

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, MAY 21, 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, Council Member Doug Gunther, 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, Leisure Services Director Bill Golson and Library Director Elena Romeo.

Mayor Davis introduced Mark Pierce, Assistant Scout Troop Leader, and the boys from Lake Worth Troop 202, who were present to earn their Citizenship in the Community Badge. Invocation was given by Village Manager Karl E. Umberger, followed by the Pledge of Allegiance led by Lake Worth Boy Scout Troop 202.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager: Add 6A to consent agenda – Utilities Easement Acceptance
Continue 9 and 10 to the June 25, 2009 agenda
Add: 12A Res. No. 2009-46 – Temporary License Agreement

A motion to accept the agenda as revised was made by Council Member Brinkman and seconded by Council Member Gunther. Motion carried 5 - 0.

CONSENT AGENDA

1. **Minutes of Regular Council Meeting on April 23, 2009**
2. **Budget Amendment for Leisure Services Department in the amount of \$30,000 to recognize grant funds from the Palm Beach County Recreation Assistance Program for funding of a new Teen Center in Palm Springs.** Staff: Bill Golson, Leisure Services Director
3. **RESOLUTION 2009-40**

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 ACCEPTING FUNDS FROM THE DISTRICT 3 RECREATION ASSISTANCE PROGRAM (RAP), IN AN AMOUNT NOT TO EXCEED \$30,000, FOR THE MOVING, INSTALLATION AND RENOVATION OF A DOUBLE WIDE SURPLUS SCHOOL BOARD TRAILER TO CREATE A TEEN CENTER.

PURSUANT TO SECTION 125.01 AND SECTION 163, PART III, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Golson, Leisure Services Director

4. RESOLUTION NO. 2009-42

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ACCEPTING A GRANT OF EASEMENT FROM GERMAN MORENO, AGENT FOR COMUNIDAD DE FE, RCA, FOR UTILITY PURPOSES; PROVIDING FOR RECORDATION AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

5. RESOLUTION NO. 2009-43

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ACCEPTING A GRANT OF EASEMENT FROM FAIRVIEW VILLAS CONDOMINIUM ASSOCIATION, FOR UTILITY PURPOSES; PROVIDING FOR RECORDATION AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

6. RESOLUTION NO. 2009-44

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AWARDDING A BID FOR MISCELLANEOUS PAINTING AT THE MAIN WATER TREATMENT PLAN TO SOUTHLAND PAINTING CORPORATION, OF FORT LAUDERDALE, FLORIDA, IN THE AMOUNT OF \$137,450.00; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

ADD:

6A. RESOLUTION NO. 2009-45

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ACCEPTING A GRANT OF EASEMENT FROM UNITED CEREBRAL PALSY OF PALM BEACH & MID-COAST COUNTIES, INC., FOR UTILITY LIFT STATION PURPOSES; PROVIDING FOR RECORDATION AND PROVIDING AN EFFECTIVE DATE. Staff: Bill Davis, Public Service Director

A motion to approve the consent agenda as revised was made by Vice Mayor Waller and seconded by Mayor Pro Tem Smith. Motion carried 5 – 0.

End of Consent Agenda.....

ANNOUNCEMENTS AND PROCLAMATIONS

7. Mayor's Proclamation for 2010 Census Complete Count Committee

Mayor Davis read the proclamation announcing the 2010 U.S. Census agreeing to work in conjunction with the U.S. Census Bureau to educate all Palm Springs residents on the importance of 100% participation to insure future funds of essential services and programs in our community and to encourage parents and college students to apply for Census jobs in their local areas.

8. Joseph Fallon Scholarship Awards

Mayor Davis commented that there are a few fun items that a Mayor gets to enjoy during his term in office and this happens to be one of them. These scholarships are awarded in honor of Joseph Fallon, a high school student who passed away in 1996. Parents, Jim and Carolyn Fallon, were present, as they have been every year, to observe and participate in the awarding of these scholarships.

Mayor Davis and Mr. James Fallon awarded Scholarship Award Plaques and \$1,000 checks to Geneva J. Bastien, John I. Leonard High School student who plans to attend the University of Florida to study Engineering; Daniel S. Echemendia, John I. Leonard High School student who plans to attend the University of Florida to major in Business; Ariana S. Ramdin, John I. Leonard High School student who plans to attend the University of Florida and Florida State University to major in Biochemistry; and Beatrice Arozarena, John I. Leonard High School student who plans to attend Florida Atlantic University to major in Registered Nursing.

Mr. Fallon thanked the Mayor and Council and those that put the scholarship together. It was amazing that so much time has passed and so many students have been impacted by this scholarship. Mr. Fallon stated he and his wife, Carolyn, were very proud to have been residents of Palm Springs for 25 years, and still own property in the Village. All the work that has been done on this scholarship by the Council, Staff, Committee Members and Friends of the Library sets a high standard for other communities to see what Palm Springs does for its young people, because the young people are our future. Mayor Davis thanked Mr. & Mrs. Fallon for coming tonight.

PUBLIC COMMENT

Gary Ready, 3118 Meadow Road, made the comment that if the Village had the best water in the State, then shouldn't the Council drink tap water instead of bottled water at the Council Meetings. Mayor Davis replied that the Council previously had used tap water with carafes and glasses. This caused a hazard on the Dias with glass and possible spills on documents. It was therefore decided that small bottles would be the safest way to correct the problem.

Mr. Ready also commented that the Village had a street with three names (Dolan, Alameda and Purdy) and he suggested that the names be changed to only one name for the entire street. Mayor Davis stated that had happened a long time ago and the streets were not connected at that time; however, if Mr. Ready felt strongly about this, the Mayor stated he would be happy to appoint him to a committee to contact all those residents to let them know they would have to change all their documents and mailing information, as well as any costs associated with that change. Mayor Davis stated if Mr. Ready could get everyone to agree to the change, let the Council know and they could probably do something about the change.

Bill Grandy, 2736 Palm Road, stated he lived right next door to the proposed townhome project on the agenda, and he wanted to know if it would be possible to have an 8 foot wall instead of a 6 foot wall; and also what would be the average cost of the units. Mayor Davis replied that the Applicant could address those concerns when the site plan came before the Council and advised Mr. Grandy he could speak again at that point.

Patty Tilford, 2735 Nassau Road, submitted a petition containing 75 signatures from neighbors surrounding the proposed townhome project with 7 concerns they would like addressed: 1) a swale on property facing Prairie Road; 2) solid 8 foot wall surrounding the development; 3) outside of the wall to be consistently maintained by property owner; 4) setback from the wall be 20 feet; 5) large trees to be placed on both sides of the wall for privacy and sound barrier; 6) any future drainage issues onto Prairie Road to be addressed immediately; and 7) no entrance be allowed onto Prairie Road.

Hertha Dorribo, 2719 Nassau Road, stated she had lived there for 40 years and was not happy about the development; however, she wanted very much for the 8 foot wall to be constructed.

Barbara Mango, 2737 Bahia Road, stated that she would rather have vegetation and landscaping as a divider between the development and the residential properties because she felt the landscaping would be more attractive and would be more valuable than a wall.

Mayor Davis thanked everyone for the comments and stated he was sure the Applicant would address all their issues when this item came up on the agenda.

PUBLIC HEARINGS

This item will be continued to the June 25, 2009 agenda

- 9. RESOLUTION NO. 2009-28 (SITE PLAN/SPECIAL EXCEPTION - BURGER KING /MILITARY TRAIL)**

This item will be continued to the June 25, 2009 agenda

- 10. RESOLUTION NO. 2009-35 (BURGER KING SITE PLAN/SPECIAL EXCEPTION - CONGRESS)**

11. RESOLUTION NO. 2009-41 (SITE PLAN)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF TONSET COMPANY, INC., FOR SITE PLAN APPROVAL (SPR 08-11) FOR CONSTRUCTION OF TWO HUNDRED TEN (210) TOWNHOMES IN NINETEEN (19) TWO-STORY BUILDINGS, A SWIMMING POOL AND TERRACE, PLAYGROUND, PASSIVE PARK AND TWO LAKES, ON APPROXIMATELY 19.50 ACRES LOCATED AT THE INTERSECTION OF CONGRESS AVENUE AND LARK ROAD; AND ESTABLISHING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

Village Clerk Walton advised the Council that notice of public hearing had been placed in the Lake Worth Herald on May 7, 2009. Manager Umberger advised the Council that this project was proposed as a community of 210 townhomes in 19 two-story buildings. Common amenities would include a swimming pool and terrace, playground, a passive park and two drainage facilities or lakes. The Land Development Board had reviewed this site plan on May 21, 2009, with the original proposal of 223 townhomes and recommended approval; however, the number of units had been reduced to satisfy Palm Beach County Traffic Concurrency. Mr. Marty Perry, agent for the owners, was sworn in to give further testimony. Mr. Perry indicated on the site map that the 13 units being eliminated were from two buildings that bordered Prairie Road. The buildings had also been moved farther away from Prairie Road. Mr. Perry addressed the items brought up by residents during public comments.

The project would handle all of its drainage on site and would not drain into the ditch constructed by Palm Beach County for the residents of Prairie Road. Since the drainage ditch had been constructed in error partially on their property, the County had given the Applicant their choice to either leave the ditch as it was or re-locate the ditch, as long as the ditch remained.

The wall would be 8 feet above ground level with stucco covering on both sides. The Applicant would maintain the wall for any damage or graffiti; would maintain the color and finish on the wall and would also maintain the landscaping on both sides of the wall. There would be trees on both sides of the wall with enough height to create privacy from view of the wall and the two story buildings. Mr. Perry stated the Applicant could have the wall and outside landscaping completed prior to any work on the site, if that was the wish of the Council. Mr. Perry felt that the concerns of the residents had been properly addressed; however, the Applicant would go one step further, if the Council felt it was necessary, the Applicant could place the wall along Prairie Road on a 2 foot burm to achieve an 8 foot height rather than put an extra two feet of concrete.

Mr. Perry reiterated that the wall enclosing the development would alleviate residents of the new development having access to the Lake Worth Drainage District Canal Maintenance Easement as a short cut from Congress Ave to Prairie Road, which had occurred in the past.

Mayor Davis stated a revised Exhibit "A" Conditions had been presented tonight and referred to item #19. Mr. Perry stated that there were a couple of items on the conditions that he would like to discuss. The way that item #16 had been revised was acceptable. With regard to item #32, Mr. Perry stated a tree inventory had been done and there was excessive existing slash pine on the site and Village Staff had indicated to the Landscape Architect that the Applicant would not be required to provide this mitigation. The Applicant proposed new language for condition #32 which would state that the Applicant would relocate all existing live oak trees and design a full lush landscape design in excess of the minimum code to satisfy the mitigation requirements for the site.

With respect to condition #26, Mr. Perry stated there were pending contracts for additional land adjacent to the site and the abandonment was tied to acquisition of those lands. Mr. Perry suggested that a portion of the language of the condition be changed to state that the abandonment would occur when the Applicant complies with all other conditions in Exhibit "A", and provide the Village with a Unity of Title for entire tract. All the existing language regarding FP&L facilities and easements, Village easements and payment based on December 2007 appraisal would remain, with the exception of a statement that the Applicant would have the right to provide an additional appraisal and pay whatever amount that appraisal stated.

Mayor Davis asked Director Lowe and Village Attorney Torcivia if there was any problem with the revisions the Applicant is requesting for items #26 and #32. Director Lowe stated she had no problem with the revision request for item #32 because she did remember having the conversation with their Landscape Architect. There were two issues with the request for item #26. If the Village abandoned Lark Road now and for whatever reason the development does not take place, then the Village is giving up the road for today's dollars and losing whatever value the road might have years down the road. Also, the original appraisal was around \$500,000; however, the Village had negotiated with the Property Appraiser for a 90% reduction in value based on a sole lot appraisal and treating the roadway as if it was a standalone property. Director Lowe did not feel the \$55,000 was excessively high, even in today's market. After Council discussion, a change of the language was made that the portion of Lark Road would be abandoned after the Applicant obtained a Unity of Title for all the parcels. At that time, the Council would consider an updated appraisal, if necessary. Mr. Perry agreed.

Mr. Perry added that someone during public comment had asked what the market price of the units would be and he could only answer that the project was not slated to begin until the market turned around and the units would then be priced at whatever the market pricing was at that time; but they would definitely not be low rent type units.

Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Patti Tilford, 2735 Nassau Road, asked if there was any HUD funding associated with this development. Mr. Perry responded no because there were no plans yet on how to develop these units due to the poor economic market right now. Liz Shields, 2111 Prairie Road, wanted to know how long the property would be left vacant and looking so

messy, as well as a few other parcels along that road; and was there stipulations in the Code whereby properties would need to be maintained if not developed right away. Director Lowe stated the vacant properties could remain in their natural state; however if the condition becomes a problem with debris or vermin onto neighboring homes or with storms, then the Village normally contacts the owners and ask them to clean it up. Director Lowe stated this property had been cleaned up at one time, but she would have to check on the condition now.

Hearing no further comments from the public, Mayor Davis opened comments to the Council. Vice Mayor Waller stated that she had been thinking about Mr. Perry's suggestion for a burn along Prairie Road and the 6 foot wall on the burn and she would like to see that happen. Mr. Perry responded that the Applicant would agree to that. Council Member Brinkman asked if the comment in condition #25 on commercial vehicles being parked inside garages was coming from the Village or would this be in the condominium documents. Mr. Perry stated that comment was not from the Applicant, but was intended to eliminate an unsightly appearance on the properties. It was suggested that this condition be re-worded to state "comply with Village code" and leave the condominium association to restrict this further if they wish. Director Lowe stated most of these townhome projects to not have normal size driveways, so changing the language could create a code enforcement problem. Ms. Brinkman added that condition #26 should be worded to state the trigger should be a unity of title received prior to issuing building permits, and then the Village would abandon the portion of Lark Road. Mayor Pro Tem Smith stated she like condition #25 the way it was, and also liked the burn addition. Mayor Davis commented that it appeared the Council was in consensus with adding the burn with the wall along Prairie Road.

Hearing no further comments, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution and approve the site plan was made by Mayor Pro Tem Smith and seconded by Council Member Brinkman. Motion carried 5 – 0.

12. ORDINANCE NO. 2009-08(SECOND READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING A PARCEL OF LAND CONSISTING OF .72 ACRES OWNED BY ELEFThERIA BALAOURAS TRUST, LOCATED AT 3939 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 April 16 and April 23, 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 Gunther. A roll call vote was in favor of adoption 5 – 0.

ADD:

12A. RESOLUTION NO. 2009-46

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A TEMPORARY LICENSE AGREEMENT WITH CONGRESS STORAGE LLC FOR THE PURPOSE OF AMENDING THE ORIGINAL SITE PLAN TO ABANDON PHASE II CONSTRUCTION AND ALLOW SURFACE STORAGE OF VEHICLES FOR A PERIOD OF THREE YEARS; AND PROVIDING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that Mr. Guillermo Ferrer had submitted a request for a temporary license agreement for his property, which was currently the site of a limited access storage facility and additional self-storage units. The original site plan approved included a 12,750 sq. ft. three story building for Phase II construction. The Applicant was requesting to abandon Phase II and use the space for surface storage of vehicles, such as RV's, boats, semi-trucks, automobiles, construction trucks, etc.. Since many of these vehicles are prohibited, or at least difficult to park within the Village, this type of storage could be a possible asset to the community, if managed correctly. The agreement terms were included with the resolution and a representative for the Applicant was present to discuss the terms.

Mayor Davis asked for a clarification that this was for a temporary license agreement that can be accomplished by Staff with comments from the Council. Manager Umberger replied that was correct; but the Village Attorney stated there was some confusion in the intent based on the minutes of the last meeting and felt if the Council was reviewing this agreement then it would require a resolution. Mayor Davis then read that portion of the minutes of the meeting and felt the intent for just a review was very clear. Mayor Davis asked Director Lowe if she had any problems with the agreement as written. Director Lowe replied she did not. Hendrik DeMello, agent for the Applicant, asked the Council to consider amending condition #3 to eliminate the landscaping requirement for inside the wall because the buffer had already been increased and there was not sufficient room. Also, would the Council consider extending the term of the agreement from 3 years to 5 years because he felt the 3 year restriction was denying the Applicant the full extension term of the Code. Council discussed both requests and the consensus was to agree to eliminate the landscaping on the inside of the wall; however, the term of the agreement was to remain at 3 years.

REGULAR AGENDA

ACTIONS AND REPORTS

13. Appointment to the Library Board Staff: Virginia Walton, Village Clerk

Mayor Davis advised the Council that there were two regular member vacancies on the Library Board and three applications had been received by Michelle Dunlap, Raymond Burton Dale and Irma Contreras indicating their willingness to serve. Mayor Davis asked for nominations for the two positions. Council Member Brinkman nominated Michelle Dunlap and Raymond Burton Dale. Mayor Pro Tem Smith asked what the reasoning was behind her nominations. Council Member Brinkman replied that Ms. Dunlap was a teacher and would have good experience with children's programs and Mr. Dale had extensive business experience, which would be an excellent addition to the Board. Vice Mayor Waller agreed and seconded the motion. The motion was carried 5 – 0.

Mayor Davis asked Library Director Romeo to extend the Council's thanks to Ms. Contreras for her application and let her know that other openings or opportunities at the Library may come available.

14. Manager's Evaluation and Contract Renewal

Each Council Member expressed their view that Manager Umberger goes above and beyond on a daily basis; and with the challenging times the cities were now in, Manager Umberger had the foresight to prepare for these years. Because of this, the Village was in a much better position than many other cities in Florida. Manager Umberger realized the budgetary constraints this year and had requested no increase in salary or bonus; and although it was the consensus of the Council that they would like to reward Manager Umberger for his efforts, they agreed to wait until after the actual budget numbers were received and approved to possibly bring this back for discussion.

A motion to approve the Manager's Agreement for an additional three years at the current salary rate until after the final budget was made by Mayor Pro Tem Smith and seconded by Vice Mayor Waller. Motion carried 5 – 0.

VILLAGE COUNCIL COMMENTS

Council Member Brinkman asked Staff what was being done on the Congress Avenue properties that the resident had complained about during public comments. Manager Umberger replied that Director Lowe was in touch with the Hedrick Brothers and working with them about their property. The Bank had taken over the old flea market site and the Village was giving them a courtesy time period to clean up the property. The Tonset site was having issues with people throwing trash and illegally parking vehicles; but the property was now fenced and the issues would be addressed.

Council Member Gunther congratulated the recipients of the Joseph Fallon scholarship and commented it was good to see such wonderful students.

Vice Mayor Waller stated it was always a pleasure to be part of the selection committee for the scholarships and she was particularly please to see someone she personally knows receive an award this year.

Council Member Brinkman added that the first meeting of the Lake Worth Utilities Franchise Agreement Review Committee would be meeting on June 4, 2009 here at Village Hall.

Mayor Davis announced that the next regular Council Meeting would be on June 25, 2009 at 7:30 pm in Village Hall.

ADJOURNMENT

Hearing no further business, Mayor Davis adjourned the meeting at 8:55 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor