

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, OCTOBER 13, 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 Public Safety Director Mark Hall, as Sergeant at Arms, Land Development Director Bette J. Lowe, CFO Rebecca L. Morse and Public Service Director Bill Davis.

Invocation was given by Village Manager Karl E. Umberger, followed by the Pledge of Allegiance led by Council Member Patti Waller.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager: Item #10 – continue to Nov. 10th agenda at request of Applicant
Add: Item #10A – Res. 2011-76 Alternate Special Magistrate Contract

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 Regular Council Meeting on September 22, 2011
2. Approval of Eckler Engineers Task Order No. 121 for design services, in the lump sum fee of \$41,000, and services during construction, at an hourly rate plus direct expenses not to exceed \$19,400, for infrastructure improvements related to the utility service area exchange with Palm Beach County Water Utilities Department. 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.

ANNOUNCEMENTS AND PROCLAMATIONS

3. Mayor's Proclamation announcing Oct. 16 – 22, 2011 as City Government Week and announcing the partnership project with the Village's 5th Grade classes for a contest to design a new neighborhood park in Palm Springs.

PUBLIC COMMENT

Sharon Eastman, 2155 Prairie Road, presented the Council with photos and a drawing of Prairie Road where G-Star students were dropped off for school, causing a traffic jam on the small residential road, despite signs stating students should not be dropped off at that site. Ms. Eastman requested that the Village do something about the problem and suggested the school be made to use the two existing ingress/egress points on Congress Avenue. Cars also speed up and down the street.

Elizabeth Shields, 2111 Prairie Road, stated she wanted to confirm and support the comments of Ms. Eastman. Although Ms. Eastman worked and was not home in the afternoons, Ms. Shields stated that the traffic and speeding problems were also present around 3pm when school was discharged.

Richard Radcliffe, Executive Director for the Palm Beach County League of Cities, introduced himself and commented that he usually visited cities asking the Council to get involved with League issues; however, in this case the Village residents were lucky in that this Village Council was extremely involved with the County and Florida League. Mayor Smith added that Mr. Radcliffe had been a member of the Council for Greenacres for many years, and the Village had worked with him in that capacity on many mutually beneficial issues. Mayor Smith thanked Mr. Radcliffe for coming and congratulated him on his new position.

Chief Hall and his officers had set up a display of the \$45,000 in traffic, DUI and aggressive driving equipment that was given to the Village as the award for placing first in all three divisions in the State Programs. Chief Hall explained each piece of equipment: a light trailer valued at \$7,600, a speed trailer valued at \$10,000, which Chief Hall suggested be named the "Liz Shields Honorary Speed Trailer"; two portable lights and poles for use at crime scenes and valued at \$1,800 each; two Watch Guard mounted camera video systems valued at \$5,000 each; eight packages of blinking lights, which now replace flares and plug into the cars, valued at \$550/package; two portable breath testers valued at \$500 each, personal pocket lights and knives for all the officers and personalized barricades.

PUBLIC HEARINGS

4. ORDINANCE NO. 2011-20 (SECOND READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCES AT CHAPTER 1 "GENERAL PROVISIONS", BY REPEALING SECTION 1-2 "DEFINITIONS AND RULES OF CONSTRUCTION" AND READOPTING THE SAME WITH FIVE (5) NEW DEFINITIONS, WHICH SHALL BE INCLUDED AMONG THE EXISTING DEFINITIONS IN ALPHABETICAL ORDER; PROVIDING THAT EVERY OTHER SECTION AND SUBSECTION OF

CHAPTER 1 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on September 29, 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 Vice Mayor Gunther. A roll call vote was in favor of adoption 3 – 0.

5. RESOLUTION NO. 2011-52 (SITE PLAN)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE SITE PLAN (SPR 11-04) AND A SPECIAL EXCEPTION USE (PSSE 11-03), SUBMITTED BY MUSA REALTY GROUP LC, FOR A CHANGE OF USE FOR 7,000 SQ. FT. OF AN EXISTING 24,000 SQ. FT. OFFICE BUILDING, TO HOUSE THE MINISTERIO RIOS DE AGUA VIVA CHURCH, LOCATED AT 3801 SOUTH CONGRESS AVENUE; 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 March 31 and October 6, 2011. Roy Musa was sworn in to give testimony. Manager Umberger advised the Council that this site plan and special exception use was for the Ministerio Rios de Agua Viva Church. There would be no accessory uses with the church. They had only a few events a year and their hours were limited, with no impact on parking or other businesses. The property was currently a 24,000 square foot office building occupied by Stanton Optical Company. The Applicant would use approximately 5,680 square feet for a church. The property owner would lease another 7,722 square feet to an as yet undermined tenant, with prior Village approval. The Land Development Board had recommended approval, subject to staff conditions, at their meeting on July 12, 2011.

Mayor Smith stated she had not seen any landscaping on the site plan. Director Lowe responded that the renovations were all interior and there was not a lot of buffer area for requesting any additional landscaping, although there were some existing trees and shrubs. The Applicant was asked to repair the parking lots because of numerous potholes. Mr. Musa added that the owners had cleaned up the property, done some maintenance on the exterior and hired a permanent landscaper for future maintenance. Mayor Smith stated this was a public hearing and asked for questions or comments

from the public. Liz Shields, 2111 Prairie Road, asked if this site plan had come before the Land Development Board. Director Lowe responded it had back on July 12, 2011.

Hearing no further comments, Village Attorney Torcivia read the resolution by title. A motion to adopt was made by Vice Mayor Gunther and seconded by Council Member Waller. Motion carried 3 – 0.

6. RESOLUTION NO. 2011-71 (CONTRACT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING A LABOR AGREEMENT WITH THE PALM BEACH COUNTY POLICE BENEVOLENT ASSOCIATION, INC. (PBA) AND THE PALM SPRINGS POLICE SERGEANTS FOR A PERIOD OF ONE YEAR THROUGH SEPTEMBER 30, 2012; AUTHORIZING EXECUTION OF THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council that on December 21, 2010, a secret ballot election was held to recognize the classification of Public Safety (Police) Sergeant and the Police Benevolent Association (PBA) certification as the exclusive bargaining representative. The election results were in the affirmative. The contract was for a one year term and was a mirror image of the existing Palm Springs Police Officer's contract, with a modification to Article 41 (salary). The ratification vote was held September 8 & 9, 2011, and the majority vote was in the affirmative.

Mayor Smith stated this was a public hearing and asked for questions or comments from the Council and 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 Vice Mayor Gunther. Motion carried 3 – 0.

7. RESOLUTION NO. 2011-72 (CONTRACT)

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA APPROVING AN AMENDMENT TO THE LABOR AGREEMENT WITH THE SERVICE EMPLOYEES INTERNATIONAL UNION/FLORIDA PUBLIC SERVICES UNION (SEIU/FPSU), FOR THE PERIOD OF OCTOBER 1, 2009 THROUGH SEPTEMBER 30, 2012; AUTHORIZING EXECUTION OF THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council that this resolution would authorize certain modifications to the existing labor agreement. The existing labor agreement was approved by the Council on October 8, 2009. According to Article 47.1, each party had the right to reopen Article 40 (compensation), and any other two articles for each year of the 3 year contract. For 2011-2012 fiscal year, the Village and SEIU/FPSU entered into

negotiations on Article 40 (compensation). The ratification vote on the proposed modification was held by the union membership on September 27, 2011 and the vote was 20-0 in the affirmative.

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

8. RESOLUTION NO. 2011-73 (SITE PLAN)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS, SITE PLAN (SPR11-08) SUBMITTED BY ALFRED MALEFATTO, FOR DEMOLITION OF THE EXISTING BUILDING AND CONSTRUCTION OF A 3,802 SQUARE FOOT CUMBERLAND FARMS CONVENIENCE STORE/GAS STATION, FOR THE 1.71 ACRE PROPERTY LOCATED AT 1701 KIRK ROAD; 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 October 6, 2011. Alfred Malefatto, Seth Behn, Ron Sides and Craig Cardin were sworn in to give testimony. This site is the existing Cumberland Farms site directly south of the Holy Cross Church and across from Palm Springs Middle School. The site currently has four tenants, including the Cumberland Farms; however, the existing buildings will be demolished and only a new Cumberland Farms gas station/convenience store will be on the new site. The Land Development Board recommended approval at their September 13, 2011 meeting. There were two variances approved by the Board of Adjustment, both having to do with the distance from the school. One dealing with fuel sales and one dealing with alcohol sales.

Council Member Waller asked about where the children would walk during construction. Director Lowe responded that Staff had recommend the Applicant contact the Police Department to work out a safety plan. Council Member Waller also asked if new tanks would be installed. Director Lowe responded that the tanks would remain and only the fuel island would be replaced. Vice Mayor Gunther asked about any comments from Palm Beach County Water Utilities since it was noted on the plans that a septic and drain field was being included. Was there not access for hook up to sewer system? Director Lowe responded there was a requirement for them to hook up to sanitary sewer, but it was not determined as yet where the connection would be. Craig Cardin, Engineer of Record, responded by showing the Council on the site map a location for connection near an apartment complex which was serviced by Palm Beach County Utilities. Mr. Malefatto gave a brief presentation on the history of the site and the redevelop plans. The original building was constructed in 1979, with the site being annexed into the Village in 2008. Cumberland Farms planned for a smaller, more up to

date design on the site, with an increase from 12 to 16 fueling stations. The tanks had been replaced not long ago, so this would reduce the disruption on the site during construction. Also, the septic and drainage on the site would be removed.

Mayor Smith 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 approve was made by Council Member Waller and seconded by Vice Mayor Gunther. Motion carried 3 – 0.

9. RESOLUTION NO. 2011-74 (WAIVER)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, (APPROVING/DENYING) THE APPLICATION OF CUMBERLAND FARMS, LOCATED AT 1701 KIRK ROAD, FOR A WAIVER FROM THE VILLAGE CODE AT CHAPTER 14 "BUSINESSES", SECTION 14-61 "HOURS OF OPERATION OF ESTABLISHMENTS WHERE SERVED", TO EXTEND THE HOURS OF OPERATION TO A 24 HOUR OPERATION; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that when this property was annexed into the Village in 2008, it was annexed as a non-conforming property, including the hours of operation. Since the property is now being demolished, the Applicant is required to request a new waiver for twenty-four hour operation to continue. Mayor Smith stated this was a public hearing and asked for questions or comment from the Council and from the public. Hearing none, Village Attorney Torcivia read the resolution by title. A motion to approve was made by Vice Mayor Gunther and seconded by Council Member Waller. Motion carried 3 – 0.

This item was continued to the November 10, 2011 Agenda

10. RESOLUTION NO. 2011-75 (TEMP LICENSE APPEAL)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, (APPROVING/DENYING) THE EXTENSION OF A TEMPORARY LICENSE AGREEMENT SUBMITTED BY FORDS OFF LEASE INC., FOR VEHICLE STORAGE ON A VACANT LOT ACROSS FROM THE EXISTING CAR SALES BUSINESS LOCATED AT THE NORTHWEST CORNER OF 2ND AVENUE NORTH AND DAVIS ROAD; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

ADD:

10A. RESOLUTION NO. 2011-76 (CONTRACT)

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH DIANE JAMES-BIGOT, ESQUIRE, FOR APPOINTMENT AS THE VILLAGE CODE ENFORCEMENT ALTERNATE SPECIAL MAGISTRATE FOR A TERM OF TWO YEARS, COMMENCING OCTOBER 13, 2011; AND PROVIDING AN EFFECTIVE DATE. Staff: Virginia Walton, Village Clerk

Manager Umberger advised the Council that this agreement would appoint Ms. Diane James-Bigot as an alternate Special Magistrate for the Village Code Enforcement Hearings for an initial two year term commencing on October 13, 2011. Ms. Bigot would serve as the Magistrate should the Village's primary Magistrate, Susan Ruby, be unavailable to perform her duties on a scheduled hearing day. Ms. Bigot serves as a Magistrate for other municipalities and came highly recommended. By appointing an alternate Magistrate, the Village would have a constant, consistent judicial hearing process for code enforcement and nuisance abatement issues.

Mayor Smith asked for questions or comments from the Council and from the public. Hearing none, Village Attorney Torcivia read the resolution by title. A motion to approve was made by Council Member Patti Waller and seconded by Vice Mayor Gunther. Motion carried 3 – 0.

REGULAR AGENDA**ACTIONS AND REPORTS**

11. Approval of Council Meeting Schedule for October, November and December 2011 Staff: Virginia Walton, Village Clerk

Manager Umberger requested the Council approve a single Council Meeting on November 10, 2011, and a single Council Meeting on December 8, 2011, due to conflicts with Thanksgiving and Christmas holidays. A motion to approve was made by Vice Mayor Gunther and seconded by Council Member Waller. Motion carried 3 – 0.

VILLAGE COUNCIL COMMENTS

Vice Mayor Gunther commented that it appears the Village was gearing up for its annual Halloween extravaganza, and he was looking forward to it. Vice Mayor Gunther also asked how the football season sign ups were going. Manager Umberger responded that they were just starting. Director Golson was presently chaperoning a Village sponsored trip and could provide more information at a later time.

Council Member Waller commented that she was very disappointed that she would be missing the Halloween Event, but she would be on a Cruise during this time.

Mayor Smith extended kudos to the Police Department for their awards and the excellent equipment, and also thanked Mr. Radcliffe for his attendance and comments.

ADJOURNMENT

Hearing no further business, Mayor Smith adjourned the meeting at 8:16 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor