

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, MARCH 26, 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 Patti Waller, Mayor Pro Tem Bev Smith, Council Member Joni Brinkman, Village Manager Karl E. Umberger and Village Clerk Virginia M. Walton. Village Attorney Glen J. Torcivia arrived at 7:31pm.

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 Patti Waller.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager: item no. 5 will be pulled from the agenda.

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

CONSENT AGENDA

1. **Minutes of Regular Council Meeting on March 12, 2009**
2. **Budget Amendment for Public Safety Addition, Fire Rescue Division in the amount of \$485,000** Staff: Karl Umberger, Village Manager
3. **RESOLUTION NO. 2009-22 (AGREEMENT)**

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY FOR THE PURPOSE OF IMPLEMENTING 2005 DISASTER RECOVERY INITIATIVE PROGRAM GRANT FUNDS, IN THE AMOUNT OF \$150,000, PROVIDED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT UNDER ITS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, PURSUANT TO SECTION 125.01 AND SECTION 163, PART III, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE. Staff: Bill Davis, Public Service Director

4. RESOLUTION NO. 2009-24 (AGREEMENT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE AN AGREEMENT WITH BURGER KING CORPORATION, INC., OWNERS OF THE PROPERTY LOCATED AT 3796 SOUTH CONGRESS AVENUE, FOR VOLUNTARY ANNEXATION INTO THE VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

5. RESOLUTION NO. 2009-25 (AGREEMENT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE AN AGREEMENT WITH L & L OF PALM BEACH INC., OWNERS OF A PARCEL OF LAND LOCATED AT 4062 DALE ROAD, FOR VOLUNTARY ANNEXATION INTO THE VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

6. RESOLUTION NO. 2009-26 (AGREEMENT)

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY FOR THE PURPOSE OF IMPLEMENTING NEW POLICIES AND REQUIREMENTS FOR CITIES PERFORMING CONSTRUCTION WORK ON COUNTY ROADS, PURSUANT TO SECTION 163, PART III, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

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

ANNOUNCEMENTS AND PROCLAMATIONS

7. Mayor's Proclamation April as Water Conservation Month

Mayor Davis read the proclamation and encouraged all Village residents to conserve water in order to save the State's precious water resources.

8. Mayor's Proclamation April as Fair Housing Month

Mayor Davis read the proclamation for the 45th Anniversary of the enactment of the National Fair Housing Act and encouraged the Village residents to join the efforts to reaffirm fair housing opportunity for all people.

PUBLIC COMMENT

Gary Ready, 3118 Meadow Road, asked what preparations were being made for the Village plan of action in the event of a hurricane since the fire department and trash pick-up were not handled directly by the Village anymore. Manager Umberger responded that the Public Safety Department had been and still was in charge in the event of a disaster and had already updated the plans of action for this year. There was an agreement with Republic Services in place for debris clean up and there was also a County program in place for tree clean up as soon as the roads were clear. The Village still had emergency equipment to get the roads cleared as soon as the storm passed.

Mr. Ready also asked how many foreclosed and vacant homes and condos currently existed in the Village, and did the Village have contact numbers on file for owners in the event of a disaster. Manager Umberger responded there were approximately 126 homes and condos in pre-foreclosure, final foreclosure, bank-owned or at auction. There were 28 homes owned directly by the banks and were being tracked by Code Enforcement for neglect and abandonment. Those properties that became a nuisance would be cleaned up and maintained by Village personnel and liens were placed on the properties for reimbursement of Village costs.

PUBLIC HEARINGS

9. RESOLUTION NO. 2009-16 (SITE PLAN – QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF DAREBECAFE INVESTMENT CORP. FOR A SITE PLAN APPROVAL (SPR 09-02) FOR CONSTRUCTION OF 11,775 SQUARE FEET OF RETAIL/OFFICE SPACE AND 4,792 SQUARE FEET OF STORAGE WAREHOUSE, JOINTLY USED AS A PAWN SHOP, ON 1.07 ACRES LOCATED ON THE SOUTHEAST CORNER OF LAKE WORTH ROAD AND COCONUT 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 February 12, 2009. There were no ex parte communications disclosed. Carlos Gonzalez was sworn in to give testimony. Manager Umberger advised the Council that this site would be known as Coconut Queen Plaza and was being considered under the cluster development regulations, which permitted the Council to grant allowances for certain dimensional criteria based on the quality of the development. The Land Development Board had recommended approval, subject to conditions listed in Exhibit "A" to the resolution, at their meeting on March 10, 2009. Carlos Gonzalez testified that he had reviewed and agreed to all the conditions, except the one on the sign. Director Lowe stated that would be handled in the next resolution. Vice Mayor Waller stated that it was disturbing that they had just received the engineering report tonight at the beginning of the meeting with no time to review.

Director Lowe responded that normally that report was available earlier and she would condense those items into her exhibit, but in this case the report was delayed; however, most of the items noted on the report had already been done.

Hearing no comments from Council, Mayor Davis stated this was a public hearing and asked for questions from the public. Hearing none, Village Attorney Torcivia read the resolution by title. A motion to adopt was made by Mayor Pro Tem Smith and seconded by Vice Mayor Waller. Motion carried 4 – 0.

10. RESOLUTION NO. 2009-23 (SIGN WAIVER VARIANCE – QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, (APPROVING/DENYING) THE APPLICATION OF CARLOS GONZALEZ, AGENT FOR DAREBECAFE INVESTMENT CORPORATION, FOR A VARIANCE FROM SECTION 34-327(b) (1) & (3) OF THE VILLAGE SIGN CODE OF ORDINANCES TO ALLOW A PYLON SIGN AND MONUMENT SIGN ON THE SAME STREET FRONTAGE IN LIEU OF ONE ON EACH STREET FRONTAGE; AND TO ALLOW TENANT LISTINGS ON THE MONUMENT SIGN; FOR THE PROPOSED COMMERCIAL BUILDING TO BE LOCATED AT THE SOUTHEAST CORNER OF COCONUT ROAD AND LAKE WORTH ROAD; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council the variance requests were for 1) a pylon sign and monument sign on the same street frontage in lieu of one on each street frontage, as permitted by Section 34-327(b)(3) and 340327(c)(3); and 2) tenant listings on the monument sign, normally prohibited by Section 34-327(b)(1). The request for changeable copy on the pylon sign was prohibited by Section 34-262(1) and was not an item that could be granted a variance. Council Member Brinkman stated she did not have a problem with the two signs; but asked that a condition be added that tied the monument sign installation to the construction of phase two. Mr. Gonzalez stated he would comply with that request. Vice Mayor Waller stated she did not have a problem with the pylon sign; but initiated discussion on possibly moving the pylon sign to another location on the site. However, after the Council and Land Development Director Lowe reviewed the site survey, it was determined no other location would allow the sign to meet the 15 foot setback requirement by Code.

Hearing no other comments from Council, Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Hearing none, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution, subject to Exhibit "A" and the added condition of the monument sign tied to the construction of phase two was made by Council Member Brinkman and seconded by Mayor Pro Tem Smith. Motion carried 4 – 0.

11. ORDINANCE NO. 2009-05 (SECOND READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 34 OF THE CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT", BY AMENDING ARTICLE VI ENTITLED "LAND USE", DIVISION 5 ENTITLED "SITE PLAN", SECTION 34-695 ENTITLED "BUILDING PERMIT TIME REQUIREMENTS"; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; 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 March 5 and March 12, 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 and from the Council. Hearing none, a motion to adopt the ordinance on second reading was made by Vice Mayor Waller and seconded by Council Member Brinkman. A roll call vote was in favor of adoption 4 – 0.

12. ORDINANCE NO. 2009-06 (FIRST READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING THE COMPREHENSIVE LAND USE PLAN OF THE VILLAGE, PURSUANT TO THE "SMALL SCALE" COMPREHENSIVE LAND USE AMENDMENT LAWS OF THE STATE OF FLORIDA, THE LAND CONSISTING OF LESS THAN 10 ACRES, OWNED BY J WELLS HOFFMAN LLC AND W.J. WELLS FAMILY, LLC, AND LOCATED AT 1760 AND 1800 SOUTH MILITARY TRAIL, AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; TO COMMERCIAL; SAID LANDS TO BE CONCURRENTLY DESIGNATED WITHIN A LAND DEVELOPMENT COMMERCIAL GENERAL ZONING DISTRICT ON THE VILLAGE OF PALM SPRINGS OFFICIAL ZONING MAP; PROVIDING DIRECTIONS TO THE VILLAGE CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that this 1.77 acre parcel was annexed into the Village on December 11, 2008, and was a result of the Interlocal Service Boundary Agreement with Palm Beach County. The land use and zoning was now required to be amended from Palm Beach County designations to Village of Palm Springs designations. The Land Development Board had recommended approval at their meeting on March 24, 2009. Mayor Davis asked for questions or comments from the Council. Council Member Brinkman disclosed that the owners were former clients of her company, and she had recused herself at the time of voting on the annexation; however, she had had no communications with this application and did not feel there was a conflict. Village Attorney Torcivia confirmed that there would not be a conflict.

Hearing no comments from the Council, Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Hearing none, Village Attorney Torcivia read the ordinance by title. A motion to adopt on first reading was made by Mayor Pro Tem Smith and seconded by Vice Mayor Waller. Motion carried 4 – 0.

REGULAR AGENDA

ACTIONS AND REPORTS

13. Resident/Student Dylan Kovar Trip to Obama Inauguration Presentation

Mayor Davis stated that the Council should recall that at a previous meeting several months ago, Mrs. Kovar gave a presentation to the Council about her son's fundraising efforts to attend the presidential inauguration. Dylan was able to obtain the funding and he has brought a powerpoint presentation of his experiences to thank the Council Members who had privately donated to him. The Council joined the audience to view the presentation. Dylan showed photos of his trip to Washington, the Washington monuments, his meeting with Colin Powell and former Vice President Al Gore. Dylan stated that due to the enormous crowds for the inauguration, the students were brought to a side viewing area, which was a little disappointing. Dylan thanked the Council for assisting him and giving him the time to show the presentation. The Council congratulated Dylan and wished him luck with his future education.

14. Appointment to the Leisure Services Board

Staff: Virginia Walton, Village Clerk

Mayor Davis stated there was one regular and one alternate vacancy on the Leisure Services Board and the current members who hold those positions, Robert Ayersman and Brenda Parrish, had indicated their willingness to continue to serve. Hearing no other nominations, a motion to appoint Robert Ayersman as a regular member for a term to expire in March 2012 and Brenda Parrish as an alternate member for a term to expire in March 2010 was made by Vice Mayor Waller and seconded by Council Member Brinkman. Motion carried 4 – 0.

15. Appointment of Palm Beach County League of Cities Voting Delegates Staff: Virginia Walton, Village Clerk

Mayor Davis stated the Palm Beach County League of Cities had requested an updated designation of a voting delegate and alternates for representation at all League functions. The current voting delegate was Mayor Davis, with the entire Council and Village Manager as alternates. After discussion, a motion was made by Vice Mayor Waller and seconded by Mayor Pro Tem Smith to keep the voting delegate list the same as the previous year. Motion carried 4 – 0.

16. Council District Seat Appointment Application
Staff: Karl Umberger, Village Manager

Mayor Davis stated that due to the resignation of Council Member Osborne, this was the plan to accept and review applications to fill the vacancy on the Council for the Council Member District 1 seat. A formal notice of intent to accept applications for this position would be placed in the Coastal Observer, the Village newsletter and on the Village website in April. The application was attached for their review. Mayor Davis stated there would be the notice of seat vacancy, a map clearly designating the boundaries of District 1 and the application form.

Mayor Davis asked for questions for comments from the Council. Vice Mayor Waller commented that the application was well done. Hearing no other comments, a motion to accept the process and application forms was made by Vice Mayor Waller and seconded by Mayor Pro Tem Smith. Motion carried 4 – 0.

VILLAGE COUNCIL COMMENTS

Council Member Brinkman stated she wanted to bring up a topic of a procedure for the approval of license agreements. While she was attending the Land Development Board Meeting this past Tuesday, she was made aware of, and wasn't sure the rest of the Council knew, of a license agreement that Staff was considering that would allow a "used car use" on one of the properties on Military Trail. Council Member Brinkman voiced concern because these license agreements were, in a manner, approving a land uses or zoning uses on properties and she felt it would be better if all the Council was aware that these were being proposed rather than one of the Council driving down the street and wondering how that got there. Council Member Brinkman felt it would be better if they were all discussed out in the Sunshine and a Council consensus was reached before Staff moved forward approving uses that may be there for a considerable length of time.

Mayor Davis asked Village Manger Umberger for some clarification on this issue. Manager Umberger responded that he had discussed this with the Village Attorney and felt that he could answer the questions better. Village Attorney Torcivia stated the Village had two ordinances; one that set out the standards and one that allowed Staff to approve the licenses. It was actually the Council's discretion whether they wanted to leave the ordinances the way they are and allow Staff the approval authority, or to amend the ordinances and have the Council approve these types of agreements. Mayor Davis asked if the ordinance had a requirement that these agreements come back to Council before they are approved. Village Attorney Torcivia replied no, not the way the ordinances are written now.

Mayor Pro Tem Smith commented that she didn't think a car lot was an allowable use without approval from the Council. Director Lowe replied it was not an allowable use and that was why the property owners would need a temporary license agreement. Temporary license agreements for a time certain, not to exceed five years, are only

used for those items that are not allowed by Code, but which might be permitted for several reasons, such as a development issue, or a quid pro quo issue for an annexation. The Village had only done one so far, and they were only temporary up to five years. Manager Umberger added that by signing the license agreement, the Village had recourse against the property owner if they violated any portion of the agreement. They owners could be taken to the Special Magistrate and have the license revoked. Mayor Davis added that he believed the intent of the one ordinance was that the Council had confidence in Staff to allow this flexibility for a temporary item; and it was time certain and did not run with the land. Mayor Davis asked what the thoughts and wishes of the Council were; whether to keep the ordinances as they are or have the Council get more involved as an elected body.

Vice Mayor Waller asked when the other license agreement was, recently or a long time ago. Director Lowe replied it was recently with the Off Lease Company on 2nd Avenue and Davis. They had purchase the property across the street from their present business and wanted to use the site to store vehicles for sale and that was approximately six months ago. Vice Mayor Waller asked if that meant they had five and a half years left to do something else with the cars. Director Lowe responded that their agreement was only for three years with a possible extension. Vice Mayor Waller stated she was alright with leaving Staff and Manager Umberger having the ability to do what was best for the Village. Council Member Brinkman still felt the Council should discuss and approve these licenses before they take effect.

Council Member Brinkman made a motion to amend the code ordinance to bring these license agreements before the Council, and also asked how that could include a "Zoning in Progress" so that this current license agreement would not go forward until the new ordinance was in place. Village Attorney Torcivia stated he would need a few minutes to think about that process.

Manager Umberger added that the Village was in the process of a sewer extension project tied to annexations in that area. The Village was now three properties short of the number needed to recoup the funds for the project. This agreement was part of an annexation in that area that had been in negotiations for over a year now. Manager Umberger said these were convoluted issues, and he didn't have a problem slowing up or stopping this one agreement; but it might take up to three months to get the amended code ordinance through the advertising and two readings and this would delay that sewer project even more. Village Attorney Torcivia further added that Staff had the discretion in the code to approve or not these licenses and Council can always give Staff direction not to pursue these agreements until the Code was amended, or Council could direct Staff to not pursue any other agreements except this one. Council Member Brinkman stated she did not want to see this one go through because this owner had not even signed the annexation agreement as yet. The annexation agreement was a quid pro quo that would also allow a higher density on their property. Council Member Brinkman stated she simply did not want a used car lot on Military Trail for five years.

Director Lowe stated that she believed that the way the ordinance was written now, there was nothing that would prohibit Staff from bringing the temporary license agreement back to Council for approval at the next meeting without even amending the Code. Manager Umberger added that they would only be allowed to sell up to seven cars because they already had seven bays and at night the cars would be pulled into the bays, or lose the license. The Village had annexed Syms Plaza, and this property was on Syms Plaza; however, the person who had signed the lease for this site had done so two days after our annexation, which has created this situation.

Mayor Pro Tem Smith stated she had no desire to change the ordinance because she felt Staff was able to make these decisions, but would like to have these issues brought to Council as informational so the Council would be aware of them should anyone come to a Council Member with questions. Mayor Davis stated the Council had to decide if they wanted informational or a change in the code. Vice Mayor Waller stated she preferred informational because she trusted her Staff. Mayor Davis asked the Village Attorney if he was correct in understanding that since it was already in the Code that Staff had the discretion to either approve the agreements or bring them to Council, then the Council could establish a policy that a report on all these license agreements be brought to Council prior to any final action on them by Staff. Village Attorney Torcivia stated that was absolutely correct. Mayor Davis asked if a motion was required for this policy or just a concurrency of all the Council. Village Attorney Torcivia stated a concurrency of Council would be sufficient. Mayor Davis saw an affirmative nod of all members and stated there was a consensus of Council that Staff would bring all temporary license agreements before Council for input prior to final approvals.

Manager Umberger added that the annexation agreements and annexation ordinances were previously handled separately; however, from now on anything that was associated with that annexation would be brought forward at the same time.

Mayor Pro Tem Smith stated she was happy to see Public Service Director Bill Davis back.

Vice Mayor Waller also welcomed Director Davis back and jokingly commented that she was sure he had a good time in the hospital.

Mayor Davis commented that he had no problem with these temporary license agreements. The intent was not to do them wholesale. The intent was to have a mechanism to deal with individual issues and not get bogged down in bureaucratize like so many governmental entities do. Mayor Davis stated he remembered the past twelve years very vividly and the previous six prior to that. The Village was not in good shape for those six years, but had worked to be in very good shape for the present twelve years. Mayor Davis felt that with the Council and this Staff, if you look at what's been accomplished in these twelve years, the Manager and Land Development Director have other municipalities coming to them every day wanting to know how to do what we have accomplished. Unfortunately, they are about twelve years too late. The Village has

been very successful, not because we have given the farm away, but because the Village has been reasonable. If you have dealt with Palm Beach County Code Enforcement, you will know that they don't have voluntary compliance, they only hammer. The Village does have voluntary compliance first and then hammer when necessary. It was all in how you deal with people.

Mayor Davis then stated the next Local Planning Agency meeting was on April 9, 2009 at 7:15 pm and the next Regular Council Meeting was on April 9, 2009 at 7:30 pm.

ADJOURNMENT

Hearing no further business, Mayor Davis adjourned the meeting at 8:29 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor