

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, SEPTEMBER 8, 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, Mayor Pro Tem Joni Brinkman, Council Member Patti Waller, Council Member Sergio Escalada, Village Manager Karl E. Umberger, Village Attorney Glen J. Torcivia, and Village Clerk Virginia M. Walton.

Staff present were Public Safety Director Mark Hall, as Sergeant at Arms, Land Development Director Bette J. Lowe, CFO Rebecca L. Morse, Public Service Director Bill Davis and Leisure Services Director Bill Golson.

Invocation was given by Village Manager Karl E. Umberger, followed by the Pledge of Allegiance led by Mayor Pro Tem Joni Brinkman.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

A motion to accept the agenda as presented was made by Council Member Waller and seconded by Council Member Escalada. Motion carried 5 – 0.

CONSENT AGENDA

1. Minutes of Regular Council Meeting on August 25, 2011
Staff: Virginia Walton, Village Clerk
2. Leisure Services Budget Amendment to recognize additional Summer Camp registration revenues in the amount of \$12,000 and additional Travel Club expenses in the amount of \$12,000.
Staff: Bill Golson, Leisure Services Director

A motion to approve the consent agenda as presented was made by Mayor Pro Tem Brinkman and seconded by Vice Mayor Gunther. Motion carried 5 – 0.

ANNOUNCEMENTS AND PROCLAMATIONS

3. Mayor's Proclamation – 10th Anniversary Remembrance of 9/11
4. Presentation of Master Municipal Clerk Award (MMC) to Village Clerk Virginia Walton

PUBLIC COMMENT - none

PUBLIC HEARINGS

5. ORDINANCE NO. 2011-15 (SECOND READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 38 "LEISURE SERVICES", ARTICLE II, SECTION 38-43, ENTITLED "HUNTING AND FIREARMS"; TO COMPLY WITH CHAPTER 790.33 FLORIDA STATUTES AND NEWLY ADOPTED HOUSE BILL 45, TO BE EFFECTIVE OCTOBER 1, 2011; 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

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on August 25, 2011. Village Attorney Torcivia read the ordinance by title. Staff presentation was done at first reading. Mayor Smith stated this was a public hearing and asked for questions or comments from the Council and then from the public. Hearing no comments, a motion to adopt on second reading was made by Council Member Escalada and seconded by Vice Mayor Gunther. A roll call vote was in favor of adoption 5 – 0.

6. ORDINANCE NO. 2011-16 (SECOND READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING A TOTAL OF TWENTY-FIVE (25) PARCELS OF LAND, PURSUANT TO SECTION 171.0413 (5)&(6) FLORIDA STATUTES, CONSISTING OF A TOTAL OF APPROXIMATELY 18.18 ACRES, INDIVIDUALLY OWNED; LOCATED AT; 3529, 3557, 3577, 3591, 3649, 3661, 3735, 3715, 3697, 3679, 3734, 3670, 3620, 3604, 3582, 3642, 3690 AND A VACANT LOT ON GULFSTREAM ROAD, 3681 LAKEWOOD ROAD, 3690 AND 3680 CANAL ROAD, AND 3549, 3532, 3613 AND 3673 COCONUT ROAD; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; AND CONCURRENTLY AMENDING THE COMPREHENSIVE LAND USE PLAN OF THE VILLAGE TO LOW DENSITY RESIDENTIAL, PURSUANT TO THE "SMALL SCALE" COMPREHENSIVE LAND USE AMENDMENT LAWS OF THE STATE OF FLORIDA, SAID LANDS TO BE CONCURRENTLY DESIGNATED WITHIN A LAND DEVELOPMENT RESIDENTIAL MULTI-FAMILY ZONING DISTRICT ON THE VILLAGE OF PALM SPRINGS OFFICIAL ZONING MAP; PROVIDING DIRECTIONS TO THE VILLAGE CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

Village Clerk Walton advised the Council that notice of public hearing was placed in the Palm Beach Post on August 5 and August 12, 2011. Village Attorney Torcivia read the ordinance by title. Staff presentation was done at first reading. Mayor Smith stated this was a public hearing and asked for questions or comments from the Council and then from the public. Hearing no comments, a motion to adopt on second reading was made by Council Member Waller and seconded by Mayor Pro Tem Brinkman. A roll call vote was in favor of adoption 5 – 0.

7. ORDINANCE NO. 2011-17 (SECOND READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, PALM BEACH COUNTY, FLORIDA, AMENDING THE ZONING IN PROGRESS FOR PAIN MANAGEMENT CLINICS TO EXTEND MORATORIUM FROM SEPTEMBER 8, 2011 TO DECEMBER 8, 2011, TO ALLOW THE VILLAGE FURTHER TIME TO DEVELOP REGULATIONS IN CONFORMANCE WITH THE LAND DEVELOPMENT CODE AND THE COMPREHENSIVE PLAN; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Department

Village Clerk Walton advised the Council that notice of public hearing was placed in the Palm Beach Post on August 5 and August 12, 2011. Village Attorney Torcivia read the ordinance by title. Staff presentation was done at first reading. Mayor Smith stated this was a public hearing and asked for questions or comments from the Council and then from the public. Elizabeth Shields, 2111 Prairie Road, stated there had been news articles about these pain clinics trying to open pharmacies in their locations to get around the new laws and wanted to know if this issue would be addressed in the Village's new regulations. Mayor Smith responded that all issues would be looked into.

Hearing no further comments, a motion to adopt on second reading was made by Vice Mayor Gunther and seconded by Council Member Escalada. A roll call vote was in favor of adoption 5 – 0.

8. ORDINANCE NO. 2011-18 (FIRST READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ADOPTING THE FINAL LEVY OF AD VALOREM TAXES IN AND FOR THE VILLAGE OF PALM SPRINGS, FLORIDA FOR FISCAL YEAR 2011/2012; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council that this ordinance, on first reading, established the operating millage rate of \$3.5000 per \$1,000 of assessed valuation and a voted debt service millage rate of \$0.9560 per \$1,000, for a total millage rate of \$4.4560. The operating millage rate of \$3.5000 was 3.89% less than the rolled back

rate of \$3.6416. The operating millage rate would produce \$2,097,696 in ad valorem tax revenue, at 100% collection, for the General Fund. The voted debt service millage would produce \$575,354 in revenue, at 100% collection, to cover the debt service costs of the 2002 General Obligation Bonds. Second reading and final adoption would be at the Council Meeting on September 22, 2011.

Mayor Smith stated this was a public hearing and asked for questions or comments from the Council and then from the public. Cliff Norris, of Woodhaven Villas, came forward and asked several detailed questions regarding how the assessed value were determined, and if they were done separately for commercial, residential and multi-family. Mayor Smith reminded Mr. Norris that public comment was for the public to comment on the agenda items, not develop a dialog and line by line review of the budget. The Budget Workshop Meeting had provided a detailed discussion on the budget; however, if Mr. Norris had specific questions requiring research and detailed explanations, he could make an appointment to meet with the Village Manager. Mr. Norris responded that he had misunderstood the advertisement for this meeting and thought discussion would take place.

Hearing no further comments, Village Attorney Torcivia read the ordinance by title. A motion to adopt on first reading was made by Council Member Escalada and seconded by Council Member Waller. Motion carried 5 – 0.

9. ORDINANCE NO. 2011-19 (FIRST READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ADOPTING AN ANNUAL BUDGET FOR THE YEAR BEGINNING OCTOBER 1, 2011 AND ENDING SEPTEMBER 30, 2012; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council that this ordinance established a total budget for the Village of \$28,339,965, comprised of the General Fund budget of \$12,512,142; the Debt Service Fund budget of \$552,326, and a Water and Sewer Enterprise Fund budget of \$15,275,497. The Budget Summary ad would be published in the Palm Beach Post on Monday, September 19, 2011. Second reading and final adoption would be at the Council Meeting on September 22, 2011.

Mayor Smith stated this was a public hearing and asked for questions or comments from the Council and then from the public. Hearing no comments, Village Attorney Torcivia read the ordinance by title. A motion to adopt on first reading was made by Mayor Pro Tem Brinkman and seconded by Vice Mayor Gunther. Motion carried 5 – 0.

10. RESOLUTION NO. 2011-57 (INTERLOCAL)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY, PURSUANT TO SECTION 163.01, AND SECTION 171.046 FLORIDA STATUTES, ET SEQ., FOR THE PURPOSE OF ANNEXING FOUR (4) ENCLAVES, CONSISTING OF A TOTAL OF SIXTEEN (16) PARCELS, OF TEN ACRES OR LESS, AND TWO (2) ROAD RIGHTS-OF-WAY, THOSE LANDS BEING MORE FULLY DESCRIBED IN EXHIBIT "A" TO THE INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that Chapter 171.046(a) of the Florida Statutes allowed for the annexation of enclaves of ten acres or less in order to eliminate enclaves and improve service delivery. All the parcels were located on Gulfstream Road, Canal Road and Coconut Road and were individually owned. A complete list of the owners and addresses was attached to the ordinance as Exhibit "A". Chapter 171.062 allowed the annexed properties to retain Palm Beach County land use and zoning until the Village adopted a comprehensive plan amendment designating a Village land use and zoning. This land use amendment would be processed later this year. The Land Development Board had recommended approval at their meeting on August 9, 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 resolution by title. A motion to adopt was made by Council Member Waller and seconded by Council Member Escalada. Motion carried 5 – 0.

11. RESOLUTION NO. 2011-65 (EASEMENTS)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ACCEPTING EASEMENT DEEDS FROM MARTIN AND ANA ESPINOSA, NICHOLAS BARONE, NELSON L. RODRIGUEZ AND NELSON LOPEZ, FOR UTILITY PURPOSES; PROVIDING FOR RECORDATION AND PROVIDING AN EFFECTIVE DATE.
Staff: Bill Davis, Public Service Director

Manager Umberger advised the Council that these easements, located at 3727, 3633, 3699 and 3613 Coconut Road, were required for the expansion of the gravity sewer system improvements in this area. Mayor Smith stated this was a public hearing and asked for questions or comments. Hearing none, Village Attorney Torcivia read the resolution by title. A motion to adopt was made by Vice Mayor Gunther and seconded by Mayor Pro Tem Brinkman. Motion carried 5 – 0.

12. RESOLUTION NO. 2011-66 (AGREEMENT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR, OR OTHER VILLAGE OFFICIALS, TO EXECUTE A SETTLEMENT AGREEMENT WITH JUAN VERAS d/b/a EL PALACIO NIGHT CLUB, TO RELEASE CODE ENFORCEMENT FINES/LIENS AND TO DISMISS THE ASSOCIATED APPEAL FILED AGAINST THE VILLAGE; PROVIDING FOR TERMS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council that this settlement was for the release of outstanding code enforcement liens/fines. In the second half of 2010, the Village successfully prosecuted code enforcement violations against Four Florida Shopping Centers Properties Limited Partnership, owners of Forest Hill Shopping Center. The violations involved their tenant, Juan Jaime Veras, d/b/a El Palacio Night Club, and mainly concerned the failure of the Club to provide the required off-duty law enforcement details as security at the Club. Liens were recorded against the property. Mr. Veras subsequently appealed the code enforcement orders, thereby challenging the constitutionality of the Village's Nightclub Ordinance. The appeal is pending in Circuit Court. Mr. Veras is no longer a tenant of the shopping center and is currently making payments on the outstanding off-duty law enforcement detail costs through a separate arrangement with the Village. Pursuant to terms of this agreement, Mr. Veras agreed to voluntarily dismiss his appeal against the Village; and in exchange, the Village agreed not to pursue the outstanding code enforcement fines against Mr. Veras and to release the liens. Normally, this Agreement would go before the Village Special Magistrate as a lien reduction hearing; however, since this involves a settlement of a Village lawsuit, it was requested that the Council review and approve the Settlement Agreement. The Village Attorney has been instrumental in drafting this agreement and is available to answer questions.

Mayor Pro Tem Brinkman asked if this was the same person who now owned the Club on Dale Road. Manager Umberger responded that Mr. Veras has stated that he has no interest in that Club and it was a relative with the same last name that is involved in that Club. Mayor Pro Tem Brinkman stated she just wanted assurances that relative or not, the same thing doesn't happen if the Village releases this matter. Manager Umberger responded that the Village Police are monitoring the new Club for verification of this and for compliance with all Village codes

Hearing no further comments, Village Attorney Torcivia read the resolution by title. A motion to approve was made by Council Member Escalada and seconded by Council Member Waller. Motion carried 5 – 0.

REGULAR AGENDA**ACTIONS AND REPORTS – none scheduled****VILLAGE COUNCIL COMMENTS**

Council Member Escalada asked Chief Hall how the traffic at our schools was going this year. Chief Hall responded that the first few weeks were always the roughest; but parents were adjusting and things appeared to be running smoother now. The School Board had received a grant to establish a plan for students within 2 miles of their schools to walk or bike ride to their schools; which should also help alleviate street traffic issues.

Mayor Pro Tem Brinkman offered her congratulations to Village Clerk Walton. Mayor Pro Tem Brinkman then asked if the new budget was posted online, and would it include all the line items. CFO Morse responded that the statutory requirement was not effective until next year's budget; however, once adopted the Budget Summary would be posted on the Village website. Mayor Pro Tem Brinkman stated some cities had already begun complying and felt the more transparency the better for residents to understand the budget process. Mayor Pro Tem Brinkman also stated there was an ongoing problem with certain properties hat racking trees and noticed that there was no mitigation process in the Village's current code. It may be a good idea to look at how other cities are handling this and have an amendment to the Village Code. Direct Lowe responded that typically the Village followed the County Code requirements.

Vice Mayor Gunther also offered congratulations to Village Clerk Walton, and reminded everyone about the Volunteer Garden Planting Event at Kirklane Elementary this coming Saturday.

Council Member Waller commented that she was very proud of Village Clerk Walton's accomplishment. Council Member Waller commented on the hat racking issue and hoped that whatever was done would include the property at Lillian Road and Congress because it was a continuing problem there. Also, Council Member Waller stated she was very impressed with the ribbon cutting ceremony at Maverick High School, and hoped additional parking would not be a problem since they already have 500 students and are talking about expanding to the 2nd floor. Manger Umberger responded that the parking issue was being monitored and a recent inspection noted that the parking lot area was only half full.

Mayor Smith stated for the record that she did not want to appear mean spirited, but rather firm, in her comments about public comment not being a time for lengthy discussions, but rather a time for the public to offer their comments. Mayor Smith also added her congratulations to Village Clerk Walton.

ADJOURNMENT

Hearing no further business, Mayor Smith adjourned the meeting at 8:03 p.m.

Respectfully submitted,

Village Clerk

Approved by Council_____

Mayor