

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, JULY 14, 2011**

CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE

Mayor Bev Smith called the regular meeting of the Village Council to order at 7:30 p.m.

Present: Mayor Bev Smith, Vice Mayor Doug Gunther, Council Member Patti Waller, Village Manager Karl E. Umberger, Village Attorney Glen J. Torcivia, and Village Clerk Virginia M. Walton. Mayor Pro Tem Joni Brinkman and Council Member Sergio Escalada were absent.

Staff present were Police Lt. Gary Sykes, as Sergeant at Arms, Land Development Director Bette J. Lowe, CFO Rebecca L. Morse and Leisure Services Director Bill Golson.

Invocation was given by Village Manager Karl E. Umberger, followed by the Pledge of Allegiance led by Vice Mayor Doug Gunther.

Mayor Smith welcomed Anika Sinclair, City Clerk for the City of Pahokee, who was present in the audience and was mentoring with the Village Clerk's Office for the next month.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager: item #8 will be continued to the July 28, 2011 agenda.

A motion to accept the agenda as revised was made by Council Member Waller and seconded by Vice Mayor Gunther. Motion carried 3 – 0.

CONSENT AGENDA

1. Minutes of Local Planning Agency Meeting on June 23, 2011
Staff: Virginia Walton, Village Clerk
2. Minutes of Regular Council Meeting on June 23, 2011
Staff: Virginia Walton, Village Clerk
3. Public Safety Budget Amendment in the amount of \$76,500 to recognize funds from the FDOT Speed and Aggressive Driving & Impaired Driving Grant.
Staff: Chief Mark Hall, Police Department
4. Budget Transfer in the amount of \$19,000 from Council Contingency to Other Contractual Services to cover increased multi-family units added to Republic Services Garbage and Recycling Agreement.
Staff: Bill Davis, Public Service Director

5. RESOLUTION NO. 2011-46 (EASEMENT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ACCEPTING A GRANT OF LIFT STATION EASEMENT FOR UTILITY PURPOSES; PROVIDING FOR RECORDATION AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

A motion to approve the consent agenda as presented was made by Vice Mayor Gunther and seconded by Council Member Waller. Motion carried 3 – 0.

PUBLIC COMMENT

Gary Ready, 3118 Meadow Road, wanted to acknowledge and congratulate Chris St. Pierre, a fellow member of the Community Police program, who was graduating tonight from the Police Academy as a reserve officer. Chief Mark Hall was attending the graduation.

Andre Correa, 721 Lori Drive #112, Lakeside Village, wanted to protest the removal of the satellite dishes from the roofs at Lakeside Village because the Village Building Department had determined they were not up to code. The dishes had been up for many years and he had driven around the Village and seen dishes in other condominium complexes. Mr. Correa stated that the Village code was not being applied equally. The Comcast cable provided by Lakeside did not have the programs that gave the residents access to overseas soccer games. He had spoken to the Legal Aid Society for representation and wanted to appeal the decision to the Board of Appeals. Mr. Correa stated he was getting a petition together, and if necessary would take the matter to civil court.

Johnny Yaacoub, who was speaking on behalf of his Grandmother who lived at 725 Lori Drive #212, stated that he had helped install his grandmother's dish, as well as others in Lakeside Village several years ago and was willing to work with the Property Management to assure the installations were legal. He did not care how the issue was resolved; but only that there was equal and fair treatment of all, and his grandmother got to watch her country's favorite shows that she enjoyed.

Caridad Giralt, 711 Lori Drive #101, had Mr. Correa interpret for her, stating that she was here showing support because it was very sad that Latin people were being discriminated against and unable to watch their TV shows. Also not just Latins, but also other foreigners.

Lino Atienza, 711 Lori Drive #101, stated he had come to this County and liked living in Palm Springs; but was ashamed to have to be here contesting an unjust issue. He wanted someone to explain the motives for removing the dishes. The installation of the dishes had been improved and was better than before and Mr. Atienza thought what was being done was crazy.

Mayor Smith asked Director Lowe for a summary of the issue. Director Lowe responded that Lakeside Village had been notified several years ago about the problems with the installation of the dishes; and had been given plenty of time for compliance with this issue. An engineer had inspected the dishes and stated that there was no way the installation could ever be up to code as it existed. The Homeowners Association had been given three suggestions to resolve the problem. Because this was a HUD condominium, if the HOA wanted to have satellite dishes in common areas, they would have to submit a site plan amendment for approval and dedicate a portion of their common area for these satellite dishes. Ultimately the responsibility for resolving this issue was with the HOA for Lakeside Village. Director Lowe was willing to meet with the unit owners, the Property Management and the HOA to assist in finding a solution that met with the Village Code.

Manager Umberger added that he had met with the Property Management and confirmed that 21 dishes had been taken down. Lakeside Village was in negotiations with Comcast & AT&T for the addition of a U-verse package that would include the overseas games and shows that were at the heart of the issue. The Property Manager had assured him that they should have an answer within ten days. This extra programming would be an additional charge to the Comcast bill.

PUBLIC HEARINGS

6. ORDINANCE NO. 2011-13 (FIRST READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA AMENDING ORDINANCE NO. 2010-33 ADOPTED DECEMBER 16, 2010; PROVIDING FOR A REVISED AND RESTATED GENERAL EMPLOYEES MUNICIPAL PENSION TRUST FUND; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR PUBLICATION; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE. Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council that the amendments to this ordinance were a requirement of the favorable determination letter received from the IRS. The changes were: 1) Section 5 had been modified by adding language to recognize the intent to be a qualified plan under the IRS Code; 2) Section 7 was amended to add a new definition for "415 compensation"; 3) Section 40 was changed to add reference to the requirements of Code Section 401(a)(9)(g); 4) Section 41 was updated to reflect the recent changes to the Code for rollover distributions; and 5) Section 42 was changed to incorporate Section 415 of the Internal Revenue Code and to include limitations contained with the state law.

Mayor Smith stated this was a public hearing and asked for questions or comments from the Council and then from the public. Hearing none, Village Attorney Torcivia read the ordinance by title. A motion to adopt on first reading was made by Council Member Waller and seconded by Vice Mayor Gunther. Motion carried 3 – 0.

7. ORDINANCE NO. 2011-14 (FIRST READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 34, ARTICLE VI, DIVISION 7, SECTION 34-892, ENTITLED "ACCESSORY USES, BUILDINGS AND STRUCTURES"; TO REGULATE THE LOCATION AND SIZE OF UTILITY SHEDS; PROVIDING FOR DIRECTIONS TO THE VILLAGE CLERK; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council this ordinance would amend the existing Land Development Code at Section 34-892 to permit 12 ft x 14 ft utility sheds as accessory uses in residential zoning districts. Based on numerous requests over the past several years, it appeared that a 12 x 14 foot shed was one of the more popular sizes; however, the current code only permitted the maximum size shed of 12 x 12 feet. The Land Development Board had recommended approval at their meeting on July 12, 2011.

Mayor Smith stated this was a public hearing and asked for questions or comments from the Council and then from the public. Hearing none, Village Attorney Torcivia read the ordinance by title. A motion to adopt on first reading was made by Vice Mayor Gunther and seconded by Council Member Waller. Motion carried 3 – 0.

This item will be continued to the July 28, 2011 agenda

8. RESOLUTION NO. 2011-19 (SITE PLAN/SPECIAL EXCEPTION – CHURCH ON CONGRESS AVENUE)

9. RESOLUTION NO. 2011-28 (PLAT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING THE FINAL PLAT FOR WAL-MART STORE NO. 5881, SUBMITTED BY JORGE LOPEZ, OWNER OF THE PROPERTY LOCATED AT 2765 10TH AVENUE NORTH; AND PROVIDING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council this final plat for Wal-mart was a re-plat of Tracts 10, 11, 12, 19, 20 and 21 of Model Land Company's Subdivision of Section 20, Township 44 south, Range 43 East, recorded in Plat Book 5, Page 79, Palm Beach County. The preliminary plat had been approved by Resolution No. 2010-19 on March 11, 2010. Director Lowe advised the Council that a scrivener's typo error had been discovered on the final plat; and requested the plat be approved, subject to the correction of the type error.

Mayor Smith stated this was a public hearing and asked for any questions or comments from the public. Hearing none, Village Attorney Torcivia read the resolution

by title. A motion to adopt the resolution and approve the final plat, subject to the correction of the typo error, was made by Vice Mayor Gunther and seconded by Council Member Waller. Motion carried 3 – 0.

10. RESOLUTION NO. 2011-41 (SITE PLAN AMENDMENT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING, WITH CONDITIONS, SITE PLAN (SPR10-04) SUBMITTED BY WAL-MART EAST L.P., FOR INSTALLATION OF AN ORGANIC DUMPSTER FOR THE WAL-MART STORE No. 5882, LOCATED AT 2765 10TH AVENUE NORTH; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

There were no ex parte communications disclosed. Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on June 4, 2011. Greg Wilfong, Kimley-Horn & Associates, Patti Beloyra, Attorney with Broad & Cassel, and Robin Sweere, with Quest Recycling Services, Inc., were all sworn in to give testimony. Manager Umberger advised the Council this request was for the addition of an organics dumpster, which would be located behind the Wal-mart Store at the edge of the retention area. The dumpster would be used for food waste, which would then be transported to Bartow, Florida, and processed into animal feed. The Land Development Board had recommended approval at their meeting on June 8, 2011. Staff was recommending that the approval of the organic dumpster be postponed for six months until the pilot program in Palm Beach County would be completed and results reported.

Patti Beloyra requested that the six month postponement condition be deleted and Wal-mart be allowed to install the dumpster now during the construction phase. Ms. Sweere stated that although this was a new program in Palm Beach County, they already had an existing program in Dade County and with 15 – 20 other cities so far, with Palm Springs having the most stringent requirements. Mayor Smith asked for questions from the Council. Council had concerns about how the odor would be monitored and addressed, if it became a problem; about animals, such as rodents being a problem, and how complaints from residents would be handled; the distance between the dumpster and residential properties.

Ms. Sweere responded that the organic matter was collected every seven days and the dumpster was cleaned weekly and sanitized with an EPA approved product. The lid on the dumpster was a heavier plastic with steel reinforcing, with a locking bar, to prevent any animal access and the dumpster area would also be locked to prevent any human pilfering. There would be no meat or any other protein matter; therefore, smell would be at a minimum. The distance between the location of the dumpster and the residential homes was 100 feet, with the dumpster area being walled, as well as the property wall. Other Wal-mart Stores had this type of dumpster adjacent to residential properties and there had been no problems. Any resident complaints would be rectified by the Store Managers immediately. Ms. Beloyra stated that there were several triggers built into the Quest Agreement that would give the Village strong recourse should any problems arise that were not immediately taken care of by Quest.

Mayor Smith then stated this was a public hearing and asked for questions or comments from the public. Hearing none, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution and approve the agreement with Quest Recycling Services, subject to assurance of the compliance triggers being in the agreement, was made by Council Member Waller and seconded by Vice Mayor Gunther. Motion carried 3 – 0.

REGULAR AGENDA

ACTIONS AND REPORTS

11. Temporary License Agreement for Gloria's Auto Inc.

Director Lowe advised the Council that the petitioner was requesting the use of Internet Auto Sales at 3281 Lake Worth Road, Suite B. The license requirements were that all vehicles must be parked inside the building at all times; repair work shall not be permitted on the vehicles in the facilities or at the property; a life safety plan shall be provided and a fire inspection performed prior to occupancy, and all building and fire codes shall be complied with. In response to questions, Director Lowe responded that there was another auto sales business in the same building. Council consensus was in favor of the agreement.

RESOLUTIONS

12. RESOLUTION NO. 2011-47

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH SUSAN RUBY, ESQUIRE, FOR APPOINTMENT AS THE VILLAGE CODE ENFORCEMENT SPECIAL MAGISTRATE FOR A TERM OF TWO YEARS, COMMENCING JULY 14, 2011; AND PROVIDING AN EFFECTIVE DATE.

Staff: Virginia Walton, Village Clerk

Manager Umberger advised the Council that the current Special Magistrate had submitted her resignation, effective with the July 12, 2011 Magistrate Hearing; and it was therefore necessary to appoint a new Code Enforcement Magistrate for the Village. Ms. Ruby had submitted her resume and had come recommended by the Village Attorney. The agreement would be effective for two years, commencing July 14, 2011, at a rate of \$185 per hour.

A motion to approve the contract with Ms. Susan Ruby was made by Vice Mayor Gunther and seconded by Council Member Waller. Motion carried 3 – 0.

13. RESOLUTION NO. 2011-48

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH KEITH

DAVIS, ESQUIRE, FOR APPOINTMENT AS THE VILLAGE GRIEVANCE BOARD ATTORNEY FOR A TERM OF TWO YEARS, COMMENCING JULY 14, 2011; AND PROVIDING AN EFFECTIVE DATE.

Staff: Virginia Walton, Village Clerk

Manager Umberger advised the Council that this agreement was for an outside attorney to represent the Village Employee’s Grievance Board members. On June 9, 2011, the Village Council had adopted Ordinance No. 2011-10, amending the employee regulations to provide that an independent attorney, rather than the Village Attorney, would be retained in order to meet the legal needs of the Grievance Board Members. Since there is a pending Grievance Hearing, it was required that an Attorney be retained at this time. Mr. Davis’ resume was attached to the agenda. The agreement would be for two years, at a rate of \$185 per hour.

A motion to approve the contract with Mr. Davis was made by Council Member Waller and seconded by Vice Mayor Gunther. Motion carried 3 – 0.

VILLAGE COUNCIL COMMENTS

Vice Mayor Gunther stated he had heard nothing but positive comments from the July 4th Celebration in the Village. He was out of town and sorry he missed this.

Council Member Waller stated she was very impressed with the entire July 4th Event. The crowds were good, the music was perfect, the VFW had plenty of food; and it was an all around good day.

Mayor Smith added that the fireworks were wonderful and jokingly thanked Director Golson and his staff on the success of their “anti rain dance’.

ADJOURNMENT

Hearing no further business, Mayor Smith adjourned the meeting at 8:29 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor