

**VILLAGE OF PALM SPRINGS  
VILLAGE COUNCIL MINUTES  
REGULAR MEETING, COMMUNITY ROOM, MARCH 13, 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 Patti Waller, Village Manager Karl E. Umberger, Village Attorney Glen J. Torcivia, and Village Clerk Virginia M. Walton. Council Member Chet Osborne was absent.

Staff present were Public Safety Director Jay C. Pickens, as Sergeant at Arms, Land Development Director Bette J. Lowe, Finance Director 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 Vice Mayor Smith.

**1. CERTIFICATION OF ELECTION**

**RESOLUTION NO. 2008-29**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ACCEPTING THE CERTIFICATION OF THE VILLAGE CLERK OF CANDIDATES FOR THE 2008 GENERAL MUNICIPAL ELECTION; CERTIFYING THE ELECTION OF CANDIDATES; AND PROVIDING AN EFFECTIVE DATE.**

Staff: Virginia M. Walton, Village Clerk

Village Attorney Torcivia read the resolution by title. A motion was made by Vice Mayor Smith and seconded by Council Member Waller to accept the certification of the Village Clerk of candidates for the 2008 General Municipal Election. Motion carried 4-0.

**2. OATH OF OFFICE FOR NEW CANDIDATES**

Joni Brinkman and Patti Waller were both sworn in by Village Clerk Walton as Council Members for another two year term to expire in March 2010.

**3. RESOLUTION NO. 2008-30**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, DESIGNATING A VICE MAYOR AND MAYOR PRO TEM FOR THE ENSUING YEAR 2008-2009, AND PROVIDING AN EFFECTIVE DATE.** Staff: Virginia M. Walton, Village Clerk

Mayor Davis called for nominations for a Vice Mayor and Mayor Pro Tem for the 2008-

2009 year. Vice Mayor Smith nominated Joni Brinkman as Vice Mayor and Patti Waller as Mayor Pro Tem. Hearing no further nominations, Mayor Davis closed the nominating process. Village Attorney Torcivia read the resolution by title. A motion was made by Vice Mayor Smith and seconded by Mayor Pro Tem Brinkman to accept the nominations. Motion carried 4-0.

### **ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA**

Village Manager: Continue items #6, #8 and #9 to the March 27, 2008 agenda  
Continue item #16 to the April 24, 2008 agenda  
Pull items #10, #11, #15 and #16

A motion to accept the agenda as revised was made by Council Member Smith and seconded by Mayor Pro Tem Waller. Motion carried 4 – 0.

### **CONSENT AGENDA**

- 4. Minutes of Local Planning Agency Meeting on February 28, 2008**
- 5. Minutes of Regular Council Meeting on February 28, 2008**

A motion to approve the consent agenda as presented was made by Council Member Smith and seconded by Mayor Pro Tem Waller. Motion carried 4 – 0.

### **PUBLIC COMMENT**

Sherry Pica, 444 Alameda Drive stated she had lived in Palm Springs for 22 years and wanted to discuss a buffer that should be behind her house. They had moved into their new house about 8 ½ years ago because of the privacy it had with the woods behind the home. Since that has been taken away, they have had to deal with the lights, which are now gone; but the apartments, people are hanging over looking into their homes all the time. They want to know if there is going to be some kind of buffer that the apartment management would have to put in. This had been talked about before, but nothing has come about. If someone had binoculars, think of what they would see. She had to keep her hurricane shutters closed in the back because of this and it's not right.

Linda Henry, 436 Alameda Drive, stated they all represented the north side of Alameda Drive. The last time they had spoken on this issue was in the old building, that's how long ago it was, and they feel they have been patient enough. According to the plat, the apartment owners are supposed to maintain a buffer. They were supposed to clean it, but what they did was clear it, so they have lost their peace, their privacy and their property values. They are rental apartments and there is a big turnover. She had gone over to see what they could see and they could see into screen porches, and people in their yard and in their kitchen. How much longer do they have to wait. She was a victim of a home invasion yesterday and she would feel much better with some privacy.

