

# **PS Council, take time to strike best 1090 deal with Grit Development**

## **The Desert Sun Editorial Board**

Palm Springs city leaders are negotiating a potential legal settlement with Grit Development that all involved hope will clear the road for the final work to be completed on the vaunted redevelopment of the heart of downtown.

We share the ultimate wish here, which is to see the final product that leaders have long promised, and city residents voted to support, committing millions in city resources to support the project. Still, this isn't a slam dunk, and we expect City Hall to closely vet this "1090 claims settlement" to ensure it really is in the best interest of the community.

First, some background.

We've arrived here after John Wessman — former head of now-defunct Wessman Development that morphed into Grit Development — former Mayor Steve Pougnet and another developer, Richard Meaney, were indicted on multiple charges that allege public corruption, including in dealings linked to the \$400 million downtown project.

Now, years after the contracts were signed and, indeed, after the bulk of the construction has been completed, the city-developer partnership could devolve into a tangled legal mess if convictions or guilty pleas come in the criminal case.

Why? Under California's Government Code Section 1090, underlying contracts

linked to wrongdoing by the former mayor would become void. The city could then "claw back" its costs — including tens of millions of dollars in promised future hotel tax rebates that were a key incentive agreed to by a previous City Council to seal the project deal.

Lawyers for Grit and the city have been working to settle this potential 1090 claims issue since shortly after the criminal case began in 2017. Grit says the 1090 issue looms over the project like a cloud, spooking lenders whose cash is needed to complete the work. City leaders, in a recent meeting with the Editorial Board, agree, saying they believe the city should lift this cloud with a deal that eliminates the 1090 questions. Otherwise, they may require years of court action to resolve.

In any negotiation, the parties must give and take to reach a deal acceptable to all. As detailed in a story last week by The Desert Sun's Shane Newell, the most recent offer by Grit includes various properties initially valued at \$33.7 million in exchange for the city setting aside its potential 1090 claims — claims that City Hall values at up to \$32.9 million.

At first glance, that seems like quite a deal. After all, \$33.7 million today for the city is more than the \$32.9 million Mayor Pro Tem Geoff Kors, City Manager David Ready and Assistant City Manager Marcus Fuller said the city would forgo under a 1090 clawback situation.

Grit President Michael

Braun, Wessman's son-in-law, declined an invitation to meet with the Editorial Board, saying his legal counsel advised against it. In an emailed statement, he praised the current City Council's leadership and wrote that Grit's settlement offer would "create clear benefits to the citizens of Palm Springs."

"Grit would like to move forward with its success-

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## Our voice

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ful partnership with the City of Palm Springs cooperating to finish Downtown, provide more housing options and revitalizing The Center," he wrote. "But we must remove future litigation risks if these projects can become a reality. While Grit disputes the merits of the City's claims, it has made a business decision in the best interests of both Grit and the City to try and settle them."

The properties Grit is offering include large Chino Canyon parcels near the Palm Springs Visitor's Center; another large parcel above the Rimrock shopping center along Highway 111; a strip of land across from Palm Springs International Airport along Gene Autry Trail; and Block G, a small part of the downtown project itself, which a few days ago had been pitched in the initial offer as the site of a Grit-constructed municipal library, but now could be used in some other fashion.

The city says it believes those properties are worth \$33.7 million and is awaiting expedited appraisals to be sure. But there's another potential muddying of the waters when it comes to value: The bulk of the land involved – more than 115 acres across the three mountain parcels – apparently would be set aside for conservation.

The Boulders and Crescendo projects have been the focus of fierce community opposition, which this deal could resolve for good. Still, we expect some might question whether those sites, worth \$27.7 million to a developer, are really worth that

much as land locked away from development.

Residents who've been asked more than once in recent years to OK new taxes to cover everything from public safety to the animal shelter to future city employee retiree expenses might wonder if those millions are too much to forgo for a city that seemingly needs more and more cash to operate.

While conservation of those lands could be seen by the community as worthwhile, a real discussion with public input on these tradeoffs is key to winning public support.

For our part, the Block G site and Gene Autry Trail parcel – which is envisioned as a site for much-needed affordable housing – are assets that the city clearly needs and can use.

Many recent Desert Sun letters to the editor have called for Grit to offer up the Town & Country Center as part of the deal.

Maybe Grit can be moved to include this complex from its vast inventory of Palm Springs properties, which may make for a better, more palatable deal for city residents.

The latest settlement package – developed in the days after the talks became public knowledge on June 19 – is better than the initial package discussed by the council just days ago.

Beyond the additional lands offered, Kors says the city will demand Grit release the city from its current obligation to help cover any future Grit legal costs related to the project. These sums, Kors says, could potentially rise to the millions of dollars.

Yes, it could be in the city's interests to lift

the 1090 cloud and help Grit finish what it promised Palm Springs. If uncertainty from the unresolved Wessman- Pougnet affair is feeding a "closed for business" atmosphere stifling completion of this marquee project – and poisoning the business community's view of Palm Springs in general – then it is vital that the City Council act to set this straight.

This negotiation, however, clearly remains a work in progress. A rush to get it done now, just a few weeks after city residents who've ridden this yearslong roller coaster learned what was in the works, would be a mistake.

City Council, you do have leverage here, so make sure you take the time you need to get this right.