

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

Staff present were Public Safety Director Jay C. Pickens, as Sergeant at Arms, Land Development Director Bette J. Lowe, Finance Director 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 Palm Springs Boy Scout Troop 250.

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

Village Manager: Items #9 and #10 will be continued to Dec. 11, 2008 agenda  
Vice Mayor Brinkman: Pull Item #3 on consent agenda for discussion – Item #8A.

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

**CONSENT AGENDA**

1. **Minutes of Regular Council Meeting on October 23, 2008**
2. **Approval of Library Annual Plan of Service**  
Staff: Elena Romeo, Library Director

**This item was pulled for discussion to Item 8A.**

3. **RESOLUTION NO. 2008-73**
4. **RESOLUTION NO. 2008-81**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING THE SCHEDULE OF FEES FOR THE CODE ENFORCEMENT DEPARTMENT, AND RESTATING THE FEES FOR THE LIBRARY, PUBLIC SAFETY, VILLAGE CLERK/GENERAL GOVERNMENT, LEISURE SERVICES, PUBLIC SERVICES, DEPARTMENTS OF THE VILLAGE; AND PROVIDING AN EFFECTIVE DATE.** Staff: Virginia Walton, Village Clerk

5. **RESOLUTION NO. 2008-86**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING MODIFICATION NUMBER 2 TO TASK ORDER NO. 97 FOR CONSTRUCTION OF THE GRAVITY SEWER, PUMP STATION AND FORCE MAIN**

**ON TODD STREET, LEXINGTON AVENUE AND CLEMENS STREET, TO AKA SERVICES, INC., IN THE AMOUNT OF \$192,000.00; AND PROVIDING AN EFFECTIVE DATE.**

Staff: Bill Davis, Public Service Director

**6. RESOLUTION NO. 2008-89**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AWARDED A BID FOR THE PURCHASE OF A WHEEL LOADER TO LINDER INDUSTRIAL MACHINERY OF PEMBROKE PINES, FLORIDA, IN THE AMOUNT OF \$82,065.00; AND PROVIDING AN EFFECTIVE DATE.**

Staff: Bill Davis, Public Service Director

**7. RESOLUTION NO. 2008-91**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING ADDENDUM NUMBER 2 TO TASK ORDER NO. 89, FOR ADDITIONAL DEVELOPMENT OF DATA FOR THE CONSUMPTIVE USE PERMIT WITH SOUTH FLORIDA WATER MANAGEMENT DISTRICT, IN THE AMOUNT OF AN HOURLY RATE NOT TO EXCEED \$20,000 TO ECKLER ENGINEERING, INC; AND PROVIDING AN EFFECTIVE DATE.** Staff: Bill Davis, Public Service Director

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

**ANNOUNCEMENTS AND PROCLAMATIONS**

**8. Excellent Public Safety Service Award to Sgt. Juan Castro**

Staff: Jay Pickens, Public Safety Director

This item was continued to a future agenda because recipient was unable to attend.

**PUBLIC COMMENT**

Gary Ready, 3118 Meadow Road, asked what more was going to be done with the Frost Lake Park and what was going to be happening in 2009. Manager Umberger responded that the Village had been waiting on the arrival of some grant funds. The fountains had been installed and were operational. The last component would be four more benches, two more garbage cans and the installation of four exercise stations/kiosks which were designed like a heart trail plan. Manager Umberger added that the Village had also applied for two more grants for the Sago Park children's area and the play area on Cypress Lane.

**PUBLIC HEARINGS****8A. RESOLUTION NO. 2008-73 (pulled from consent for discussion)**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE AN AGREEMENT WITH ROLLING HILL FARMS INC. AND TRAIL PROPERTIES INC., OWNERS OF THE PROPERTIES LOCATED AT THE NORTHEAST CORNER OF FOREST HILL BOULEVARD AND MILITARY TRAIL, FOR VOLUNTARY ANNEXATION INTO THE VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Staff: Bette Lowe, Land Development Director

Vice Mayor Brinkman stated she had requested this item be pulled from the consent agenda for a vote because she had established a position that she was not in favor of any annexation agreement that granted a land use not allowed in the Code or grant a waiver that would normally go through the variance procedure. Mayor Davis asked Village Manager Umberger to give a presentation on the item. Manager Umberger advised the Council that these properties were located within the Interlocal Service Boundary Agreement area (ISBA) and are eight of the voluntary annexations needed to annex the entire commercial corridor provided for in the ISBA Agreement. The agreement memorialized those items necessary for voluntary annexation of the properties. The Land Development Board had recommend denial of the request at their meeting on November 5, 2008, due to the setbacks for the parking garage if approved.

Mayor Davis stated these items had been discussed and approved at previous council meetings, with the exception of Vice Mayor Brinkman. The usage may be different, but the comments are the same, so he didn't have a problem with the agreement. Mayor Davis stated that he did not normally like to overrule the recommendation of the Land Development Board; but they are an advisory board and it was up the Council to make the final decision.

Hearing no further comments, Village Attorney Torcivia read the resolution by title. A motion to approve was made by Mayor Pro Tem Waller and seconded by Council Member Smith. Motion carried 4 – 1, with Vice Mayor Brinkman dissenting.

**This item was continued to the December 11, 2008 agenda**

**9. RESOLUTION NO. 2008-78 (SITE PLAN AMENDMENT–HIGH POINT ON CONGRESS)**

**This item was continued to the December 11, 2008 agenda**

**10. RESOLUTION NO. 2008-80 (SITE PLAN – TONSET – CONGRESS/LARK RD)****11. RESOLUTION NO. 2008-85 (SITE PLAN –QJ)**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF GOLD COAST EDUCATIONAL FEDERAL CREDIT UNION FOR AN AMENDMENT TO CONDITION NO. 4 OF SITE PLAN (SPR 06-10) TO ALLOW THE SIX FOOT CBS WALL TO BE RELOCATED TO THE PROPERTY LINE, WITH THE LANDSCAPE BUFFER PLACED**

**ON THE INSIDE OF THE WALL, FOR THE BANK FACILITY LOCATED AT 2226 SOUTH CONGRESS AVENUE; 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 October 23, 2008. Mayor Davis asked for any ex parte communications. Vice Mayor Brinkman declared she would not be voting on this issue and had filled out the property Form 8B. Vice Mayor Brinkman explained that Kilday & Associates was representing and being compensated by the Applicant; and since she worked for Kilday & Associates, she wanted to avoid any appearance of a conflict. Colleen Walter, representing Kilday & Associates, was sworn in to give testimony.

Manager Umberger advised the Council that the original site plan had been approved by Resolution No. 2006-83 on September 28, 2006. After hearing from the area residents, a condition of the site plan was to provide a 6 foot height concrete wall with a 10 foot wide buffer on the outside on the north and east property line abutting the residential home on Bermuda Avenue. Since placing the landscaping outside the wall results in maintenance problems for the wall and landscaping, the Applicant was requesting the wall be placed on the property line and the landscaping be placed inside the wall. The Land Development Board recommended approval of the request at their meeting on November 5, 2008, provided that the entire wall footer be inside the property line, the wall have a painted finish on both sides which is architecturally compatible with the building and the height of the wall be increased to correspond with the elevation change of the property, thereby protecting the line of sight.

Colleen Walter showed presentation boards of the site and the proposed walls abutting the residential homes. Ms. Walter stated there were comments from residents at the Land Development Board Meeting about the difference in grade from the inside of the wall to the outside of the wall. The wall would now be installed at a seven foot height, so that it provided an equivalent of screening as approved on the original site plan. Council Member Osborne wanted to know how far down the wall on the north side would be going west, and Ms. Walter replied it would be the length of the residential properties to within 5 feet of the shed in the corner. Council Member Osborne asked about the PVC fence adjacent to Culligan that was on the site plan. Ms. Walters replied that was added to attempt to stop the pedestrian cut thru between Culligan and the bank property. When asked about the old wood fence shown on the plan, Ms. Walters replied the wood fence would remain. Mayor Pro Tem Waller asked what color the wall would be painted, which would be a beige color. Mayor Davis stated this was a public hearing and asked for questions or comments from the public.

Mike Sousa, 2143 Bermuda Road stated he thought the agreement from the Land Development Board meeting was that whatever grade difference was, they was verbiage that they take up to 8 feet because of the drastic difference in grade from the parking area. Mr. Sousa would like to see actual survey numbers in the language for the conditions to completely give the homes privacy. Also, he understood that the PVC fence was changed to concrete for all three pieces of property.

Anna Debiec, 2213 Bermuda Road at the previous meeting for this site plan, the residents had been promised that the wall would be built prior to renovations of the bank buildings, but this did not happen. The wall that was on the back of their property was gone and cars are driving through their yard. She also mentioned her canoe was now missing from her yard. From her home you could see an old wooden 6 foot fence left when the Applicant

purchased the adjacent lot, but it did not cover the cars from seeing into her windows. Ms. Debiec appreciated the Councils and the Applicant's efforts to install the wall, but she does not think the 6 foot wall will be high enough to prevent the lights that are on the building from the cars shining into their home. The residents were told those were construction lights and would be taken down when the renovations were complete, but they are still there.

Ms. Walter, in responding to Mr. Sousa's comments on the PVC fence, stated that the Applicant had requested a 6 foot PVC fence at the Land Development Board Meeting, but the Board felt strongly that a wall should be between commercial and residential properties; therefore, the revised plans submitted to Land Development showed a 6 foot wall. Additionally a survey was prepared and submitted showing spot elevations exactly to the hundredth along both property lines, showing that there is less than a foot difference between the inside and outside edge of the buffer. Even though it was less than one foot, the Applicant incorporated the 7 foot wall in the plan. There are spotlights on FP&L poles that cut through the center, and the Applicant is looking into whether the lights can be turned off or re-oriented in a different directions. All the new lights installed in the parking area have cut off shields that cut off light to the residential areas. Mayor Davis clarified that the resident was referring to lights on the building. Ms. Walter stated she would have this matter looked into and if they were construction lighting, they should be able to be turned off or re-oriented.

Director Lowe added that her department had received the new survey and the 7 foot wall matches the elevations the Applicants surveyor supplied. As far as the lights, there has not been a final inspection on the site, which would include testing the photometric; and therefore, this can still be corrected.

Council Member Smith asked how tall the trees would be that are being installed at the buffer. Ms. Walter responded there was a hedge being installed at 24 inches, which will be allowed to grow from 4 to 6 feet within a few years, along with canopy trees, crepe myrtles and oaks, which will eventually get to a very tall height. In response to another question on the trees, Ms. Walter responded the trees would be planted 20 – 25 feet on center. Director Lowe clarified that the code required trees at 20 feet on center and shrubs at 2 feet on center. Manager Umberger added that he believed the Sousa family had planted a ficus hedge along the property line where the wall would be and that was already about 6 feet tall. Council Member Smith asked if the wall was approved tonight, how quickly could the Applicant get installation. Ms. Walter stated the Applicant was ready to go and it could be within two weeks.

Mayor Davis asked what the wall construction was. Ms. Walter responded they would be a concrete panel wall, somewhat similar to the walls along I-95. A solid concrete column with a solid concrete panel slid in, with a finish similar to the building. Mayor Davis asked if there would be a major problem with having an 8 foot panel instead of a 7 foot panel, and Ms. Walter replied it would just be the cost, otherwise the installation would be the same. Mayor Davis asked if the Council wished to consider an 8 foot wall. Each Council Member agreed the 8 foot wall would be preferable. Ms. Walter asked for clarification on whether the 8 foot wall was just for the one property line or both. The Council agreed it should be both walls.

Hearing no further comments, Village Attorney Torcivia read the resolution with the corrected title to change the 6 foot wall to 8 feet. A motion to adopt the resolution was made by Council Member Osborne and seconded by Mayor Pro Tem Waller. Motion carried 5 – 0.

**12. ORDINANCE NO. 2008-23 (SECOND READING)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL SERVICE BOUNDARY AGREEMENT (ISBA) WITH PALM BEACH COUNTY TO COORDINATE FUTURE LAND USE, PUBLIC FACILITIES AND SERVICES, AND PROTECTION OF NATURAL RESOURCES IN ADVANCE OF ANNEXATION; 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 Palm Beach Post on October 6 and October 13, 2008. Village Attorney Torcivia read the ordinance by title. Mayor Davis stated this was a public hearing and asked for questions or comments from Council and from the public.

Hearing no comments or questions, a motion to adopt the ordinance on second reading was made by Council Member Smith and seconded by Vice Mayor Brinkman. A roll call vote was in favor of adoption 5 – 0.

**13. ORDINANCE NO. 2008-27 (SECOND READING)**

**AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, PROVIDING FOR AMENDMENTS TO CHAPTER 10 “BUILDINGS AND BUILDING REGULATIONS”, ARTICLE I “IN GENERAL”, TO INCLUDE “VILLAGE AUTHORITY”, “VILLAGE COUNCIL FINDINGS”, AND “PUBLIC NUISANCE ABATEMENT PROGRAM” PROVISIONS; AMENDMENTS TO AND RENUMBERING OF SECTION 10-11 “NUISANCE DECLARED” AND SECTION 10-12 “NUISANCE TO BE ABATED” TO INCLUDE ADDITIONAL NUISANCES; AMENDMENTS TO AND RENUMBERING OF SECTION 10-13 “PROCEDURE FOR ENFORCEMENT OF A NUISANCE” AND SECTION 10-14 “APPEAL PROCEDURES” TO STREAMLINE THE PROCEDURES AND ENHANCE THE ENFORCEMENT MECHANISMS; ADOPTION OF “ENFORCEMENT PROCEDURES AND ALTERNATIVE ASSESSMENTS” PROVISION; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Staff: Glen J. Torcivia, Village Attorney

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on October 9 and October 16, 2008. Village Attorney Torcivia read the ordinance by title. Mayor Davis stated this was a public hearing and asked for questions or comments from Council and from the public.

Hearing no comments or questions, a motion to adopt the ordinance on second reading was made by Mayor Pro Tem Waller and seconded by Council Member Osborne. A roll call vote was in favor of adoption 5 – 0.

**14. ORDINANCE NO. 2008-28 (SECOND READING)**

**AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, PROVIDING FOR AN AMENDMENT TO CHAPTER 46 "OFFENSES AND MISCELLANEOUS PROVISIONS"; ADOPTING SECTION 46-4 "OFF-DUTY POLICE DETAIL"; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Staff: Jay Pickens, Public Safety Director

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on October 16 and October 23, 2008. Village Attorney Torcivia read the ordinance by title. Mayor Davis stated this was a public hearing and asked for questions or comments from Council and from the public.

Hearing no comments or questions, a motion to adopt the ordinance on second reading was made by Vice Mayor Brinkman and seconded by Council Member Smith. A roll call vote was in favor of adoption 5 – 0.

**15. ORDINANCE NO. 2008-24 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING 29 PARCELS OF LAND CONSISTING OF A TOTAL OF 35.26 ACRES, MORE OR LESS, LOCATED NORTH AND SOUTH OF FOREST HILL BOULEVARD AND EAST OF MILITARY TRAIL; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; THE PARCELS ARE HEREBY ANNEXED PURSUANT TO A VILLAGE INITIATED APPLICATION; DECLARING THAT THE WRITTEN CONSENT TO THE ANNEXATION HAS BEEN OBTAINED BY THE VILLAGE FROM THE OWNERS OF THE REQUIRED PORTIONS OF REAL PROPERTY ANNEXED HEREBY PURSUANT TO SUBSECTION 171.205, FLORIDA STATUTES; PROVIDING THAT ALL PREREQUISITES TO SUCH ANNEXATION REQUIRED BY SECTION 171.204, FLORIDA STATUTES, HAVE BEEN ACCOMPLISHED; 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 annexed 29 parcels located within the area included in the Interlocal Service Boundary Agreement (ISBA) between the Village and Palm Beach County. Chapter 171 Part II Florida Statutes recognized the use of the ISBA as a means to coordinate future land use, public facilities and services and protection of natural resources in advance of annexation. Of the 29 parcels included in this ordinance, 18 have voluntarily requested annexation into the Village, which is 62% and qualifies for annexation under the ISBA. The Land Development Board recommended approval at their meeting on November 5, 2008.

Vice Mayor Brinkman requested the floor from the Mayor. Vice Mayor Brinkman stated

she refrain from voting on this issue and had filled out the appropriate Form 8B. On behalf of J Wells Hoffman LLC, who is represented by her employer Kilday & Associates and who own several of the parcels in this annexation, she had met with County Staff regarding their annexation process.

Mayor Davis stated this was a public hearing and asked for questions or comment from the public. Hearing none, Village Attorney Torcivia read the ordinance by title. A motion to approve the ordinance on first reading was made by Council Member Osborne and seconded by Council Member Smith. Council Member Smith asked Chief Pickens if there was a report on police activity for these parcels. Chief Pickens replied the report would be available prior to second reading on the ordinance. Hearing no other comments, motion carried 5 – 0.

**16. ORDINANCE NO. 2008-26 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, REGARDING THE REDESIGNATION OF FOUR VACANT PARCELS TOTALING 19.50 ACRES, LOCATED AT THE INTERSECTION OF CONGRESS AVENUE AND LARK ROAD; AMENDING THE OFFICIAL LAND DEVELOPMENT DISTRICT (ZONING) MAP OF THE VILLAGE OF PALM SPRINGS BY REDESIGNATING THE ABOVE DESCRIBED PROPERTIES FROM PALM BEACH COUNTY “RS” AND “CG” TO VILLAGE OF PALM SPRINGS “RM”; 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 parcel was annexed into the Village on October 12, 2006. Subsequently, Ordinance No. 2007-26 amended the land use to high density residential on February 28, 2008. The property was now requesting to rezone from Palm Beach County Single Family Residential to Village of Palm Springs Multi-Family Residential. The Multi-Family residential zoning was consistent with the surrounding area. The Land Development Board had recommended approval of the request at their meeting on November 13, 2008.

Mayor Davis stated this was a public hearing and suggested that public comment be heard before any Council comments. Mayor Davis had several comment cards requesting to speak.