Scott Henry, 436 Alameda Drive, probably about 1 ½ years ago they (apt. owners) had planted little arecas palms and that's all they have done. I can walk out to my BBQ and get heckled from the condos. It's been 3 years. My wife had a traumatic experience and he needed to know what is going on. He was born and raised here and he just wants his privacy and security back. People jumped over his fence to get back to the condos after they vandalized his home.

Erik Molnar, 452 Alameda Drive, stated he was born and raised in Palm Springs. When he bought the house, he had a chain link fence in the back, so when they tore down the trees I had no privacy. He was having a BBQ in his back yard and a tenant from the apartments came over to the fence and wanted to buy drugs. He has now had to put up another fence, was concerned about having sliding back doors in the house, and he needs the trees back.

Dan Pica, 444 Alameda Drive, stated he agreed with everything that has been said because it's all true. He had his house up for sale about a year ago, never sold it, but it was shown a lot and the biggest topics was the apartments overlooking the backyards. Due to the fallen economy, these apartments will not help. Nothing will ever take place of the forest, but anything would be better. He has lived his whole life in Palm Springs in several homes, and the forest was one of the reasons he bought this last home. He still likes living there, but this is still a problem.

Donna Molnar, 452 Alameda Drive, stated she had been in her home for 35 years, even before the apartments were there. When the apartments took down the woods, her privacy was gone. They put up another fence, but it's not enough. If they could put up some trees, maybe a berm to raise the trees, that would be fine, but wants her privacy back.

Kimberly Brodrick, 460 Alameda Drive, she was the first one to bring this issue forward. She provided another copy of the plat for the Council and had gotten a list of all the police calls for those apartments for the past 2 years. It's not just the privacy. The trees had been a buffer for all the traffic noises and car alarms from the apartments. She can't leave here children alone in her fenced yard because of what lives behind them. One tenant hangs out the apartment window with no shirt on when the kids are coming home from school and she worried about how many sex offenders are in this area. It's been too long and now they have been told they have to wait until June or July. The plants that are there have been there long enough to have enough growth but they are not growing. When they do grow, they are in the path of the power lines. The buffer was specifically placed there for the rentals. They were supposed to be condos and the buffer was an agreement when they went rental. They were not notified when that area was cleared and they should have had input in what was replaced there.

Johnnie Tieche, 305 Winged Foot Drive, stated this was on a different issue. He had attended the last Magistrate Hearing and the new judge for the Village Code Hearings is going to be excellent for the Village and will help the Village in the long run.

Mayor Davis asked Manager Umberger for an update, since he remembered the original complaints were about homeless vagrants in the woods and the exposure to the children cutting thru after school.

Manager Umberger stated several people had complained about the lot and had come to a council meeting to have something done. The most recent purchaser was going to revert the apartments to condos, but the downturn in the market caused them to remain apartments. Manager Umberger stated he agreed with the residents that they were renting to anyone who had the deposit and had not been very cooperative with the Village. There was an ongoing code case for this property and Director Lowe could give the Council more information on that. Mayor Davis asked about the plant growth issue. Manager Umberger replied they had negotiated with the owner.... because we had good luck with the areca palms as a buffer with the Lake Worth Drainage Canal on the south side of our building...so the arecas were a good stop gap. The trees that had been taken down were 40 – 50 feet and impossible to replace. The apartments are four stories high.

Director Lowe stated you were not going to be able to replace what was taken out. The owners were found in violation at the Code Hearing. The owners blamed the lack of growth on the water restrictions because they were not able to water. The Village did not totally agree because they also did not fertilize or put forth a good effort. They had entered into a Stipulation Agreement which required the areca palms be staked, be watered and fertilized for the next six months; at which time the Village will determine if adequate growth had taken place. If not, they would be required to remove the areca palms and plant something else. There were also 18 arecas that needed to be replaced because they were dead or almost gone. Mayor Davis asked if they were complying with the code agreement. Director Lowe stated yes, but they also had another code case pending for damage and deteriorating mansard roofs.

Mayor Davis suggested a ficus hedge might be better, similar to around the Trump Golf Course. Director Lowe stated the ficus was a fast growing hedge, but would not be any better than the arecas if they don't keep them watered. Mayor Davis asked if they had a sprinkler system and Director Lowe stated they did not, but do now. Manager Umberger added that the soil was very sandy there and didn't hold moisture well. Manager Umberger also added the due process procedures work, but takes time. Mayor Davis asked if the faster growing hedge could be looked into. Director Lowe stated she could, but would have to talk to the attorney to see if the stipulation agreement could be changed at this point. Mayor Davis advised the audience that their comments were being taken seriously, but there was no way to make a tree 40 feet tall overnight.

Scott Henry, 436 Alameda Drive, came before the Council again and stated he had understood from code enforcement that the areca palms would be 6 foot on center at the back of the fence and in the back of that there would be palms 8 – 10 feet on center. This was never done. Why has it taken so long. He understood the larger palms are expensive, but that's what they understood would happen.

Director Lowe stated per our code, when palms are planted, they are only planted 20

feet on center. With the areca palms, the additional palms were determined not to be necessary because technically the arecas should have grown faster than the other palms would have. If they don't comply with the stipulation agreement, then the Village could make the owners put in the ficus and also the 20 foot palms. Mayor Davis suggested Director Lowe look into trying to make them comply sooner than six months. Mayor Davis also told the audience that they needed to understand that there is an upside and downside. Once the palms and/or hedge go in, the homeless problem might return. Mayor Davis stated the Village was sorry they were experiencing these problems, but they would do their best to resolve the issue. Please come back if you don't see progress. Vice Mayor Brinkman asked if the 18 areca palms to be replaced had a time frame for replacement in the agreement. Director Lowe stated she thought it was sooner, but she would have to check the agreement. Vice Mayor Brinkman suggested that if the compliance for this was not met, the agreement might be in default and further pressure could be placed on the owners. Director Lowe agreed. Mayor Davis stated the bottom line was the owners needed to be put on notice they should comply as quickly as possible.

## **PUBLIC HEARINGS**

**This item will be continued to the March 27, 2008 agenda**

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

**7. RESOLUTION NO. 2008-19 (SITE PLAN/SPECIAL EXCEPTION – QJ)**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING/DENYING WITH CONDITIONS THE APPLICATION OF IDALMIS ESPINOSA, AGENT FOR THE OWNER, IRVING REGENSTREIF TRUST; THE SITE PLAN (SPR 08-01); AND A SPECIAL EXCEPTION USE (PSSE 08-01) FOR INTERIOR RENOVATION OF AN EXISTING BUILDING FOR USE AS A TAKE-OUT RESTAURANT LOCATED AT 2911 SOUTH CONGRESS AVENUE, SUITE 101; AND ESTABLISHING 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 January 24, 2008. There were no ex parte communications disclosed. Director Lowe advised the Council that the Applicants had advised her that they were not going to go forward with the business and had tried to get a refund after the site plan had been submitted, reviewed and taken to the Land Development Board. The site had actually already been leased to another business. Director Lowe was requesting this plan be denied formally by Council so the special exception use would not remain. Hearing no comments from the Council or the public, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution denying the special exception use was made by Council Member Smith and seconded by Mayor Pro Tem Waller. Motion carried 4 – 0 to deny.

**This item was continued to the March 27, 2008 agenda**

**8. RESOLUTION NO. 2008-20 (SPR-08-02 – EAST PARCEL SITE PLAN)**

**This item was continued to the March 27, 2008 agenda**

9. **RESOLUTION NO. 2008-21 (SPR08-03 – PALM SPRINGS PLAZA TRUCK DOCK SITE PLAN)**

**This item was pulled from the agenda and site plan cancelled**

10. **RESOLUTION NO. 2008-23 (SPR08-06/PSSE 08-04 LIFE SKILLS CHARTER SCHOOL SITE PLAN AND SPECIAL EXCEPTION)**

**This item was pulled from the agenda**

11. **RESOLUTION NO. 2008-25 (SPR08-04/PSSE08-02 – EL REY DEL TACO SITE PLAN AND SPECIAL EXCEPTION)**

12. **RESOLUTION NO. 2008-27 (AMEND SPR06-01 CONGRESS OAKS)**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION SUBMITTED BY CONGRESS OAKS DEVELOPMENT GROUP, LLC, FOR AMENDMENT TO SITE PLAN (SPR 06-01); TO EXTEND THE BUILDOUT DATE ONE YEAR FROM APRIL 1, 2008 UNTIL APRIL 1, 2009, FOR CONSTRUCTION OF A PROFESSIONAL OFFICE BUILDING ON 2.04 ACRES, LOCATED AT 1212 SOUTH CONGRESS AVENUE, ON THE SOUTHEAST CORNER OF THE INTERSECTION OF OAK DRIVE AND CONGRESS AVENUE; AND ESTABLISHING AN EFFECTIVE DATE.**

Staff: Bette Lowe, Land Development Director

Village Clerk Walton advised the Council notice of public hearing was placed in the Lake Worth Herald on February 28, 2008. There were no ex parte communications disclosed. Mr. Gil Garone, Mr. Glen Hanks and Director Bette Lowe were sworn in to give testimony. Manager Umberger advised the Council that the request was to extend the build-out date for one year to April 1, 2009, subject to approval of Palm Beach County Traffic Concurrency, and Land Development Board had recommended approval of the request at their meeting on March 11, 2008.

Mr. Garone stated the extension was due to the softening of the market, which caused a tremendous slow down in sales and tightened the mortgage lending business. In the meantime, there are concurrency issues pending. Mr. Hanks stated he had been the traffic engineer for this project since 2005, which at that time was a 27,000 square foot office building with external hallways and open air access to the second floor. After receiving approval recommendation in 2006, the Village Council requested that the hallways be enclosed, resulting in gross floor area. This required a change in the traffic calculations. They were in negotiations with Palm Beach County for mitigation and the extension request would give them time to finalize these negotiations. Manger Umberger asked if the TCEA traffic concurrency exception was part of the negotiations. Mr. Hanks replied that they had looked at that, as well as a CRAWLS designation; however, they had both already been identified and restricted for two developments; therefore, they could not take advantage of that. The County TCEA was still pending with the County and the Village and they could not

take advantage of that as yet. Director Lowe stated that was correct and their best plan would be to make their current traffic concurrency plan acceptable to the County without needing the TCEA.

Mayor Davis asked for questions from the Council. Vice Mayor Brinkman stated she had no problem with extending the build out date, or the site plan approval extension; however the letter says it is contingent on traffic approval from Palm Beach County, but that is not mentioned in the resolution. Vice Mayor Brinkman wanted to make a motion, subject to Section 2 being revised to state this resolution shall take effect upon receipt of approval of Palm Beach County Traffic Concurrency, and then they would automatically have their extension. Mr. Garone state that might be a problem because if they did not get Palm Beach County approval prior to April 1, 2008, then there might be a lapse in the site plan approval. Alternative language was discussed. Director Lowe stated the Palm Beach County letter stated their build out date would be December 31, 2010, if they approved the traffic concurrency. Therefore, Director Lowe suggested that date be used, subject to the Applicant receiving Palm Beach County Traffic Concurrency approval.

Mayor Davis asked Director Lowe for language that should be used in the motion and the resolution. Director Lowe stated the approval should be subject to Palm Beach Traffic Concurrency approval, and a build out date not to exceed December 31, 2010. Village Attorney Torcivia stated he would like to simplify things and have the resolution approved tonight until December 2009 and then have them come back for another extension, which would require an additional fee. Mr. Garone stated they might not need the additional time, but he would prefer and appreciate seeing the 2010 date tonight. They really would like to get the project going as quickly as possible. Comments from the Council were in favor of the 2010 date and not making the Applicant return again and incur additional fees.

Hearing no further comments, Village Attorney Torcivia read the resolution by title amended with the new build out date of December 31, 2010. Mayor Davis asked for a motion based on the revised language. Mayor Pro Tem Waller made the motion and the motion was seconded by Council Member Smith. Motion carried 4 – 0.

**This item was continued to a time certain April 24, 2008 agenda**

**13. RESOLUTION NO. 2008-32 (ABANDONMENT OF LARK ROAD R/O/W)**

**14. RESOLUTION NO. 2008-33 (PRELIMINARY PLAT)**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING THE PRELIMINARY PLAT FOR C & D PRODUCE SOUTH, SUBMITTED BY DANIEL SALDANA, THE OWNER OF THE PROPERTY LOCATED AT 3133 LAKE WORTH ROAD; AND PROVIDING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director**

There were no ex parte communications disclosed and legal advertising was not required for this item. Manager Umberger advised the Council that this plat combined several parcels into one lot for development and the Land Development Board had recommended approval of the request at their meeting on March 11, 2008. Hearing no comments from the Council or the public, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution and approve the preliminary plat was made by Vice Mayor Brinkman and seconded by Council Member Smith. Motion carried 4 – 0.

**This item was pulled from the agenda**

**15. ORDINANCE NO. 2007-27 (FIRST READING ANNEXATION – BEER DEPOT)**

**This item was pulled from the agenda**

**16. ORDINANCE NO. 2008-03 (FIRST READING- ANNEXATION BURGER KING-  
3796 SOUTH CONGRESS AVENUE)**

**REGULAR AGENDA**

**ACTIONS AND REPORTS**

**17. Appointment to the Leisure Services Board**  
Staff: Virginia M. Walton, Village Clerk

Mayor Davis stated there was a regular member vacancy position on the Leisure Services Board due to the resignation of Sharon Webb. The alternate board member, Marie Castro, was willing to become a regular member. A motion to appoint Maria Castro as a regular member for a term to expire on March 27, 2011, was made by Mayor Pro Tem Waller and seconded by Council Member Smith. Motion carried 4 – 0.

**RESOLUTIONS**

**18. RESOLUTION NO. 2008-31**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, DESIGNATING A COUNCIL LIAISON FOR EACH OF THE ADVISORY BOARDS FOR THE ENSUING YEAR 2008-2009; AND PROVIDING AN EFFECTIVE DATE.**

Staff: Virginia M. Walton, Village Clerk

Mayor Davis asked for volunteers for the liaison positions on the Land Development Board, the Library Board and the Leisure Services Board. Council Member Smith stated she would like the Land Development Board and Vice Mayor Brinkman stated she would like the Leisure Services Board. Mayor Pro Tem Waller stated she was already on the Pension Board. Mayor Davis stated that left Council Member Osborne for the Library Board. Village Attorney Torcivia then read the resolution by title. A motion to appoint the Council Members as previously stated was made by Council Member Smith and seconded by Vice Mayor Brinkman. Motion carried 4 – 0.

**19. RESOLUTION NO. 2008-13 (RESCIND)**

**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. Mayor Pro Tem Joni Brinkman**

Mayor Davis gave Vice Mayor Brinkman the floor. Vice Mayor Brinkman stated: “Your Honor, in accordance with notice given at the last meeting, I move to rescind Resolution No. 2008-13, which authorized the execution of an interlocal agreement with Palm Beach County for collection of Palm Beach County Impact Fees, adopted at the February 13, 2008 Council Meeting.” Mayor Davis stated to the Council “you have heard the statement of Vice Mayor Brinkman and I assume that will stand as a motion.” Village Attorney Torcivia stated that was correct. Mayor Davis asked for a second on the motion and a vote. Motion was seconded by Mayor Pro Tem Waller. Motion carried 4 – 0.

**VILLAGE COUNCIL COMMENTS**

Mayor Pro Tem Waller thanked her family for being present for her swearing in tonight and commented what a wonderful job had been done at the Frost Lake Passive Park. Mayor Pro Tem Waller also reminded everyone about the Installation of Officers at Lakeside Village on Sunday, and also announced that her husband was now on the Board.

Vice Mayor Brinkman stated she had attended two County meetings regarding the Redevelopment Areas. The Planning Group was moving forward with their text amendments for their Comp Plan, which would impact the Village by January 2009. The Village needed to move forward with whatever amendments would be necessary on our part.

Council Member Smith stated she had enjoyed her year as a liaison on the Leisure Services Board and commented to Chief Pickens that it was good to see recently more focus of patrol cars on the side streets in the Village in addition to the main thoroughfares.

Mayor Davis stated the next Regular Council Meeting would be on March 27, 2008 at 7:30 pm.

**ADJOURNMENT**

Hearing no further business, Mayor Davis adjourned the meeting at 8:40 p.m.

Respectfully submitted,

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Village Clerk

Approved by Council \_\_\_\_\_

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Mayor