

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, FEBRUARY 14, 2008**

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

Mayor John M. "Mike" Davis called the regular meeting of the Village Council to order at 7:30 p.m.

Present: Mayor John M. Davis, Vice Mayor Bev Smith, Mayor Pro Tem Joni Brinkman, Council Member Chet Osborne, Council Member Patti Waller, Village Manager Karl E. Umberger, Village Attorney Glen J. Torcivia, and Village Clerk Virginia M. Walton.

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

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

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager: Add item #6A Proclamation for Arbor Day
Continue Items #7 and #9 to the February 28, 2008 agenda
Add item #16A Resolution No. 2008-26 Interlocal Agreement

A motion to accept the agenda as revised was made by Vice Mayor Smith and seconded by Council Member Waller. Motion carried 5 – 0.

CONSENT AGENDA

- 1. Minutes of January 24, 2008 Regular Council Meeting**
- 2. RESOLUTION NO. 2008-12 (AGREEMENT)**

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY FOR FUNDING OF A JOINT PROJECT FOR COUNTY PAVING AND DRAINAGE IMPROVEMENTS AND VILLAGE OF PALM SPRINGS ADJUSTMENTS TO THE WATER SYSTEM, PURSUANT TO SECTION 163.01, FLORIDA STATUTES, ET SEQ.; AND PROVIDING AN EFFECTIVE DATE. Staff: Bill Davis, Public Service Director

3. RESOLUTION NO. 2008-14

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, URGING MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT THE FLORIDA LEAGUE OF CITIES KEY ISSUES DURING THE 2008 LEGISLATIVE SESSION; AND PROVIDING AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

4. RESOLUTION NO. 2008-15 (EASEMENT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ACCEPTING A GRANT OF EASEMENT FROM EUGENIO BARONA, 2940 SEMINOLE ROAD, AS REQUIRED FOR EXPANSION OF WATER AND SANITARY SEWER SERVICES; PROVIDING FOR RECORDATION AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

5. Addendum No. 20 to Task Order One for Eckler Engineering, Inc. to increase hourly rates for 2008

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

ANNOUNCEMENTS AND PROCLAMATIONS

6. Presentation of Financial Report Achievement Award to Rebecca Morse

Mayor Davis read the Award, which he mentioned was the 19th consecutive year Rebecca Morse had received this award. Mayor Davis thanked Rebecca for all her efforts. Ms. Morse thanked the Council and the Manager for allowing her the freedom to do her job and stated she was able to accomplish her job because of her amazing staff.

ADD: 6a Proclamation for Arbor Day – February 22, 2008

Mayor Davis read the proclamation announcing Friday, February 22, 2008 as Arbor Day in Palm Springs and invited everyone to the new Frost Lake Passive Park on that day for the planting of a Magnolia Tree. Since he was unable to attend on Friday, Council Member Waller would read the proclamation at that ceremony.

PUBLIC COMMENT - None

PUBLIC HEARINGS

This item will be continued to the February 28, 2008 agenda

7. RESOLUTION NO. 2008-16 (SITE PLAN – DISCOUNT RENTAL)

8. RESOLUTION NO. 2008-18 (SIGN VARIANCE)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, (APPROVING/DENYING) THE APPLICATION OF THORNE DONNELLEY, AGENT FOR THE TENANTS, LIBERTY TAX SERVICE, AND FOR THE OWNERS, PHILLIPS INTERNATIONAL, FOR A VARIANCE FROM SECTION 34-262 (10) OF THE VILLAGE SIGN CODE OF ORDINANCES TO ALLOW FOR PEOPLE TO WALK AROUND IN A COSTUME WAVING IN FRONT OF THE BUSINESS, ON THE COMMERCIAL PROPERTY LOCATED AT 3321 SOUTH CONGRESS AVENUE; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council this variance requested that individuals dressed in costume, such as the Statue of Liberty or Uncle Sam, be permitted to stand and walk up and down Congress Avenue and 10th Avenue North. Section 34-262 of the Land Development Code prohibits outdoor advertising of any kind where live animals or human beings are used as part of the advertising and which is visible from the adjacent street or property. The code also prohibits any signage in the Village's right-of-ways.

Manager Umberger further stated that although the Applicant claimed that the individuals would remain on private property, this had not been the case at other office locations. Staff had witnessed at several locations individuals walking up and down the sidewalks and/or right-of-ways, as well as the median, at the Northlake Boulevard location. The individuals witnessed also had danced, twirled signs, and generally drew attention to themselves. This type of signage can be a distraction to passing motorists. Not desiring to set a precedent, staff recommended denial of the variance request.

Mayor Davis asked for comments from the Council. Council Member Waller stated she had been on Forest Hill Boulevard this past Monday and had witnessed two people dressed as the Statue of Liberty on the sidewalk. Cars were stopping to look and she had to hit her brakes. This definitely distracted the drivers. Council Member Osborne stated he had been out on Jog Road, noticed cars slowing down and felt this could possibly cause an accident. Mayor Pro Tem Brinkman added that she had been driving today by Forest Hill Boulevard and Jog Road and had witnessed three people dressed in costume, and was definitely not in favor of this for the Village. Mayor Pro Tem Brinkman added that there were three free standing signs at Palm Springs Plaza, as well as the large sign over their storefront and there was nothing prohibiting them

from posting their signs on these. Vice Mayor Smith stated she would make this unanimous. Vice Mayor Smith added that she came from a law enforcement background and with the safety of our residents as most important, she could not vote in favor on this request. Hearing no further comments, Village Attorney Torcivia read the resolution by title denying the request. A motion to adopt the resolution denying the variance request was made by Council Member Osborne and seconded by Council Member Waller. Motion carried 5 – 0.

This item will be continued to the February 28, 2008 agenda

9. ORDINANCE NO. 2007-27 (FIRST READING – ANNEXATION FOR BEER DEPOT ON LAKE WORTH ROAD)

10. ORDINANCE NO. 2008-01 (FIRST READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING A PARCEL OF LAND CONSISTING OF .29 ACRES OWNED BY TODD AND KIM HUFFMAN, LOCATED AT 3040 SPRINGFIELD DRIVE; 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 MULTI-FAMILY RESIDENTIAL (RM) 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

Manager Umberger advised the Council that this property was compact, contiguous and located in the Village's target annexation area. The Land Development Board had recommended approval of the request at their meeting on February 12, 2008. Hearing no questions from the Council, Mayor Davis stated this was a public hearing and asked for questions from the public. Hearing none, Village Attorney Torcivia read the ordinance by title. A motion to adopt the ordinance on first reading was made by Mayor Pro Tem Brinkman and seconded by Vice Mayor Smith. Motion carried 5 – 0.

11. ORDINANCE NO. 2008-02 (FIRST READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING A VACANT PARCEL OF LAND CONSISTING OF ONE ACRE OWNED BY DAREBECAFE INVESTMENT CORPORATION; LOCATED AT THE SOUTHEAST CORNER OF COCONUT ROAD AND LAKE WORTH ROAD, WEST OF DAVIS ROAD; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING THAT THE ANNEXATION IS SUBJECT TO THE ANNEXATION AGREEMENT ENTERED INTO AND ACCEPTED THROUGH RESOLUTION NO. 2006-69 ON SEPTEMBER 14, 2006, AND INCORPORATED HEREIN BY REFERENCE; AND CONCURRENTLY AMENDING THE COMPREHENSIVE LAND USE PLAN OF THE VILLAGE TO COMMERCIAL, 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 COMMERCIAL GENERAL 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

Manager Umberger advised the Council that this property was compact, contiguous and located in the Village's target annexation area. This ordinance was a correction of Ordinance No. 2006-44, which had included an incorrect legal description and land use for the property. The Land Development Board had recommended approval of the request at their meeting on February 12, 2008. Hearing no questions from the Council, Mayor Davis stated this was a public hearing and asked for questions from the public. Hearing none, Village Attorney Torcivia read the ordinance by title. A motion to adopt the ordinance on first reading was made by Council Member Osborne and seconded by Council Member Waller. Motion carried 5 – 0.

12. ORDINANCE NO. 2008-04 (FIRST READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 62, OF THE CODE OF ORDINANCES, ENTITLED "SOLID WASTE" BY AMENDING ARTICLE II, ENTITLED "COLLECTION AND DISPOSAL GENERALLY", SECTION 62-31, ENTITLED "DEFINITIONS", SECTION 62-32, ENTITLED "PURPOSE AND INTENT", SECTION 62-34, ENTITLED "CONTAINERS REQUIRED", SECTION 62-35, ENTITLED "COLLECTION RESTRICTIONS", SECTION 62-36, ENTITLED "PLACEMENT OF CONTAINERS, FOR COLLECTION", SECTION 62-37, ENTITLED "RESIDENTIAL COLLECTION SCHEDULE", SECTION 62-38,

ENTITLED "COLLECTION FEES", SECTION 62-39, ENTITLED "COLLECTION REGULATIONS", SECTION 62-40, ENTITLED "FRANCHISE TERMS", SECTION 62-41, ENTITLED "BILLING PROCEDURE", SECTION 62-42, ENTITLED "LOCATION AND SCREENING OF DUMPSTERS"; CREATING SECTION 62-43, TO BE ENTITLED "COMMERCIAL COLLECTION", SECTION 62-44, TO BE ENTITLED "OTHER COLLECTION" AND SECTION 62-45, TO BE ENTITLED "SPECIAL WASTES COLLECTION AND DISPOSAL"; AMENDING ARTICLE III, ENTITLED "RECYCLING", SECTION 62-72, ENTITLED "SINGLE-FAMILY RESIDENCES"; CREATING SECTION 62-76, TO BE ENTITLED "COLLECTOR—IN GENERAL"; AMENDING CHAPTER 1, ENTITLED "GENERAL PROVISIONS", SECTION 1-2, ENTITLED "DEFINITIONS AND RULES OF CONSTRUCTION", BY DELETING THE DEFINITION OF "GARBAGE CAN"; PROVIDING FOR REPEAL OF ALL ORDINANCES AND RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE. Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council that this ordinance amended the Village Code of Ordinances to reflect the changes instituted by Resolution No. 2008-07, authorizing the use of a private vendor to provide residential and commercial garbage, trash, vegetative and recycling collection services within the Village boundaries commencing on April 1, 2008. Hearing no comments from the Council, Mayor Davis stated this was a public hearing and asked for comments from the public. Hearing none, a motion to adopt the ordinance on first reading was made by Council Member Waller and seconded by Vice Mayor Smith. Motion carried 5 – 0.

REGULAR AGENDA

ACTIONS AND REPORTS

**13. Presentation of CAFR for Fiscal Year Ended September 30, 2007
By Auditors: Caler, Donten, Levine, Druker, Porter & Veil, P.A.**

Scott Porter, Partner with the Firm, stated he would hand out, in addition to the full report provided to Council, a Summary Financial Highlight. In the regular report on Page 99, there were no issues with the audit of internal controls and compliance, and on Page 101, the Management letter had no adverse comments. Mr. Porter stated these were not the norm for many cities; and the Village, the Staff and particularly Director Morse, should be commended for such excellent fiscal controls. The total assets were roughly \$75.4 million; the liabilities were approximately \$28.4 million, and the net assets were approximately \$47 million. There was a total net increase of approximately \$1.6 million for all the government funds, including the utilities enterprise fund. All other disclosures and statements required by GFOA were included in the full

report. Mr. Porter then briefly explained the Summary Financial Highlight fold out brochure. These included a historical review of revenues, expenditures, fund balances and water/sewer operations from 2003 through 2007.

Mayor Davis asked for comments from the Council. Vice Mayor Smith stated it appeared the water/sewer fund operating expenses seemed to be increasing faster than the increase in revenues. Director Morse replied the cause of the increases were cost of chemicals, the Miex System, and disposal costs in conjunction with our connection to Lake Worth and Palm Beach County. The Village was also seeing the impact of water restrictions; and, therefore, was working diligently to complete the water rate study as quickly as possible. Council Member Osborne commented he would give this report an A+, which was a reflection of the professionalism of the finance staff. The Village was blessed to have such a fantastic financial staff. Mayor Davis concurred with all comments. Rebecca and her staff did an outstanding job, the auditors presented an excellent financial report and he was a happy camper. Mayor Davis then read the Certificate of Achievement for Excellence in Financial Reporting Award that was presented to the Village.

14. Appointments to the Board of Adjustment

Staff: Virginia Walton, Village Clerk

Mayor Davis stated there were two alternate member positions which had expired on February 10, 2008. The two existing board members, Arthur Wetherill and Ernest Plitt, Jr. had indicated their willingness to continue to serve. A motion to appoint Arthur Wetherill as a senior alternate and Ernest Plitt, Jr. as a junior alternate, for terms to expire on February 10, 2009, was made by Council Member Osborne and seconded by Mayor Pro Tem Brinkman. Motion carried 5 – 0.

RESOLUTIONS

15. RESOLUTION NO. 2008-13

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY FOR COLLECTION OF PALM BEACH COUNTY IMPACT FEES, PURSUANT TO SECTION 163.01, FLORIDA STATUTES, ET SEQ. AND SECTION 13.A.7.A.2 OF THE PALM BEACH COUNTY UNIFIED LAND DEVELOPMENT CODE (“ULDC”); AND PROVIDING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council the Village has had an agreement with the County to collect their impact fees in exchange for two percent (2%) of the fee. These impact fees were complicated to compute and the Village Staff currently performed the

calculations manually, since the new Munis building software cannot calculate the fees. Palm Beach County had a computer program which performed the analysis for these fees. The current recommendation by Palm Beach County for increases in impact fees would potentially mean a loss of approximately \$19,000 to the Village based on last years collections of \$435,514, of which the Village retain \$8,888. Staff felt this amount was not significant when compared to the time spent calculating and collecting the fees, review of fees with contractors and review of the program with Palm Beach County each year during their audit process.

Mayor Davis asked for comments from the Council. Mayor Pro Tem Brinkman questioned why we would require the impact fees be paid to the County prior to submitting their applications to our building department. Director Lowe stated this was the only feasible way to track if the fees are paid prior to issuing our permits. Mayor Pro Tem Brinkman asked if this process could be put further into permitting, so that those people who never completed the permit process would not have to then go to back to the County to get a refund. Director Lowe replied the only people who pay impact fees are those that build commercial or residential that add A/C space, such as adding a bedroom. Many permits that go through her department don't require impact fees. Mayor Davis asked what percentage of people who don't follow through with permits are being talked about here. Director Lowe stated it was probably less than one percent; but if the Council wished, they could find a way to track the fees during the permit process. Vice Mayor Smith stated if she understood this agreement, it was to alleviate the time involved in this process and we should not add another layer of work rather than lessen the work. Mayor Davis stated there was no reason to create a problem before there actually was a problem, and suggested they pass the agreement as presented; and if there was a problem in the future, the Council would act quickly to amend the agreement and correct the problem. Mayor Pro Tem Brinkman agreed. Council Member Osborne also agreed that if there is any problem, people will not have a problem letting them know.

Hearing no further comments, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution and the agreement was made by Vice Mayor Smith and seconded by Council Member Osborne. Motion carried 5 – 0.

16. RESOLUTION NO. 2008-17

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING RESOLUTION NO. 2007-56, AND RE-STATING THE INTENT TO USE THE UNIFORM METHOD OF COLLECTING A NON-AD VALOREM ASSESSMENT FOR GARBAGE, TRASH AND RECYCLABLES COLLECTION SERVICES AND RELATED SERVICES; AND PROVIDING AN EFFECTIVE DATE.

Staff: Virginia Walton, Village Clerk

Manager Umberger advised the Council this resolution was being amended at the request of the Property Appraiser's Office to remove the words "residential parcels: as they are not able to map the residential and commercial properties separately with their software programs. The separation of residential and commercial properties would be accomplished by a coding process when the Village sends the property information to Solid Waste Authority for billing.

Hearing no comments from the Council, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution was made by Council Member Waller and seconded by Vice Mayor Smith. Motion carried 5 – 0.

ADD:

16A. RESOLUTION NO. 2008-26 (INTERLOCAL AGREEMENT)

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY FOR COST SHARING OF THE SANITARY SEWER INSTALLATION FOR LAKEWOOD GARDENS SUBDIVISION, PURSUANT TO SECTION 163.01, FLORIDA STATUTES, ET SEQ.; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

Manager Umberger advised the Council this Interlocal Agreement was an opportunity to participate in the Palm Beach County Annexation Incentive program with cost sharing measures for infrastructure improvements to a substandard development. The Village had been participating in this program and Palm Beach County had reimbursed the Village one-third of the County's obligation to date. However, the Clerk of the Court/Comptroller had now required that a formal Interlocal Agreement be approved by the County Commissioners prior to any further payments to the Village. Mayor Pro Tem Brinkman asked if we had ever been required to have an agreement before, and Manager Umberger replied we had not. Hearing no comments from the Council, Village Attorney Torcivia read the resolution by title. A motion to adopt was made by Mayor Pro Tem Brinkman and seconded by Council Member Osborne. Motion carried 5 – 0.

VILLAGE COUNCIL COMMENTS

Mayor Pro Tem Brinkman congratulated Rebecca Morse and commented that she was happy to be spending another two years as a Council Member. Mayor Pro Tem Brinkman had attended the URA Meeting last night and the County was making changes to their own code. One thing brought up was that the County attorneys had stated municipalities would need to make changes to their comp plans and building regulations to use the County traffic concurrency exemption area. The Village might

want to move quicker than anticipated with the overlay to be ready. Also, the County had a Workshop in response to the Hometown Democracy Movement. The County was contemplating going to one comp plan amendment per year. Also, the DCA had drafted a Citizen's Bill of Rights, which strongly urged that the LPA not be the same as the governing body. Manager Umberger stated this was in the Council Read File. Mayor Pro Tem Brinkman also asked if Interamerican Bank had finally pulled a permit. Director Lowe stated they had submitted a site plan, but had been slow to respond to reviewer's comments.

Council Member Osborne congratulated Council Member Waller and Mayor Pro Tem Brinkman on their re-elections.

Vice Mayor Smith also congratulated Council Member Waller and Mayor Pro Tem Brinkman on their re-elections and looked forward to working with them for the next two years. Also, kudos to Rebecca Morse on her award. Vice Mayor Smith commented that she had received some positive comments on the new Code Enforcement Special Magistrate recently hired by the Village. Comments were that she was fair, but firm on issues. Vice Mayor Smith asked, with summer approaching, if there was something that could be done about the iguana problem in the Village. Manager Umberger replied that there were two young men who were trapping them and taking them North, possibly selling them. Mayor Davis asked if there had been some iguana complaints. Manager Umberger replied that there had been calls. Council Member Osborne stated he had seen some as large as gators.

Council Member Waller congratulated Rebecca Morse. She looked forward to every year when the auditors come because she knows the report will be a good one. Council Member Waller also commented that she like the new green trash canisters that were displayed at the back of council chambers. Council Member Waller also commented she had attended her County Environmental Committee meeting, where the new Solid Waste Authority western land fill had been discussed. The Committee agreed to move it forward, with a drafted resolution for the cities. It was a good meeting and the SWA landfill would be west of the Loxahatchee Wildlife. She was also happy to be working with the council for another two years.

Mayor Davis congratulated Council Member Waller and Mayor Pro Tem Brinkman unofficially on their re-elections. The official notice would be at the council meeting after the March 11, 2008 election date.

ADJOURNMENT

Hearing no further business, Mayor Davis adjourned the meeting at 8:31 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor