six months later. Therefore, the next payment is due February 2, 2014.

The Aquatic Center has been enjoyed by many residents of the City during the summer months. It is a beautiful, Olympic-size pool. Both children and adults were able to exercise and cool off in the H&WC's pool. Administration of the Aquatic Center, and lifeguard services, were provided by a contract with the Desert Recreation District ("DRD"). The DRD provided a report to City Council on the usage of the pool.

Staff has updated the FY 13/14 budget for the Health & Wellness Center. The adopted budget for the Health & Wellness Center included salary and benefits, for a full-time position, for the full fiscal year 13/14. Staff has reduced the estimated salaries and benefits to reflect the anticipated actual costs for FY 13/14.

The City received a Developer Reimbursement fee from the funding of the Health & Wellness Center New Market Tax Credit. The previous City Manager designated this funding for reimbursement to cover City's cost for staff salaries and benefits, as well as other operating costs. These funds are discretionary revenues that can be designated by the City Council for whatever purposes it deems appropriate.

Recommendations:

1. Direct staff to work with Community Partners, including, but not limited to, the Desert Health Care District, the Palm Springs Unified School District, the Boys and Girls Club of the Coachella Valley, the Desert Recreation District, and others, to develop long-term funding solutions for the H&WC.
2. Direct staff to work with the Boys and Girls Club to develop a budget, including cost accountability, for their contract services.
3. The Boys & Girls Club has requested the next installment \$125,000 from the City. This payment is due February 2, 2014. Provide direction to staff regarding the payment of this next installment.
4. The City of Desert Hot Springs Health & Wellness Foundation Board had discussions on creating a new staff person to provide Public Relations, Marketing and Grant Writing Services. City staff is recommending that this position be cut from the budget for the foreseeable future. The City's Acting Public Works Director is currently providing his time to resolve outstanding construction issues related to the H&WC. Provide direction regarding the staffing of the Health & Wellness Center.
5. Provide direction to staff regarding the allocation of the discretionary Developer Fee Reimbursement received from the construction of the H&WC; the final installment of \$692,589 has been received in FY 2013/14.

FISCAL IMPACT

Long-term funding solutions need to be developed in order to keep this beautiful and much needed facility open for the residents of Desert Hot Springs. The City does not have the financial wherewithal to fund the facility at this time.

EXHIBIT(S)

1. Health & Wellness Center Budget Update – November, 2013
2. Facilities Use Agreement by and between the City of Desert Hot Springs and the Boys & Girls Club of Coachella Valley.

City of Desert Hot Springs
Budget Worksheet Report
Health and Wellness Fund - 211-44-xx-xxxx
Revised 11/17/2013

Description	Revenues	Expenditures
211-0000		
3401 INVESTMENT EARNINGS	\$ 800	
3402 NMTC INTEREST REIMBURSEMENTS	75,000	
3713 DONATIONS/FUNDRAISERS	-	
3724 REIMBURSEMENTS (Borrego Health Care)	35,000	
3731 DEVELOPER REIMBURSEMENT FEES	-	
3765 SWIMMING FEES	8,000	
3999 TRANSFER IN	692,589	
	<u>\$ 811,389</u>	
Description		
211-44-53 AQUATIC CENTER		
<u>SALARIES AND BENEFITS</u>		
4100 SALARIES		\$ -
4140 EMPLOYEE BENEFITS		-
4150 PERS RETIREMENT		-
4160 TAXES		-
Total: SALARIES AND BENEFITS		<u>\$ -</u>
<u>OPERATIONS & MAINTENANCE</u>		
4200 UTILITIES		97,500
MISSION SPRINGS WATER DISTRICT		
SOUTHERN CALIFORNIA EDISON		
THE GAS COMPANY		
DESERT VALLEY DISPOSAL TRASH SERVICE		
4205 COMMUNICATIONS		3,800
VERIZON - PHONE LINE		
APPLE VALLEY COMMUNICATIONS - MONITORING ALARM		
4210 ADVERTISING		5,500
4220 OFFICE SUPPLIES		2,200
4225 POSTAGE		3,000
4230 TRAVEL & TRAINING		3,000
4235 DUES AND SUBSCRIPTIONS		-
4250 UNIFORMS		-
4265 REPAIR & MAINT-BUILDINGS		20,500
4270 SMALL TOOLS & EQUIPMENT (includes office scanner)		4,400
4275 INSURANCE PREMIUMS (liability,property,auto liability - note this payment will be for 2013-14)		26,390
4285 ADMINISTRATIVE SERVICES - Operation support for three months June-Sept 2013		94,944
4285 ADMINISTRATIVE SERVICES - Operation support for June 2014 (if still operating)		33,000
4320 CONTRACT SERVICES		112,750
Knorr Swimming Pool chemicals and maintenance	108,550	
Landscaping maintenance	4,200	
Total: OPERATIONS & MAINTENANCE		<u>\$ 406,984</u>
Division Total: AQUATIC CENTER		<u><u>\$ 406,984</u></u>

**City of Desert Hot Springs
Budget Worksheet Report
Health and Wellness Fund - 211-44-xx-xxxx
Revised 11/17/2013**

Description	Revenues	Expenditures
211-44-54 BOYS AND GIRLS CLUB		
<u>SALARIES AND BENEFITS</u>		
4100 SALARIES		\$ -
4115 ANNUAL/ADMINISTRATIVE LEAVE BUYOUT		-
4125 TEMPORARY HELP		-
4140 EMPLOYEE BENEFITS		-
4150 PERS RETIREMENT		-
Total: SALARIES AND BENEFITS		\$ -
<u>OPERATIONS & MAINTENANCE</u>		
4200 UTILITIES		\$ 62,625
MISSION SPRINGS WATER DISTRICT		
SOUTHERN CALIFORNIA EDISON		
THE GAS COMPANY		
4265 REPAIR & MAINT-BUILDINGS - (A/C Filters, Landscaping, etc.)		8,400
4320 CONTRACT SERVICES (operation of the Boys & Girls Club)		250,000
Total: OPERATIONS & MAINTENANCE		\$ 321,025
Division Total: BOYS & GIRLS CLUB		\$ 321,025
211-44-55 HEALTH CENTER (BORREGO)		
<u>OPERATIONS & MAINTENANCE</u>		
4200 UTILITIES		\$ 35,000
MISSION SPRINGS WATER DISTRICT		
SOUTHERN CALIFORNIA EDISON		
THE GAS COMPANY		
4265 REPAIR & MAINT-BUILDINGS - (landscaping)		4,200
Total: OPERATIONS & MAINTENANCE		\$ 39,200
Division Total: HEALTH CENTER		\$ 39,200
211-44-56 COMMUNITY HEALTH & WELLNESS CENTER		
<u>SALARIES AND BENEFITS</u>		
4100 SALARIES		\$ 26,945
4140 EMPLOYEE BENEFITS		4,050
4150 PERS RETIREMENT		9,478
4160 TAXES		3,338
Total: SALARIES AND BENEFITS		\$ 43,811
4220 OFFICE SUPPLIES		\$ 500
4281 ANNUAL LEASE PAYMENT - DHS FOUNDATION US BANK		104,000
4320 CONTRACT SERVICES		11,000
Compliance Report	\$ 6,000	
Health Assessment Resource Center Stamping - payment pending	\$ 5,000	
5025 FURNITURE & FIXTURES (artwork)		65,000
Total: OPERATIONS & MAINTENANCE		\$ 180,500
Division Total: DHS OPERATION BUDGET		\$ 224,311
TOTAL: HEALTH AND WELLNESS CENTER		\$ 991,520

Fund Balance 06/30/2013 (Cash, interest and accrued revenue less A/P & accrued salaries)	\$340,991
Revised Revenues	811,389
Revised Expenditures	(991,520)
Estimated ending balance as of 06/30/2014	\$160,860

Assumptions:

Increase utilities in Borrego Health care

Removed all future salaries

Added actual salaries recorded to date for staff and other corresponding expenses

Assumed that we would open the pool again on 05/31 so I included one month of the Desert Recreation Admin

Knorr pool chemicals and maintenance have assumed that the pool will remain filled with water maintenance

Increase alarm services in Aquatic center as they are adding some additional services out to bid now

Added back the Boys & Girls Club operation/administrative fee of \$250,000

**CITY OF DESERT HOT SPRINGS
USE/LEASE AGREEMENT**

THIS FACILITIES USE AGREEMENT ("Agreement") is entered into this 2nd day of February 2010, by and between the CITY OF DESERT HOT SPRINGS, a municipal corporation in the County of Riverside, State of California, ("City") and BOYS AND GIRLS CLUB OF COACHELLA VALLEY, a non-profit California corporation ("Boys & Girls Club"). City and Boys & Girls Club are sometimes referred herein individually as "Party" and collectively as "Parties."

RECTALS

A. City is fee owner of that certain real property commonly known as the Desert Hot Springs Health and Wellness Center which is currently under construction for the purpose of operation as a Boys and Girls Club or other similar function. (the "Property").

B. Boys & Girls Club of Coachella Valley anticipates operating a complete range of Boys and Girls Club programs within the City of Desert Hot Springs.

C. Boys & Girls Club desires to use the Property and the City is willing to allow Boys & Girls Club's use for the sole purpose of operating a Boys & Girls Club in the City.

NOW, THEREFORE, in consideration of the above facts and for the promises and mutual covenants contained herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree to the following:

TERMS AND CONDITIONS

1. Effective Date; Term; Termination.

1.1 Effective Date. This Agreement shall become effective upon the issuance of a Certificate of Occupancy for the Property ("Effective Date").

1.2 Term. Upon the Effective Date, City hereby allows Boys & Girls Club to use the Property according to the terms and conditions set forth in this Agreement. The term of this Agreement ("Term"), shall commence on the Effective Date and shall end no later than the end of the calendar month of the tenth anniversary of the Effective Date.

1.3 Termination. Either Party may terminate this Agreement at any time and for any or no reason by giving thirty (30) days prior written notice. Notwithstanding the foregoing, this Agreement shall automatically terminate without any action or notice by either Party upon the end of the Term unless renewed.

2. Rent; Utilities; Other Fees.

2.1 Rent. Rental fee of \$1.00 per year shall be paid by Boys & Girls Club to City on the anniversary date of the Effective Date.

2.2 Utilities. City shall pay the appropriate suppliers for all water, gas, electricity, light, heat, power, and other utilities. Telephone, telefax, internet, cable television, or satellite television services used by Boys & Girls Club on the Property during the Term of this Agreement shall be paid by Boys & Girls Club. In addition Boys & Girls Club shall be responsible for any additions to existing utilities (such as telephone service) if requested.

2.3 City shall provide to Boys & Girls Club annual funding of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) payable one half upon the Effective Date and the balance six (6) months following the Effective Date and for future years, one-half (1/2) at the anniversary of the Effective Date and the balance six (6) months later.

3. Use.

3.1 Permitted Use. The Property shall be used solely for the purpose of conducting activities of and for Boys & Girls Club. Boys & Girls Club shall not change the type of use of the Property without obtaining the prior written consent of the City, which may be withheld in its sole and absolute discretion. The foregoing notwithstanding, Boys & Girls Club in its possession, use and occupancy of the Property, agrees to observe and comply with all restrictions, laws and ordinances affecting the Property or occupancy thereof. Boys & Girls Club further agrees that no use shall be made of the Property which will cause cancellation of any insurance policy covering the Property.

3.2 Permits and Licenses. Boys & Girls Club shall keep any and all applicable permits and licenses required by the City or any federal, state or local authority in connection with the permitted use of the Property, in good standing at all times during the term of this Agreement.

4. Insurance.

4.1 Minimum Requirements. Boys & Girls Club shall, at its expense, procure and maintain insurance for the duration of this Agreement, acceptable to the City, against claims for injuries to persons or damages to the Property which may arise from or are in connection with this Agreement.

4.1.2 Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office

Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

4.1.3 Minimum Limits of Insurance. Boys & Girls Club shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California, if applicable. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

4.1.4 Endorsements. The insurance policies shall contain the following provisions:

(a) General Liability. The general liability policy shall be endorsed to state that (1) the City and its officials, officers, employees and agents shall be covered as additional insureds with respect to the performance of the Agreement by the Boys & Girls Club and its officials, officers, agents, representatives, employees or volunteers, including materials, parts or equipment furnished in connection with such services; and (2) the insurance coverage shall be primary insurance for the City and its officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Boys & Girls Club's scheduled underlying coverage. Any insurance maintained by the City or its officials, officers, employees and agents shall be excess of the Boys & Girls Club's insurance and shall not be called upon to contribute with it in any way.

(b) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the City and its officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use loading or unloading of any auto owned, leased, hired or borrowed by the Boys & Girls Club or for which the Boys & Girls Club is responsible; and (2) the insurance coverage shall be primary insurance as respects the City and its officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Boys & Girls Club's insurance and shall not be called upon to contribute with it in any way.

(c) Worker's Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City and its officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Boys & Girls Club.

(d) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced, or canceled without thirty (30) days prior written notice by first class mail has been given to the City. The City shall have the right during such notice period, in its sole discretion, to approve or disapprove any such change to each insurance policy required by this Agreement

4.1.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insured provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City or its officials, officers, employees and agents.

4.2 Verification of Coverage. Boys & Girls Club shall furnish City with original certificates of insurance effecting coverage and endorsements required by this Agreement on forms satisfactory to City. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by Boys & Girls Club if requested. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

4.3 Personal Property. Boys & Girls Club shall, at its sole cost and expense and at all times during the term of this Agreement, keep all personal property on the Property insured for its full replacement value by insurance companies authorized to do business in the State of California against loss or destruction by fire and the perils commonly covered under the standard extended coverage endorsement to fire insurance policies in the United States. No provision of this Agreement shall be construed to impose any obligation upon City to insure Boys & Girls Club's personal property.

4.4 Increases in Coverage. City may, from time to time, require Boys & Girls Club to obtain (at Boys & Girls Club's expense) increases in both the types and amounts of coverage provided by the insurances required to be maintained by Boys & Girls Club hereunder, upon City's determination that such increases are reasonably necessary to maintain the level of protection provided to City hereunder as of the Effective Date.

5. Cleanliness, Waste and Nuisance.

5.1 Boys & Girls Club shall keep the Property in a neat, clean and sanitary condition, free from waste or debris and shall neither commit, suffer nor permit any waste or nuisance in or about the Property nor store materials hazardous to health or safety, and shall not permit the use of the Property for any illegal purposes.

5.2 Boys & Girls Club agrees to keep Property in proper order and agrees to provide all cleaning of inside restrooms, office and entry ways as well as provide all supplies necessary to operate Boys & Girls Club programs during its use of Property.

6. Assignments; Subleases; Transfers

Boys & Girls Club shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or any part of Boys & Girls Club's interest in this Agreement or the Property, without City's prior written consent, which consent may be withheld in its sole and absolute discretion. Any attempted action described above without the prior written consent of City shall be void and Boys & Girls Club shall be deemed in default of this Agreement. Any permitted assignments shall not relieve the assigning party from its liability under this Agreement.

7. Condition of Property.

Boys & Girls Club represents that Boys & Girls Club has inspected and examined the Property and accepts the Property in its present condition and agrees that City shall only make repairs or improvements to Property on an as needed basis.

8. Damage to Property; Abandonment.

Boys & Girls Club shall be responsible for all damages to the Property caused or permitted by the Boys & Girls Club or the guests, invitees, visitors, agents, employees and independent contractors of Boys & Girls Club. Boys & Girls Club shall not vacate or abandon the Property at any time during the Term of the Agreement.

9. Alterations and Improvements

Boys & Girls Club shall not, without the prior written consent of City, make any alterations, improvements or additions in, to or about the Property. Any such alterations, improvements or additions shall be subject to section 10.2.

10. Surrender of Leased Property; Improvements

10.1 Surrender. Upon the termination of the Agreement, Boys & Girls Club shall surrender the Property in good order and condition, ordinary wear and tear or condemnation excepted.

10.2 Improvements. All improvements on the Property at the expiration of the term or earlier termination of this Agreement shall, without compensation to Boys & Girls Club, then automatically and without any act of Boys & Girls Club or any third-party become City property. Boys & Girls Club shall surrender the improvements to City at the expiration of the term or earlier termination of this Agreement, free and clear of all liens and encumbrances, other than those, if any, permitted under this Agreement or otherwise created or consented to in writing by City. Boys & Girls Club agrees to execute, acknowledge, and deliver to City any instrument requested by City as necessary in City's opinion to convey or otherwise perfect City's right, title, and interest to the improvements and the Property.

11. Right of Entry: Inspection.

Boys & Girls Club shall permit City's or County's agents, employees and representatives to enter the Property at any time and upon without notice for the purpose of inspecting the Property.

12. Indemnification.

Boys & Girls Club shall defend, indemnify and hold City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions or willful misconduct of the Boys & Girls Club, its officials, officers, employees, agents, consultants, guests, visitors, contractors and subcontractors arising out of or in connection with this Agreement. If any action or proceeding is brought against City, its successors or assigns by reason of any claim, Boys & Girls Club, upon notice from City, shall defend the claim at Boys & Girl Club's sole expense with counsel satisfactory to City.

13. Anti-Discrimination.

Boys & Girls Club agrees that this Agreement is made and accepted on and subject to the conditions that there be no discrimination against or segregation of any persons or groups of person, on account of race, color, gender, sexual preference, age, handicap, marital status, religion, national origin or ancestry in the use, occupancy, tenure or enjoyment of the Property, nor shall Boys & Girls Club, or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the Property.

14. Events of Default.

Either of the following occurrences shall constitute "Events of Default" under this Agreement:

14.1 Boys & Girls Club files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or is dissolved, or makes an assignment for the benefit of creditors; 14.2 Boys & Girls Club breaches any of the other agreements, terms, covenants, or conditions that the Agreement requires Boys & Girls Club to perform, and the breach continues for a period often (10) calendar days after notice by City to Boys & Girls Club.

15. Remedies.

If anyone (1) or more Events of Default set forth in Section 14 occurs and Boys & Girls Club has not cured in a reasonable time provided by the City, then the City may, at its election, terminate this Agreement and recover possession of the Property. Nothing contained herein shall limit City from pursuing, at any time, any remedy available to it at law or equity.

16. Miscellaneous.

16.1 No Waiver. No waiver or any condition or agreement in this Agreement by either City or Boys & Girls Club shall imply or constitute a further waiver by such Party of the same or any other condition or agreement.

16.2 Authority. Each of the persons executing this Agreement on behalf of Boys & Girls Club warrants to City that Agreement is a duly authorized and existing California non-profit corporation, that Boys & Girls Club is qualified to operate in the State of California, that Boys & Girls Club has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Boys & Girls Club is authorized to do so. Upon City's request, Boys & Girls Club shall provide evidence satisfactory to City confirming these representations.

16.3 Notices. Any notice, request, demand, consent, approval, or other communication required or permitted under this Agreement shall be written and shall be deemed to have been given when personally delivered, sent by overnight delivery, or sent by certified or registered mail, return receipt requested, addressed to:

City:

City of Desert Hot Springs
Rick Daniels, City Manager
65950 Pierson Boulevard
Desert Hot Springs, California 92240

Boys & Girls Club:

Boys & Girls Club of Coachella Valley
Jim Ducatte, Foundation Chief Executive Officer
42-600 Cook Street, Suite 120,
Palm Desert, California 92211

City or Boys & Girls Club may change its address for notification under this Agreement by giving the other Party ten (10) calendar days notice prior to the change.

16.4 Attorneys' Fees. In the event of the bringing of an action or suit by a Party hereto against another Party hereunder by reason of a breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other Party arising out of this Agreement, then in that event, the prevailing Party in such action or dispute, whether by final judgment, or out of court settlement shall be entitled to have and recover from the other Party all costs and expenses of suit, including actual attorneys' fees.

16.5 Binding Effect. This Agreement shall inure to the benefit of, and shall be binding upon, City's successors and assigns. This Agreement shall inure to the benefit of, and shall be binding upon, the Boys & Girls Club's successors and assigns so long as the succession or assignment is permitted by Section 6.

16.6 Governing Law; Venue. This Agreement shall be governed by the laws of the State of California. Venue for any action filed with respect to the Agreement shall be in the courts of the County of Riverside and all Parties agree to submit to the jurisdiction of said courts.

16.7 Entire Agreement. This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and constitutes the entire agreement between City and Boys & Girls Club as to the subject matter hereof. No subsequent agreement, representation, or promise made by either Party hereto, or by or to an employee, officer, agent or representative of either Party shall be of any effect unless it is in writing and executed by the party to be bound thereby.

16.8 No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the Parties thereto, to any person or entity other than the Parties hereto.

16.9 Amendment to this Agreement. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the Parties hereto.

16.10 Fees and Other Expenses. Except as otherwise provided herein, each of the Parties shall pay its own fees and expenses in connection with this Agreement.

16.11 No Partnership or Joint Venture. Nothing in this Agreement shall be construed to render the City in any way or for any purpose a partner, joint venture, or associate in any relationship with Boys & Girls Club other than that of City and Boys & Girls Club, nor shall this Agreement be construed to authorize either to act as agent for the other.

16.12 Severability. In the even anyone or more provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable, such provision(s) shall be severed from the Agreement but shall not affect any other provision of this Agreement.

IN WITNESS WHEREOF, City and Boys & Girls Club have executed this Agreement as of the date first written above.

CITY OF DESERT HOT SPRINGS

BOYS & GIRLS CLUB OF COACHELLA
VALLEY

By: 

City Manager/ or Designee

By: _____

ATTEST:



APPROVED AS TO FORM:

City Attorney

IN WITNESS WHEREOF, City and Boys & Girls Club have executed this Agreement as of the date first written above.

CITY OF DESERT HOT SPRINGS

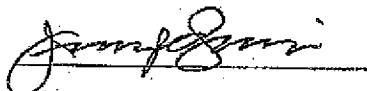
BOYS & GIRLS CLUB OF COACHELLA
VALLEY

By: 


By: _____

City Manager/ or Designee

ATTEST:



APPROVED AS TO FORM:


City Attorney



CITY OF DESERT HOT SPRINGS

REGULAR MEETING OF THE CITY COUNCIL

ACTION MINUTES

DECEMBER 3, 2013

5:00 P.M. – REGULAR SESSION

(CLOSED SESSION TO IMMEDIATELY FOLLOW OPEN SESSION)

**CITY COUNCIL CHAMBERS
CARL MAY COMMUNITY CENTER
11711 West Drive, Desert Hot Springs, California**

CALL TO ORDER

Mayor Parks called the meeting to order at 5:00 P.M.

ROLL CALL

Council Members:
Mayor Pro Tem:
Mayor:

Present:

Russell Betts, Jan Pye, Adam Sanchez
Scott Matas
Yvonne Parks

PLEDGE OF ALLEGIANCE

Council Member Betts led the Pledge of Allegiance.

MOMENT OF INSPIRATION

Council Member Pye gave the Moment of Inspiration.

PRESENTATIONS

**Certificates of Recognition Presented to the Desert Hot Springs High School
Marching Band, "Golden Eagle Regiment, " Division 1 Winners of the "2013
California State Band Championship"**

Mayor Parks presented the certificates.

Certificates of Recognition Presented to Bill Cook, George Fisher and Dot

Reed for their Contributions to the Community

Mayor Parks presented the certificates.

Holiday Parade Presentation

Parade Committee

Jennifer Braun Christiansen, member of the Parade Committee, gave the presentation; introduced this year's queen and her court; and expressed thanks to all those involved.

Recognition of Yvonne Parks for her Leadership and Service, Office of Mayor, 2007-2013

Mayor Pro Tem Matas and the City Council presented Mayor Parks with her name plaque in recognition of her service.

ADMINISTRATIVE CALENDAR

1. Certification of the November 5, 2013 General Municipal Election Results and Appointment to Fill Vacancy

City Clerk, Jerryl Soriano

Recommendation: 1) Adopt a Resolution of the City Council of the City of Desert Hot Springs, California, reciting the fact of the General Municipal Election held in said City on November 5, 2013, declaring the result thereof and other such matters as provided by law; and

2) Adopt a Resolution of the City Council of the City of Desert Hot Springs, California, as required by Section 2.04.040(B) of the Desert Hot Springs Municipal Code, appointing Jan Pye to the vacant City Council seat created by the election of Adam Sanchez, Sr. to the Office of Mayor at the General Municipal Election held on November 5, 2013.

Jerryl Soriano, City Clerk, provided the staff report.

Betts moved to approve staff recommendation and adopt *Resolution No. 2013-054*, motion seconded by Pye, motion carried 5/0.

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

Matas moved to approve staff recommendation and adopt *Resolution No. 2013-055*, motion seconded by Sanchez, motion carried 5/0

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

INSTALLATION OF OFFICERS

Oath of Office administered by Jerryl Soriano, City Clerk

Council Member, Scott Matas
Council Member, Joe McKee
Council Member, Jan Pye
Mayor, Adam Sanchez

Scott Matas was sworn in by Pastor Paul Miller.

Jan Pye was sworn in by Pastor Paul Miller.

Joe McKee was sworn in by Jerryl Soriano, City Clerk.

Adam Sanchez was sworn in by Pastor Jerrol Pope.

RECESS

CALL TO ORDER

Mayor Sanchez called the meeting to order at 6:00 P.M.

NEW ROLL CALL

Council Members:	<u>Present:</u> Scott Matas, Joe McKee, Jan Pye
Mayor Pro Tem:	Russell Betts
Mayor:	Adam Sanchez

SELECTION OF MAYOR PRO TEMPORE

Mayor Sanchez nominated Russell Betts.

McKee moved to approve Russell Betts as Mayor Pro Tem, motion seconded by Sanchez, motion carried 5/0.

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

APPROVAL OF THE AGENDA

Betts moved to approve the December 3, 2013 Regular Meeting agenda, continuing Items 1, 7, 9, and 11 to December 17, 2013, and moving Item 3 to be considered following Item 6, motion seconded by Sanchez, motion carried 5/0.

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

PUBLIC COMMENTS

Paul Miller, resident, spoke regarding the Holiday Parade.

Richard Cromwell, stated that Palm Springs Unified School District was considering districting.

Keph Sheppard, resident, spoke in support of public safety.

Paul Tapia, former Desert Hot Springs Police Officer, expressed concerns.

Michael Burke, resident, spoke regarding his film project highlighting the City's 50th Anniversary.

Heather Coladonato, Chamber of Commerce, gave various updates and announcements.

Philip Gittelman, resident, spoke regarding common respect amongst the City Council; and the pool.

Vincent Sellecchia, resident, spoke in support of public safety.

Lew Stewart, residence unknown, spoke regarding volunteerism; and suggested 3 new commissions: veterans, housing homelessness, and environment.

PUBLIC HEARINGS

1. An Urgency Ordinance Amending Specified Chapters of the Municipal Code to Adopt the 2013 California Building Standards Code and Related Codes

Community Development Department, Martín Magaña

- Recommendation:**
- 1) Staff Report;
 - 2) Entertain questions of Staff from City Council;
 - 3) Open the Public Hearing;
 - 4) Take Testimony in favor;
 - 5) Take Testimony against;
 - 6) Take Testimony neutral;
 - 7) Close the Public Hearing;
 - 8) Opportunity for Rebuttal;
 - 9) City Council discussion and questions to Staff; and
 - 10) City Council adopt, as an urgency ordinance, the proposed ordinance (Exhibit 1) which adopts the 2013 editions of the California Building Codes with certain amendments and the requisite findings in support of such amendments. Passage of this urgency ordinance requires a four-fifths vote of the City Council
 - 11) Waive the reading of the Ordinance in its entirety; and read by title only.

Continued to the December 17, 2013 Regular Meeting.

ADMINISTRATIVE CALENDAR

2. City Council and Commissions Meeting Guidelines and Procedures Regarding Start Time for Regular City Council Meetings and Placement of Closed Session Calendar on the Agenda

Mayor, Adam Sanchez; and Council Member, Russell Betts

Recommendation: Adopt a Resolution of the City Council amending the City Council and Commissions Meeting Guidelines and Procedures to change the start time of regular City Council meetings to 6:00 p.m. and placement of Closed Session Calendar at end of the agenda.

Paul Miller, resident, spoke against the recommendation; and suggested 5:30 P.M.

Betts moved to approve staff recommendation and adopt *Resolution No. 2013-056*, motion seconded by Sanchez, motion carried 5/0

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

Item 3 was considered following Item 6.

3. City Wide Travel / Training / Conference Moratorium

Mayor, Adam Sanchez; and Council Member, Russell Betts

Recommendation: Adopt a Resolution of the City Council immediately imposing a City-wide travel, training and conference moratorium applicable to all Council Members, Commissioners, Department Directors, Managers and all City Staff, subject to limited exceptions.

A discussion ensued.

Betts moved to approve recommendation and adopt *Resolution No. 2013-057*, motion seconded by Sanchez, motion carried 3/2.

Passed For: 3; Against: 2 (Matas, Pye); Absent: 0; Abstain: 0; Recused: 0

4. Resolution Regarding Commissioner Appointments

Mayor, Adam Sanchez; and Council Member Russell Betts

Recommendation: Adopt a Resolution of the City Council prohibiting any person who serves as an elected official for any legislative body of any non-City public agency, including but not limited to any special districts, from being appointed or permitted to serve simultaneously on a City commission.

Andrew Velasquez, resident, spoke in support of the recommendation.

A discussion ensued.

McKee moved to continue the item to January 7, 2013, motion seconded by Betts, motion carried 5/0.

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

5. Budget and Financial Update - Fiscal Year 2013/14

Director of Finance and Administration, Amy Aguer

Recommendation: Direct staff to post budget adjustments, as shown in the attachments, with any changes requested by Council, to revenues and expenditures.

Amy Aguer, Director of Finance and Administration, provided the staff report.

A discussion ensued.

McKee moved to direct staff to cut 2.6 million between now and end of fiscal year. Council Member McKee withdrew his motion.

Betts moved to approve staff recommendation, motion seconded by Pye, motion carried 5/0.

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

6. Recommendations from Staff to Reduce Expenditures and Increase Cost Recovery.

Director of Finance and Administration, Amy Aguer

Recommendation: Review and provide direction to Staff.

Amy Aguer, Director of Finance and Administration, advised that there was a meet and confer requirement with Teamsters for freezing all staff payouts.

A discussion ensued; Staff responded to questions.

Betts moved to immediately freeze payouts (pending legal review); and continue the remaining items to December 17, 2013, motion seconded by Sanchez, motion carried 4/1.

Passed For: 4; Against: 1 (Matas); Absent: 0; Abstain: 0; Recused: 0

Item 3 was considered at this time.

7. Recommendations from the Urban Futures Updated Report Dated June 11, 2013 and Provided by the Finance Committee at the Special Joint Meeting of the City Council and the Finance Committee on September 24, 2013.

Director of Finance and Administration, Amy Aguer

Recommendation: Review and provide direction to staff.

No action was taken. Continued to December 17, 2013.

8. Health and Wellness Center Budget Update

Director of Finance and Administration, Amy Aguer

Recommendation: Review and provide direction to Staff.

Amy Aguer, Director of Finance and Administration, provided the staff report.

A discussion ensued; Staff responded to questions.

Pye moved to as an amended motion approve staff recommendations 1, 2, 4, and 5, motion seconded by McKee, motion carried 5/0.

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

Betts moved to direct the City Manager to contact the Boys and Girls Club to negotiate a 30-day extension, motion seconded by McKee, motion carried 2/3.

Failed For: 2; Against: 3 (Pye, Matas, McKee); Absent: 1; Abstain: 0; Recused: 0

Matas moved to make the \$125,000 payment to the Boys and Girls Club; and form a City Council subcommittee to negotiate, motion seconded by McKee, motion carried 3/2

Passed For: 3; Against: 2 (Betts, Sanchez); Absent: 0; Abstain: 0; Recused: 0

Mayor Sanchez called for a recess at 8:32 P.M.

The City Council reconvened at 8:42 P.M.

9. City Manager Recruitment

Interim City Manager, Bob Adams

Recommendation: Provide staff direction on how to proceed with the City Manager recruitment.

No action was taken. Continued to December 17, 2013.

10. Desert Valley Disposal Franchise Agreement Request

Interim City Manager, Bob Adams

Recommendation: Appoint a City Council subcommittee to meet with DVD to discuss franchise options.

Pye moved to appoint Mayor Pro Tem Betts and Council Member Matas to City Council Subcommittee, motion seconded by McKee, motion carried 5/0.

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

Representative from Desert Valley Disposal, spoke.

11. First Amendment to the National Pollutant Discharge Elimination System Stormwater Discharge Permit Implementation Agreement

Acting Public Works Director, Rudy Acosta

Recommendation: Approve the First Amendment to the National Pollutant Discharge Elimination System Stormwater Discharge Permit Implementation Agreement between the Riverside County Flood Control and Water Conservation District, the County of Riverside, the Coachella Valley Water District, and the Cities of Banning, Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, LaQuinta, Palm Desert, Palm Springs and Rancho Mirage

No action was taken. Continued to December 17, 2013.

CONSENT CALENDAR

Pye moved to approve the Consent Calendar, except for Item 13, motion seconded by Matas, motion carried 5/0.

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

12. Debt Service for the City and the Successor Agency to the City's Redevelopment Agency

Director of Finance and Administration, Amy Aguer

Recommendation: Receive and file.

13. Authorize City Staff to Solicit Request for Proposals for a User Fee Study

Director of Finance and Administration, Amy Aguer

Recommendation: Authorize City staff to prepare a Request for Proposals to solicit proposals for a User Fee Study.

Amy Aguer, Director of Finance and Administration, provided the staff report.

A discussion ensued. Staff responded to questions.

Pye moved to approve staff recommendation, motion seconded by Matas, motion carried 5/0.

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

14. Payment Register and City Council Expenditure Report for October, 2013

Director of Finance and Administration, Amy Aguer

Recommendation: 1) Receive and file Payment Register for October, 2013
2) Receive and file City Council Expenditure Report for October, 2013.

15. Decline the acceptance of the U.S. Department of Justice Community Oriented Policing Services (COPS) Hiring Grant (CHP) for FY2013.

Police Chief, Kate Singer

Recommendation: Authorize the City Manager, or his designee, to decline the acceptance of the U.S. Department of Justice Community Oriented Policing Services Hiring Grant for Fiscal Year 2013.

16. Desert Valley Disposal, Inc. - Summary of Quarterly Cleanup, October 21-25, 2013

Acting Public Works Director, Rudy Acosta

Recommendation: Receive and file the Desert Valley Disposal, Inc. - Summary of Quarterly Cleanup, October 21-25, 2013 Report.

PUBLIC COMMENTS

None.

MAYOR AND COUNCIL MEMBER REPORTS

Council Member McKee stated that he had nothing to report.

Mayor Pro Tem Betts spoke.

Council Member Matas spoke.

Mayor Sanchez spoke.

Council Member Pye spoke.

CITY MANAGER REPORT

None.

ADJOURN REGULAR MEETING

Mayor Sanchez adjourned the meeting at 9:03 P.M.

CLOSED SESSION

CALL TO ORDER - CLOSED SESSION

Mayor Sanchez called the Closed Session to order at 9:03 P.M.

ROLL CALL

	<u>Present:</u>
Council Members:	Scott Matas, Joe McKee, Jan Pye
Mayor Pro Tem:	Russell Betts
Mayor:	Adam Sanchez

APPROVAL OF CLOSED SESSION AGENDA

Matas moved to approve the December 3, 2013 Closed Session agenda, motion seconded by Pye, motion carried 5/0.

Passed For: 5; Against: 0; Absent: 0; Abstain: 0; Recused: 0

CLOSED SESSION PUBLIC COMMENTS

None.

CLOSED SESSION:

- 1. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION**
pursuant to Government Code Section 54956.9(d)(1)
Case Name: Kenneth C. Cokeley Real Estate Development, Inc. v. City of Desert Hot Springs
Riverside County Superior Court Case No. PSC1302022
- 2. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION**
pursuant to Government Code Section 54956.9(d)(1)
Case Name: Pacific Custom Pools v. City of Desert Hot Springs, et al.,
Riverside County Superior Court Case No. PSC 1300787
- 3. CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code §54957.6**
Agency Designated Representatives: Interim City Manager, Bob Adams
Management Analyst, Jeanine Plute
City Attorney, Steven Quintanilla
Employee Organization: Teamsters Local 911

4. **CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code §54957.6**
Agency Designated Representatives: Interim City Manager, Bob Adams
Management Analyst, Jeanine Plute
City Attorney, Steven Quintanilla
Employee Organization: Police Officers Association (DHSPOA)
5. **CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code §54957.6**
Agency Designated Representatives: Interim City Manager, Bob Adams
Management Analyst, Jeanine Plute
City Attorney, Steven Quintanilla
Employee Organization: Unrepresented Employees
6. **CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code §54957.6**
Agency Designated Representatives: Interim City Manager, Bob Adams
Management Analyst, Jeanine Plute
City Attorney, Steven Quintanilla
Employee Organization: Department Heads
7. **CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code §54957.6**
Agency Designated Representatives: Interim City Manager, Bob Adams
Management Analyst, Jeanine Plute
City Attorney, Steven Quintanilla
Unrepresented Employee: City Manager
8. **CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code §54957.6**
Agency Designated Representatives: Interim City Manager, Bob Adams
Management Analyst, Jeanine Plute
City Attorney, Steven Quintanilla
Unrepresented Employee: Police Chief

CONVENE IN OPEN SESSION

CITY ATTORNEY REPORT ON CLOSED SESSION

Steve Quintanilla, City Attorney, advised that there was no reportable action.

ADJOURN

Mayor Sanchez adjourned the meeting.