Ken Adair, 2679 West End Road, stated he did not agree with the previous comment that multi-family zoning was consistent with the area, since all the homes behind these parcels were single family and the nearest town homes were across the street or down behind Publix. Also, if this was approved, Mr. Adair was concerned about additional traffic on Prairie Road.

Barbara Mangano, 2737 Bahia Road, stated she had lived in this area all her life. Ms. Mangano stated she also did not agree that multi-family was a consistent zoning and she did not feel the Council should re-zone the parcels just as a convenience to allow town homes. Another issue was the traffic, since they already had very bad traffic problems and she has an ongoing issue to get Palm Springs Police to come out on a regular and re-occurring basis with problems on this site since it is vacant. The road is split with one half in Palm Springs and one half in the County. If she understood this resolution correctly, there would be 300 town homes

built on the site, with two cars per home, and felt this would create a highway on her street. Ms. Mangano asked that the Council carefully consider all of the impacts and not just push this approval through.

William Wilson, 2636 West End Road, stated he had lived in this area for sixteen years and he was also surprised to hear the comment about the area being consistent with multi-family. Bahama Heights was single family, Meadow Brook was all single family and across Congress Avenue was single family. Mr. Wilson stated if this project was built, they would like assurances that there would be no exit or entrance onto Prairie Road, which runs on the east side of this property. There were preliminary talks at the Land Development Board about no exits or entrances onto Prairie Road, but the residents would like confirmation. Also, Mr. Wilson would like to have the Council consider a 10 foot wall along Prairie Road and possibly trees at 12 to 16 feet. Finally, there was a mini-canal that was used for drainage and Mr. Wilson would like assurance that this canal would be reinforced or not altered.

Carl Bengston, 2546 Palm Road in Bahama Heights, stated he would like it on record that he did not feel that multi-family was compatible with the existing neighborhoods. Also, the increased traffic was very much a concern. If the project did go forward, Mr. Bengston asked that the Council consider increased setbacks and possibly an increased buffer, which had been discussed at the Land Development Board meeting and the Applicant had stated they would be agreeable to some conditions. The preliminary traffic report that was discussed at the Land Development Board meeting noted that neither Florida Mango nor Meadow Road had been looked at for traffic impact. The traffic is projected to be a right turn in and a right turn out. As everyone knows, 10<sup>th</sup> Avenue and Congress Avenue move very slow during peak hours and it will only be common nature for people to look for alternate routes to avoid this area. Mr. Bengston stated he appreciated the Applicant agreeing to mitigate the exit and entrance issues on Prairie Road and he hoped the Council would give due consideration to all their concerns.

Patti Tilford, 2735 Nassau Road, lived on the corner of Nassau and Prairie Road. She was concerned about zoning this property for multi-family off of Congress Avenue and having a 6 or 7 foot wall backing up to her house. She agreed with her neighbors about the impact of traffic on this area, also the type of housing going in and what type of residents would be moving in this type of development. She hope you would take all this into consideration before zoning a property in a mostly single family area.

Liz Shields, 2111 Prairie Road, stated she was at a meeting earlier this year and she thought it was only a piece of the property to be developed, not the whole property. Ms. Shields concern was if only part of the property were developed, this would lead to walls all over the place, and felt the site should be uniform. Ms. Shields asked is she was correct on this. Also at that meeting, there was mention that there would be no ingress or egress onto Prairie Road, and she asked for confirmation on this issue.

Grace McDermott, 2707 Bahia Road, stated she was concerned that the drainage ditch would be closed or covered up, since it does help keep the water down. She twice had flooding within an inch of her home when they forgot to open the gates.

Liz Hernandez, 2534 Bahia Road, stated she had lived in that area for sixteen years and had seen many changes within the last ten years. Bahama Heights was a quiet, well maintained, children oriented area, and she had noticed that since there has been development in other areas along Congress, 10<sup>th</sup> Avenue, like Portofino, and Florida Mango had created

more crime for the areas. If this site was developed within their backyards, it would be closing in on Bahama Heights and increasing their threats to crime.

Hertha Dorribo, 2719 Nassau Road, stated her home was two houses east of Prairie Road. She had lived there and raised her family for over 40 years and it was a beautiful place to live. She felt it was a shame that they might be forced to move because of this infringement on their privacy. Please take this into consideration.

Martin Perry, representing Tonset Company, stated this was a first reading on a rezoning matter, and most of the questions voiced tonight relate to the companion site plan submittal that would come before the Council in December. There had been a lengthy discussion at the Land Development Board meeting, and most of these same issues were addressed at that time. Mr. Perry stated he had handed out several of his cards to residents present and stated he would be happy to meet with anyone and address all of the concerns prior to the December Council meeting. Without getting into a site plan discussion tonight, Mr. Perry stated he had discussed a 6 foot wall and buffer landscaping. He had not discussed making the wall higher, but making the canopy trees taller than code at planting to ensure privacy. Only one gentleman from that meeting had contacted him. Mr. Perry stated he would like to restrict his comments tonight to the issue of re-zoning that is before the Council.

Mr. Perry stated it was important to understand a couple of basic items that were historical. There was an annexation agreement that was executed between his client and the Village, which set forth what the land use would be through the comprehensive plan, what the project would be and what zoning would be permitted. The meeting tonight was not about what kind the density is, but rather what the density range would be. What is allowed is 10 -19 units per acre, and the actual proposed project was 11 units per acre. A significant portion of the parcel is already zoned as commercial in Palm Beach County, and the property could be developed as commercial, which would be a more significant impact on these neighborhoods than what their concerns expressed tonight were. Secondly, the balance of the parcels which were zoned residential in the County are actually what is referred to as a "transitional area". You don't put residential homes right next to commercial, but rather you transition to a higher density gradually. Mr. Perry stated the residents should be aware that if the parcels stayed with Palm Beach County zoning, they would be looking at a commercial development, or possibly a mixed use commercial and high density residential use; and Palm Beach County would never allow Prairie Road to be closed off. Prairie Road would remain open and traffic would come off Congress and back through Prairie, which would result in exactly what the residents expressed they did not want. Therefore, the benefits to the residents would be: a) there would be no access to Prairie Road; b) Meadow Road already had speed bumps to restrict the type of cut through traffic that the residents voiced concerns about, and c) if the residents wanted further restrictions, they could go to Palm Beach County, who has been very responsive to neighborhoods that want traffic control devices. Mr. Perry stated they were looking into the issue of the drainage ditch. The ditch, in fact, encroached onto their properties in several locations and would, in all likelihood, have to be relocated. It may have to be piped. This process would be under the full inspection and control of the Village's engineers and South Florida Water Management. Once the wall is installed, there would be no drainage onto Prairie Road from any of the parcels in this proposed development, and the drainage would ultimately drain into the canal.

Mr. Perry reiterated that none of the issues raised tonight were pertinent to the item on the agenda. What the Applicant was asking for tonight was consistent with the Comprehensive

Plan Amendment submitted by the Village and approved. Mr. Perry stated he would continue to offer to meet with any of the residents, listen to their concerns and address any of the issues that he was able to address. Mr. Perry added the Applicant was here to attempt to plan something that was beneficial to the Village and the surrounding neighborhoods.

Mayor Davis asked for any questions from Council or Staff. Manager Umberger commented that the subject of no multi-family developments in the area several times. Manager Umberger said if you rode around the area there were four retirement communities, Sabal Palms was within a mile, Wellesley town homes were within half a mile, Lake Arbor backs up to the community and there are multi-family complexes along Forest Hill Boulevard. The Village has several multi-family town home communities and they tend to be good neighbors and participate in Village activities.

Mayor Davis suggested the residents contact Mr. Perry and also our Land Development Director Bette Lowe and register their concerns in writing to both of them for consideration at the site plan review on December 11<sup>th</sup>. Mr. Perry was correct the item on the agenda was about the re-zoning and not the site plan. Mayor Davis felt most of their concerns could be resolved to their satisfaction, hopefully by the time of the December meeting. Hearing no further comments, 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 Mayor Pro Tem Waller. Motion carried 5 – 0.

#### **17. ORDINANCE NO. 2008-29 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, PROVIDING FOR AN AMENDMENT TO CHAPTER 1 “GENERAL PROVISIONS” SECTION 1-2 “DEFINITIONS”; PROVIDING FOR AN AMENDMENT TO CHAPTER 34, ARTICLE VI “LAND USE”, AMENDING SECTION 34-824 “SPECIAL EXCEPTIONS”, AMENDING DIVISION 7 “SUPPLEMENTAL DISTRICT REGULATIONS” SECTIONS 34-1300 THRU 34-1320, 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 the Comprehensive Development Plan had been amended in 2006 to add a light industrial land use category. It was envisioned that the Congress Avenue corridor north of Forest Hill Boulevard and Lake Worth Road west of Congress Avenue would be prime redevelopment areas for light industrial uses and possibly large employment centers. Since Palm Beach County has not yet adopted their land development regulations for the Urban Redevelopment Area and Transportation Concurrency Exception Area, the Village had not been able to draft its own. In the short term, the use has been added to the commercial general land development district as a special exception use. For large employment centers, the cluster land development regulations shall apply which permits the Council flexibility in approving site design without strict adherence to the commercial general regulations. The Land Development Board had recommended approval of the request at their meeting on November 5, 2008.

Mayor Davis stated this was a public hearing and asked for questions or comments from the Council and from the public. Vice Mayor Brinkman asked if the Village was going to go back and rezone or just leave the zoning commercial general with a special exception use? Director

Lowe responded that until the Village knew what the County was going to do with regulations, she couldn't really answer that question. It could be this would work fine and we would not have to do anything; or we would have to go back and re-address the issue. Vice Mayor Brinkman asked if this meant the plan to use cluster development would do away with the need to obtain a variance. Director Lowe replied that was correct.

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

**18. ORDINANCE NO. 2008-30 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, REGARDING THE REDESIGNATION OF A VACANT PARCEL, OWNED BY HIDDEN ACRES VENTURE, INC., CONSISTING OF 4.74 ACRES, LOCATED ON LONE PINE WAY; AMENDING THE OFFICIAL LAND DEVELOPMENT DISTRICT (ZONING) MAP OF THE VILLAGE OF PALM SPRINGS BY REDESIGNATING THE ABOVE DESCRIBED PROPERTIES FROM VILLAGE OF PALM SPRINGS RESIDENTIAL MULTI-FAMILY "RM" TO VILLAGE OF PALM SPRINGS COMMERCIAL GENERAL "CG"; 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 parcel was annexed into the Village on August 12, 2004, and concurrently given a medium density land use designation and multi family residential zoning. At the September 11, 2008 Council Meeting, a land use amendment was heard revising the land use to light industrial, which is currently under review by the Department of Community Affairs (DCA). The petitioner would like to request the rezoning of the property to commercial general, subject to approval of the land use amendment. The Land Development Board recommended approval of the request at their meeting on November 5, 2008.

Mayor Davis stated this was a public hearing and asked for questions or comment from the Council and 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 Vice Mayor Brinkman. Motion carried 5 – 0.

**19. ORDINANCE NO. 2008-31 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, REGARDING THE REDESIGNATION OF A VACANT PARCEL CONSISTING OF 7.24 ACRES, OWNED BY TEXAS BEVERLY COMPANY, LOCATED AT 1525 SOUTH CONGRESS AVENUE; AMENDING THE OFFICIAL LAND DEVELOPMENT DISTRICT (ZONING) MAP OF THE VILLAGE OF PALM SPRINGS BY REDESIGNATING THE ABOVE DESCRIBED PROPERTIES FROM PALM BEACH COUNTY COMMERCIAL GENERAL "CG" TO VILLAGE OF PALM SPRINGS COMMERCIAL GENERAL "CG"; 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 parcel was annexed into the Village on May 13, 2004. At the September 11, 2008 Council Meeting, a land use amendment was heard revising the land use to light industrial, which is currently under review by the Department of Community Affairs (DCA). The petitioner would like to request the rezoning of the property to commercial general, subject to approval of the land use amendment. The Land Development Board recommended approval of the request at their meeting on November 5, 2008.

Mayor Davis stated this was a public hearing and asked for questions or comment from the Council and 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 Smith and seconded by Mayor Pro Tem Waller. Motion carried 5 – 0.

**20. ORDINANCE NO. 2008-32 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, REGARDING THE REDESIGNATION OF A PARCEL CONSISTING OF 19.35 ACRES, OWNED BY FOUR FLORIDA SHOPPING CENTER PROPERTIES LTD., LOCATED AT 3139 FOREST HILL BOULEVARD; AMENDING THE OFFICIAL LAND DEVELOPMENT DISTRICT (ZONING) MAP OF THE VILLAGE OF PALM SPRINGS BY REDESIGNATING THE ABOVE DESCRIBED PROPERTIES FROM PALM BEACH COUNTY COMMERCIAL GENERAL “CG” TO VILLAGE OF PALM SPRINGS COMMERCIAL GENERAL “CG”; 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 parcel was annexed into the Village on May 13, 2004, and concurrently given a commercial land use designation at the October 26, 2006 Council meeting. At the September 11, 2008 Council Meeting, a land use amendment for the northern 3.24 acres, used for drainage, was heard revising the land use to light industrial for that portion, which is currently under review by the Department of Community Affairs (DCA). The petitioner would like to request the rezoning of the entire property to commercial general, subject to approval of the land use amendment. The Land Development Board recommended approval of the request at their meeting on November 5, 2008.

Mayor Davis stated this was a public hearing and asked for questions or comment from the Council and the public. Hearing none, Village Attorney Torcivia read the ordinance by title. A motion to adopt the ordinance on first reading was made by Vice Mayor Brinkman and seconded by Council Member Osborne. Motion carried 5 – 0.

**21. ORDINANCE NO. 2008-33 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES, ENTITLED “ADMINISTRATION, BY AMENDING ARTICLE V ENTITLED “CODE ENFORCEMENT”, SECTION 2-231 ENTITLED “STATE LAW PROVISIONS FOR ENFORCEMENT ADOPTED”, SECTION 2-232 ENTITLED “CODE ENFORCEMENT BOARD”, SECTION**

**2-233 ENTITLED “SUMMARY ENFORCEMENT PROCEDURES; CODE CITATION”, SECTION 2-234 ENTITLED “FORMAL ENFORCEMENT PROCEDURES; NOTICE TO APPEAR”, SECTION 2-235 ENTITLED “SCHEDULE OF FINES, COSTS AND FEES ESTABLISHED BY RESOLUTION”, ADDING SECTION 2-236 ENTITLED “STIPULATIONS”, AND ADDING SECTION 2-237 ENTITLED “LIEN REDUCTIONS”; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.** Staff: Glen J. Torcivia, Village Attorney

Manager Umberger advised the Council that the code of ordinances, with regard to code enforcement matters, was last amended in May 2004. Since that time, the increase in building code related matters, the economic decline and the increase in abandoned and foreclosed homes has created the need for amending these codes to allow the code officers and the Special Magistrate to better address the complexity of these code enforcement issues. These amendment will streamline the process and allow for the most efficient use of all the personnel involved in code enforcement. The language for these amendments had been drafted by the Village Attorney.

Mayor Davis 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 ordinance by title. A motion to adopt the ordinance on first reading was made by Council Member Smith and seconded by Mayor Pro Tem Waller. Motion carried 5 – 0.

## **REGULAR AGENDA**

### **ACTIONS AND REPORTS - None**

## **VILLAGE COUNCIL COMMENTS**

Council Member Brinkman stated she had heard the comments of residents at the last meeting and she wanted to suggest the Village look into what it would take to place the back up items on the website along with the agenda. Vice Mayor Brinkman stated she knew that there would be some cost involved, but possibly we could consider it in the next fiscal year, since virtually all the other cities now do this.

On a personal note, Vice Mayor Brinkman recommended that when the Land Development Board recommends denial of an item, she felt it should not be on the consent agenda, but put where discussion could take place. Also, it appeared the County’s URA was getting very close to a concrete property development plan, and she would advise the Manager when the meetings would take place.

Council Member Osborne asked what was going on with the vacant parcels on the west side of Reo Lane since they were in such poor condition. Manager Umberger replied that the original owner, Abel Echemendia had sold the parcels to Mr. Hardman and they had come before the Code Enforcement Magistrate at today’s hearing. Manager Umberger noted the parcels on the east side were with the original owner and were being maintained. Director Lowe added that the sewer and water lines were already in and she was talking to the developer, but had nothing concrete at this time. Council Member Osborne asked if the nuisance abatement ordinance just passed would help with this type of problem. Manager

Umberger agreed that the current code enforcement process was, by law, time consuming; however, the nuisance abatement process would allow the Village to take action quicker.

Council Member Osborne also asked about the old Flea Market property because he had noticed within the last two weeks that the fencing had come down. Manager Umberger replied that the property was for sale and there was some interest, but nothing solid as yet. The property had originally sold for \$10 million and was presently priced at \$6 million. Director Lowe added that a grocery store was a possibility. In response to a question about the billboard issue, Director Lowe replied the billboard had two years left on the agreement.

Mayor Pro Tem Waller commented that she had the pleasure of attending the Village's Halloween festivities and they were wonderful. Also, Frost Lake looks great and she has received many positive comments from residents. The residents were also thrilled with the new street lights on Lillian Road. Mayor Pro Tem Waller also welcomed back Mayor Davis and commented she was very pleased to the Let Us Vote County Charter Amendment had passed so strongly. Mayor Pro Tem Waller stated she would be attending the groundbreaking luncheon at Kirklane Elementary and hoped they would possibly get a tour of the new school.

Mayor Davis stated the next Local Planning Agency meeting would be on December 11<sup>th</sup> at 7:15 pm and the next Regular Council meeting would also be on December 11<sup>th</sup> at 7:30 pm in Council Chambers.

**ADJOURNMENT**

Hearing no further business, Mayor Davis adjourned the meeting at 8:58 p.m.

Respectfully submitted,

\_\_\_\_\_  
Village Clerk

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

\_\_\_\_\_  
Mayor