

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, FEBRUARY 12, 2009**

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, 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 Council Member Osborne.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager: items #3 and #4 will be continued to the Feb. 26th agenda
Vice Mayor Brinkman: Add #16 Discussion of East Parcel resolution approved at last meeting
Add #17 Update on Estancia Development Wall

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

CONSENT AGENDA

1. **Minutes of Regular Council Meeting on January 22, 2009**
2. **Addendum No. 21 to Eckler Engineering Task Order No. 1**
Staff: Bill Davis, Public Service Director

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

ANNOUNCEMENTS AND PROCLAMATIONS - None

PUBLIC COMMENT

Liz Shields, 2111 Prairie Road, stated that she wanted to thank the Council and Chief Pickens for their assistance with her noise problem coming from the Club near her home. Chief Pickens sent Capt. Hall out to meet with her and the club owner. Since that time, she has not heard any noises in the past two weeks. She was very happy and thanked the Council.

Gary Ready, 3118 Meadow Road, did not speak but asked that his comments be read into the record. He wanted to congratulate Mayor Davis and Council Member Smith on being re-elected unopposed for another term. Thank you for a job well done.

PUBLIC HEARINGS

This item will be continued to the February 26, 2009 agenda

- 3. RESOLUTION NO. 2008-80 (SITE PLAN – TONSET COMPANY)**

This item will be continued to the February 26, 2009 agenda

- 4. RESOLUTION NO. 2008-87 (SITE PLAN – OXYGEN/FOREST HILL BLVD)**
- 5. RESOLUTION NO. 2008-93 (SITE PLAN – QJ)**

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF FLORIDA CONFERENCE ASSOCIATION OF THE SEVENTH DAY ADVENTIST CHURCH, FOR SITE PLAN APPROVAL (SPR 08-12) FOR CONSTRUCTION OF A 13,632 SQUARE FOOT TWO-STORY CHURCH BUILDING, CONSISTING OF A SANCTUARY, FELLOWSHIP HALL AND CLASSROOMS, ON APPROXIMATELY 3.2 ACRES LOCATED AT 4234 CANAL 8 ROAD; 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 November 6, 2008. There were no ex parte communications disclosed. Michael Clark, architect and agent for the Applicant, was sworn in to give testimony. Mr. Clark testified that the Applicant had been working with Director Lowe on the conditions and had submitted a new survey. The Applicant understood that approval would be based on compliance with all conditions. Based on condition #1, the Fire Marshall's requirements for seating, the plan had been revised to remove five parking spaces, add more green areas and remove twenty of the seating spaces. Mayor Davis stated this was a public hearing and asked for comments from the public and the Council. Director Lowe responded that based on Mr. Clark's comments, condition #1 would need to be revised to state that the Applicant would restrict seating to 620 instead of 640, and restrict parking spaces to 156 instead of 160. Council Member Osborne asked if the green space could be used for additional parking if the need arose. Mr. Clerk responded that the landscape islands would have trees and curbs, so that would not be feasible. There was a cul-do-sac area that could be utilized if necessary.

Hearing no further comments, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution was made by Council Member Osborne and seconded by Council

Member Smith. Motion carried 5 – 0.

6. RESOLUTION NO. 2009-10 (SITE PLAN –QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF BURSICO LLC, THE SITE PLAN (SPR 09-01) FOR CONSTRUCTION OF 25,980 SQUARE FEET OF MEDICAL OFFICE SPACE; AND A SPECIAL EXCEPTION USE (PSSE 09-01) FOR AN ADDITIONAL 8,000 SQUARE FEET OF FLEX/WAREHOUSE SPACE ON TWO VACANT PARCELS, CONSISTING OF 4.44 ACRES, LOCATED AT 3230 LAKE WORTH ROAD; 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 November 6, 2008. There were no ex parte communications disclosed. Ed Oliver and Anna Cottrell were sworn in to give testimony. Ms. Cottrell stated that the Applicant has reviewed all the conditions, and agree to comply with all conditions. Mayor Davis stated this was a public hearing and asked for comments or questions from the public and the Council.

Vice Mayor Brinkman questioned condition #2 requiring a dedication of the ultimate right-of-way for Lake Worth Road, since she believe the Village had made it a policy that we would just require reservation. Director Lowe stated that requirement was there because it was part of the Palm Beach County Traffic Concurrency. Ms. Cottrell added that the 60 feet was already provided, so this would not be an issue. Also, condition #12 stated the landscape buffer would be increased if FDOT and Palm Beach County would permit it along Lake Worth Road into the right-of-way. Was this extra landscape? Director Lowe replied that was correct.

Hearing no further comments, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution was made by Mayor Pro Tem Waller and seconded by Vice Mayor Brinkman. Motion carried 5 – 0.

ADD: (Moved from item #16 to #6A at request of Applicant)

6A. Discussion of East Parcel Resolution from last meeting

Mr. Ed Oliver stated that he had been working with Director Lowe for the past week after learning that there was a question about repairing the sign on the East Parcel site as a condition of their time extension approval at the last meeting. Mr. Oliver stated the Applicant understood that the original site plan approval did in fact require that the old signs be removed, not repaired; and that two new signs would be installed during construction. Normally the removal of the signs would occur just prior to the beginning of construction; however, that phase had been delayed due to economic times. The Applicant has agreed to remove the signs now; however there is still a question as to which two new signs were approved on the original site plan. There were three signs submitted and one was not approved.

Vice Mayor Brinkman asked Village Attorney Torcivia if the resolution approved at the last meeting would need to be amended since the condition in that approval is now changing. Village Attorney Torcivia replied a motion to modify the previous motion would be in order. Vice

Mayor Brinkman made a motion to modify the motion for Resolution No. 2009-01 to indicate the approval was subject to the condition that the two signs be removed within 60 days, not repaired. Mayor Pro Tem Waller seconded the motion. Motion carried 5 – 0.

7. ORDINANCE NO. 2008-09 (SECOND READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ADOPTING AMENDMENT NO. 08-01 TO THE ADOPTED COMPREHENSIVE PLAN FOR THE VILLAGE OF PALM SPRINGS, FLORIDA, IN ACCORDANCE WITH THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT, AS AMENDED, BEING SECTIONS 163.3161, ET SEQ., FLORIDA STATUTES, WHICH AMENDMENT IS ATTACHED AS EXHIBIT "A" AND INCORPORATED HEREIN BY REFERENCE; INCORPORATING A NEW WATER SUPPLY FACILITIES WORK PLAN FOR THE VILLAGE OF PALM SPRINGS; 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 June 30, 2008 for first reading and February 6, 2009 for second reading. Village Attorney Torcivia read the ordinance by title. Mayor Davis stated this was a public hearing and asked for questions or comments from the public and from the Council.

Jim LaRue stated the Council was aware that every municipality was required to complete a Water Supply Plan as part of their Comprehensive Plan, whether the municipality supplied the water or not. This was done as an Amendment because there were some policy amendments as well in order to complete the Water Supply Plan in accordance with DCA requirements. Mr. LaRue supplied a page of revisions to the final package based on comments from DCA, along with policy changes; and stated that with regard to the policy changes, it was better to be more specific. Therefore, where the plan referred to Palm Beach Water Utilities District, it would now read Utilities Department; where it previously stated "other municipalities", it would now specify Lake Clarke Shores, Greenacres and Atlantis; and in policy E2, where it states that it required water efficient rain censoring device on all new development and redevelopment sites, the Council would have to decide whether to have it for new and existing site or just new. Mayor Pro Tem Waller commented that the existing sites should be grandfathered in and the requirement only be applied to new sites. Mr. LaRue also stated with regard to this E7 policy, if the Village was going to strive for conserve water consumptive use, it should state on the water that the Village has control, since the County has partial control of some water; therefore, the language would be more specific in stating "the Village's water consumptive use".

Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Hearing none, 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.

8. ORDINANCE NO. 2009-02 (SECOND READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING A PARCEL OF LAND CONSISTING OF 8.56 ACRES OWNED BY STUDENTS IN THE ARTS TV/G-STAR TV, INC.; LOCATED AT 2030 SOUTH CONGRESS AVENUE; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; 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, WITH A SPECIAL EXCEPTION FOR A SCHOOL (CG/SE) ON THE VILLAGE OF PALM SPRINGS OFFICIAL ZONING MAP; PROVIDING DIRECTIONS TO THE VILLAGE CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on January 8 and January 15, 2009. Village Attorney Torcivia read the ordinance by title. Mayor Davis asked for questions or comments from the Council. Mayor Pro Tem Waller commented that she hated the airplane mounted out front and really would like to see it removed. Mr. Greg Haupner, agent for the owners, replied that it had originally been put up as a Halloween decoration; but had now landmarked the site. It was temporary and when the School had enough money, they would be installing a large art deco gate. Mayor Pro Tem Waller wanted a time certain for taking the airplane down. Mr. Haupner stated they would comply with whatever the Council wanted. Vice Mayor Brinkman was concerned that it would become a hurricane issue since it was not tied down. Mr. Haupner replied that it was tied down and was in fact hurricane proof.

Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Hearing none, a motion to adopt the ordinance on second reading was made by Council Member Osborne and seconded by Vice Mayor Brinkman. A roll call vote was in favor of adoption 5 – 0.

9. ORDINANCE NO. 2009-04 (SECOND READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING A PARCEL OF LAND CONSISTING OF 0.4523 ACRES OWNED BY MACHA PROPERTIES II LLC, LOCATED AT 3800 SOUTH CONGRESS AVENUE; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; 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 (CG) ZONING DISTRICT ON THE VILLAGE OF PALM SPRINGS OFFICIAL ZONING MAP; PROVIDING DIRECTIONS TO THE VILLAGE CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT;

PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on January 8 and January 15, 2009. Village Attorney Torcivia read the ordinance by title.

Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Hearing none, a motion to adopt the ordinance on second reading was made by Mayor Pro Tem Waller and seconded by Council Member Smith. A roll call vote was in favor of adoption 5 – 0.

10. ORDINANCE NO. 2009-03 (SECOND READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING A PARCEL OF LAND CONSISTING OF 1.02 ACRES OWNED BY BURGER KING CORPORATION, INC., LOCATED AT 3796 SOUTH CONGRESS AVENUE; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; 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 (CG) ZONING DISTRICT ON THE VILLAGE OF PALM SPRINGS OFFICIAL ZONING MAP; PROVIDING DIRECTIONS TO THE VILLAGE CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on January 8 and January 15, 2009. Village Attorney Torcivia read the ordinance by title.

Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Hearing none, a motion to adopt the ordinance on second reading was made by Council Member Osborne and seconded by Vice Mayor Brinkman. A roll call vote was in favor of adoption 5 – 0.

REGULAR AGENDA

ACTIONS AND REPORTS

11. Appointment to the Board of Adjustment

Staff: Virginia Walton, Village Clerk

Mayor Davis stated that there was one alternate vacancy on the Board of Adjustment and the existing member, Ernest Plitt, had indicated his willingness to continue. A motion to

appoint Ernest Plitt for a term to expire on February 10, 2010 was made by Council Member Smith and seconded by Mayor Pro Tem Waller. Motion carried 5 – 0.

12. Council Appointment to the PBC Intergovernmental Issues Forum
Staff: Karl Umberger, Village Manager

Mayor Davis stated that currently Council Member Smith and Manager Umberger represented the Village; however, Council Member Smith's job requirements do not leave sufficient time now to devote to regular attendance at these meetings. Mayor Davis asked for a volunteer to replace Council Member Smith. Mayor Davis stated the Forum met quarterly and the next scheduled meetings were April 30th, July 30th and October 29th. Mayor Pro Tem Waller volunteered. A motion to appoint Mayor Pro Tem Waller and Manager Umberger as representatives for the Issues Forum was made by Vice Mayor Brinkman and seconded by Council Member Osborne. Motion carried 5 – 0.

RESOLUTIONS

13. RESOLUTION NO. 2009-13

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH AMERICAN TRAFFIC SOLUTIONS, FOR A TRAFFIC SAFETY CAMERA PROGRAM, FOR A PERIOD OF FIVE (5) YEARS AFTER THE DATE OF THE FIRST PAID CIVIL FEE; AND PROVIDING AN EFFECTIVE DATE. Staff: Jay Pickens, Public Safety Director

Manager Umberger advised the Council that this agreement would be for a traffic safety camera program and will be for a period of five (5) years after the date of the first paid civil fee. The Village, in accordance with Chapter 287 Florida Statutes and Section 58-4 of the Village Code of Ordinances, was permitted to piggyback another federal, state or any local government agency's contract if it is determined that said contract would result in the best value for the Village. Mayor Davis asked for comments from the Council. Mayor Pro Tem Waller stated she felt this would be good for the Village. Mayor Davis stated that the original signed agreement had not been received yet from American Traffic; therefore, the approval should be subject to receipt of the properly executed agreement.

Hearing no further comments, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution was made by Mayor Pro Tem Waller and seconded by Council Member Osborne. Council Member Smith had concerns about the Village's ability to cancel the contract because of her concerns that collisions might increase as people try to stop when they see the cameras. Mr. Pete Caccarel, Business Development Manager for American Traffic, stated there were opt-out clauses in the agreement, but he was not certain they were time certain. Village Attorney Torcivia stated there was a cancellation for cause clause in the agreement and it would be a litigation issue if the Village felt collisions were a cause and the

company did not agree. Since the agreement had not been received or executed, it was still open for amendment to strike the three year commitment clause. Mayor Davis responded that he understood from a business standpoint that the company was bearing the expense of installing the equipment and they needed the three year commitment to recoup their expenses; however, if a serious issue did arise from installation of the cameras and the Council determined they were detrimental, the Council would have the matter brought to their attention and would act accordingly. Mayor Davis felt there would be less accidents rather than more. Council Member Osborne agreed that this system would save more lives than cause accidents.

Council Member Osborne also stated as you travel farther into Broward County and south, there are more and more of these cameras at large intersections, and he had not heard any bad comments about them. Manager Umberger added that Chief Pickens had looked into this concern and had found that the education process tended to make people slow down. Hearing no further comments, motion carried 5 – 0.

14. RESOLUTION NO. 2009-14

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ESTABLISHING AND APPOINTING A LAKE WORTH UTILITIES FRANCHISE REVIEW COMMITTEE TO REVIEW AND RECOMMEND TO VILLAGE COUNCIL IMPROVEMENTS TO THE VILLAGE AGREEMENT WITH THE CITY OF LAKE WORTH; AND PROVIDING AN EFFECTIVE DATE.

Staff: Virginia Walton, Village Clerk

Manager Umberger advised the Council that the establishment of this Committee was a result of the Town Hall Meeting held by the Council on January 19, 2006, as well as ongoing meetings with Lake Worth and ongoing phone calls from residents on dependability of this service. The committee would review the franchise agreement, liaison with other residents and businesses to journal complaints and offer suggestions in order to give the Council full disclosure of problems prior to the re-negotiation of the Lake Worth Utilities Franchise Agreement, which would expire in 2011. Mayor Davis read into the record the names of the appointees to this committee: Dr. William Slompka, Jennifer Anderson, Belinda Yates, David Kraftchak and Susan Stewart. Mayor Davis also stated he believed that there should be Council representation on this committee, possibly as a liaison; and he suggested Vice Mayor Brinkman, since most of the residents impacted were in her District. Vice Mayor Brinkman indicated she would prefer to be a liaison, rather than a voting member of the committee; because she would then only be an observer in the meeting and not involved in the conversation, since her prior position on the parking committee left some feelings from the Council that her mind had been made up prior to the Council voting. Mayor Davis agreed, but added that she could bring back comments on the progress of the committee from time to time.

Hearing not other comments, Village Attorney Torcivia read the resolution by title, with the addition of Vice Mayor Brinkman added as a Council Liaison. A motion to adopt the resolution was made by Council Member Smith and seconded by Council Member Osborne. Motion carried 5 – 0. Mayor Davis noted that David Kraftchak and Belinda Yates were in the chambers and thanked them for their participation, and added that this was a nut that the Council had tried to crack for many years. The only good thing was that the Lake Worth kilowatt hour rate was now almost the same as FP&L, but the reliability was still a factor.

15. RESOLUTION NO. 2009-15

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AWARDED BID NO. 2009B-001 AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH WEST CONSTRUCTION, INC., FOR DESIGN/BUILD SERVICES FOR CONSTRUCTION OF THE 2,800 SQUARE FOOT ADDITION TO THE PUBLIC SAFETY BUILDING (FIRE DIVISION) IN THE AMOUNT OF FOUR HUNDRED SIXTY THOUSAND DOLLARS (\$460,000); AND PROVIDING AN EFFECTIVE DATE. Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council that the award of Bid No. 2009B-001 and contract for design and construction of the 2,800+ square foot addition to the existing Public Safety Building to be used for the fire division was being given to West Construction after committee review of the thirteen bids received. The Committee consisted of Mayor Davis, Land Development Director Lowe, Village Engineer Eckler and himself. There was a guaranteed maximum price of \$460,000, which had been agreed to West Construction. Mayor Davis stated he wanted to thank Manager Umberger for his involvement in this negotiation because the original pricing for West, as well as several other bidders, was substantially higher; and there was much effort put in to come up with a price that would be acceptable to the Village and to the Contractor.

West Construction was familiar with the construction of fire stations, so they knew what was required, what Palm Beach County wanted, what the Village wanted and what the Village was willing to pay.

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

ADD:**16. Update on Estancia**

Manager Umberger stated that this had been an ongoing issue since 2005; and the Village Council and Staff had received, on a regular yearly or semi-yearly basis, letters regarding this issue. The letters have been kept but not responded to during this time because about two years ago, the current Village Attorney at that time responded to the allegations in the letter and received the “wrath” of the letter sender in response. The Village Engineer and the Engineer for Estancia have been working under undo hardships, due to Mr. Eunice’s non-cooperation with accomplishing the job.

However, the wall is under construction. The red line mentioned in Mr. Eunice’s letters is still there, and most likely will remain since it does indicate the 15 feet of their portion of the easement. Our current Village Attorney has reviewed and agreed with what is being done and Director Lowe has been to the site on a regular basis. It was a slow and tedious job when the developer was trying to build a wall while laying on a bank trying to install steel, when the owner of the adjacent property will not allow the

developer to set foot on his property to satisfy the conditions to build the wall.

The last round of letters have been received, in which Mr. Eunice mostly attacks himself, Director Lowe and Mayor Davis. All letters are retained by the Village Clerk. The last round of letters had a very liable tone to them and the Village Attorney would be given them for review once the wall was completed. At that time, it would be determined what action to take from that point. Director Lowe added that the steel was in and they were ready for the form board survey. Once approved, they would be ready to pour, which should occur next week. Vice Mayor Brinkman asked for a clarification of the pictures being shown that the wall being constructed would replace the plywood wall and the sand bag wall. Director Lowe confirmed that was correct.

Mayor Davis commented that if the Council recalled, this was a land issue between two property owners and all that the Village did was try to mediate between the parties. The Village was unsuccessful and that was why it had carried on for so long. The only recourse the Village had was to hold back money in escrow from Estancia to force them to make this final action to resolve the problem.

VILLAGE COUNCIL COMMENTS

Mayor Pro Tem Waller congratulated Mayor Davis and Council Member Smith on their re-election to the Council and wished Council Member Osborne a long and happy retirement and thanks for the thirty plus years to the Village. Mayor Pro Tem Waller also stated she hoped she served the Village well on the Issues Forum.

Council member Smith commented that she was excited to be back on the Council, but was sad to be losing her partner, Council Member Osborne. However, it was a well deserved retirement, and she wished him good health and happiness and he would be missed.

Council Member Osborne congratulated Mayor Davis and Council Member Smith, and commented that he had enjoyed his many years on the Council. He would make more comments at the next council meeting.

Vice Mayor Brinkman commented she wished Council Member Osborne the best and was sure there would be some sort of party for him next time. Also, congratulations to Mayor Davis and Council Member Smith. This was a good team and Vice Mayor Brinkman stated she appreciated them stepping up again.

Mayor Davis jokingly commented that he had heard somewhere that possession was nine tenths of the law and we still had possession of Council Member Osborne. Mayor Davis stated that he certainly appreciated Council Member Osborne's service and mentoring over the years.

Mayor Davis announced that the next regular council meeting would be on February 26, 2009 at 7:30 p.m.

ADJOURNMENT

Hearing no further business, Mayor Davis adjourned the meeting at 8:32 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor