

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, DECEMBER 10, 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, CFO Rebecca L. Morse, Public Service Director Bill Davis, Leisure Services Director Bill Golson and Village Engineer Don Eckler.

Invocation was given by Village Manager Karl E. Umberger, followed by the Pledge of Allegiance led by Council Member Joni Brinkman.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager: Corrections to Minutes: Capt. Mark Hall was present, rather than Chief Jay Pickens as noted.

Move Item #12 to Item #6B.

Continue Item #14 to Jan. 14, 2010 agenda

Add Item #6A Proclamation for Everglades

Add on: Exhibit "A" for Library Cooperative Agreement on Consent

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

CONSENT AGENDA

1. Minutes of Regular Council Meeting on November 12, 2009
2. Approval of Library Cooperative Agreement
3. Renewal of Code Enforcement Special Magistrate Agreement
4. RESOLUTION NO. 2009-92

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ENDORSING EMPLOYER SUPPORT FOR THE NATIONAL GUARD AND RESERVE, IN FURTHERANCE OF OUR COUNTRY'S SERVICE MEMBERS AND THEIR FAMILIES DURING TIME OF NEED; INSTRUCTING THE VILLAGE CLERK TO TRANSMIT SAME TO THE CHAIRMAN OF THE NATIONAL

COMMITTEE FOR EMPLOYEE SUPPORT OF THE GUARD AND RESERVE; AND PROVIDING AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

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

ANNOUNCEMENTS AND PROCLAMATIONS

5. Presentation to Council Member Gunther

Mayor Davis stated that Council Member Gunther had attended and completed the Institute for Elected Municipal Officials training (EMO) provided by the Florida Institute of Government. The letter and award from the FIOG recognized Council Member Gunther for going above and beyond to gain the knowledge to become a better leader in his community. Mayor Davis congratulated Council Member Gunther and presented him with the Award. Council Member Gunther stated that he had obtained a lot of valuable knowledge at this institute and hopefully he would be able to use that knowledge to make him a better Council Member for the betterment of the Village.

6. Dedication of Poe Drive Passive Park and Awards Presentations

Mayor Davis introduced the slide show presentation of the dedication of the park which had taken place earlier in the day. Mayor Davis stated the property had been acquired after about four years of legal negotiations as the result of code enforcement violations stemming from damages caused by Hurricane Wilma. A fire further damaged the home. The mortgage holder and former owner, Richard Hawkins, foreclosed on the property and then donated the property to the Village for a Passive Park. The Village had very limited funds to demolish the damaged home and refurbish the property into a park; however a local contractor who works regularly with the Village, AKA Services, donated his equipment, time, personnel to demolish the damaged structure and clean up the property.

A long time resident, Helen Ochtel, and Mother of Mayor Pro Tem Bev Smith, offered to donate a Date Palm Tree that had been in her front yard for over twenty-two years. Kyle Landscaping, another regular Village contractor, aided in the preparation, removal and re-planting of this palm tree, as well as donating additional palms for the new park. AKA Services also donated the asphalt that the Village's Maintenance Department installed as a walkway through the park. The Village Maintenance Department personnel also supplied most of the labor for installation of plantings, grass, sidewalks, benches and trash receptacles. A monument sign was built and installed to recognize all those that had helped make this Passive Park possible. Mayor Davis presented Certificates of Appreciation to Helen Ochtel, AKA Services, and Kyle Landscaping. Mr. Hawkins was unable to attend tonight, but was recognized on the monument sign.

ADD: 6A. Proclamation for 2010 as Year of the Everglades in Palm Springs

Mayor Davis read the proclamation recognizing 2010 as the Year of the Everglades

in Palm Springs and urged all residents to join the Arthur R. Marshall Foundation by participating in Community Outreach Programs that encourage everyone to become lifelong stewards for preservation of the Everglades.

PUBLIC COMMENT

Liz Shields, 2111 Prairie Road, stated she was sorry to be before the Council again about Club Ibiza. After Chief Pickens and Capt. Hall had spoken with the owners, the noise had gotten better during the summer; but was now back as loud as before. Ms. Shields had gone to the site at 2AM and seen the doorman propping the door open. Ms. Shields asked which Council Member represented her District. Vice Mayor Waller stated she was the representative for that area. Ms. Shields invited her to come over around midnight and hear for herself. Mayor Davis responded that there had been no other complaints from residents in her area; which was not to say they have not heard the noise as well. Mayor Davis asked Chief Pickens if the decibel meter had been used to ascertain the noise levels for this complaint. Chief Pickens replied that the meter had been used and the noise does not violate the Village's ordinance levels. Chief Pickens stated he had been unaware that Ms. Shields was again having this issue and he would see that it was addressed tomorrow morning. Mayor Davis added that the Village would do whatever was possible within the restrictions of the Village Code; however, if the noise level did not violate the Code, then there was only so much that anyone could do above speaking to the owner again. Ms. Shields stated she had canvassed her neighborhood and others heard the noise as well, but she had been unable to get them to come to a meeting. Mayor Davis suggested she do a petition for signatures.

Gary Ready, 3118 Meadow Road, asked what the current size of the Village in acres was and also the latest population estimate. Mayor Davis responded 3.29 square miles and 15,572 population. Mr. Ready also added that he wanted to wish Council and Staff a Happy Holiday. They were doing a good job and keep up the good work. Mayor Davis added jokingly that he had known about Mr. Ready's first question ahead of time and had some research done because for many years the Village had remained at 2.2 square miles and population at around 7,500-8,000. Through annexation over these past ten years, the Village had added area and people.

PUBLIC HEARINGS

6B. Moved from Item No. 12 ORDINANCE NO. 2009-23 (FIRST READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING ORDINANCE NO. 2007-20, ADOPTED OCTOBER 25, 2007 PROVIDING FOR A REVISED AND RESTATED POLICE PENSION PLAN; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council this ordinance amended and restated in its entirety the existing Hazardous Employees Pension Plan to reflect the termination of the firefighter portion of the Plan as a result of the Village contracting with Palm Beach County Fire Rescue and the subsequent termination of the Palm Springs firefighters. The amended ordinance also incorporates revisions to the Federal Law for the Federal Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), as well as changes to the State Law enacted by Chapter 2009-97 (CS/SB538). Manager Umberger stated Pension Board Attorney Bonnie Jensen was present and available to answer any questions the Council might have.

Mayor Davis stated this was a public hearing and asked for questions or comments from the Council and from the public. Hearing no comments, 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 Council Member Gunther. Motion carried 5 – 0.

7. Initial Determination by the Village of Palm Springs Council that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners at the Sunshine Mobile Home Park located at 2765 10th Avenue North.
Staff: Bette Lowe, Land Development Director

Manager Umberger stated that at the request of Council, a report had been compiled to show adequate mobile home parks or other suitable facilities that existed for the relocation of the mobile home owners at Sunshine Mobile Home Park. Director Lowe had provided a three page listing of available locations, as well as letters from several mobile home park owners offering the properties and assistance in moving the residents. Vice Mayor Waller commented that the report was excellent. Hearing no further comments, a motion to accept the report was made by Vice Mayor Waller and seconded by Council Member Brinkman. Motion carried 5 – 0.

8. ORDINANCE NO. 2009-19 (SECOND READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, REGARDING THE RE-DESIGNATION OF TWO PARCELS TOTALING 17.44 ACRES, OWNED BY CORNERSTONE PALM SPRINGS LLC, LOCATED AT 2765 10TH AVENUE NORTH; AMENDING THE OFFICIAL LAND DEVELOPMENT DISTRICT (ZONING) MAP OF THE VILLAGE OF PALM SPRINGS BY RE-DESIGNATING 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 Department

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on October 29 and November 5, 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. Bonnie Miskel, Attorney for Cornerstone Group, stated that they had spent much time with Attorney Weaver and their efforts had been successful in reaching a settlement agreement, and are working out a few minor details. Ms. Miskel stated they had updated the original report they had submitted on available sites for relocation and the updated report showed over 205 available lots, forty of which were being offered at a significant discount with three months free rent. Mayor Davis stated he was disclosing an ex parte communication with Ms. Miskel in which he had called her asking how things were going with the residents and he had received the same information which had just been relayed.

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

9. ORDINANCE NO. 2009-20 (SECOND READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING A PARCEL OF LAND CONSISTING OF 1.11 ACRES OWNED BY RITZ ASSOCIATES LLP; LOCATED AT 3678 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 October 29 and November 5, 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 no comments, 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 5 – 0.

10. ORDINANCE NO. 2009-21 (SECOND READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING SECTION 34-891, VILLAGE CODE, TO ALLOW FOR PERIODS OF LONGER THAN ONE YEAR FOR DEVIATIONS FROM THE LIMITATIONS ON HOURS OF OPERATION FOR COMMERCIAL USE BUSINESS ACTIVITIES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING 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 December 3, 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 no comments, a motion to adopt the ordinance on second reading was made by Mayor Pro Tem Smith and seconded by Council Member Gunther. A roll call vote was in favor of adoption 5 – 0.

11. ORDINANCE NO. 2009-22 (FIRST READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, DECLARING A ZONING IN PROGRESS FOR A PERIOD OF SIX (6) MONTHS FOR THE VILLAGE TO DEVELOP REGULATIONS FOR NIGHTCLUBS, BARS AND PRIVATE CLUBS THAT SELL ALCOHOL, IN CONFORMANCE WITH THE LAND DEVELOPMENT CODE AND THE COMPREHENSIVE PLAN; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that the Village did not currently have specific land development regulations for these types of businesses. As a result of annexation efforts, the Village had annexed several nightclubs and bars in the past few years and was currently seeing an increase in the number of applications for new establishments. These establishments have significant impact on the safety and welfare of the general public and the residents. Therefore, it was prudent and in the best interest of the Village residents to establish specific regulations for these establishments and place a six month moratorium on petitions for development, occupancy, or licensing within the Village while said regulations were being developed. The Land Development Board had recommended approval of the ordinance at their meeting on December 8, 2008, subject to a request that an advertised workshop be held by their Board prior to any final action on these regulations, to hear public input.

Mayor Davis asked for questions or comments from the Council. Council Member Brinkman stated she understood the concept of a workshop; however felt it should be a Council Workshop, not Land Development Board. Then the comments from Council could be incorporated into the regulations prior to going before the Land Development Board for their review. Mayor Davis stated he was present at the Land Development Board Meeting and didn't feel a workshop was needed until the Council had time to review what information Staff provided. If, as a collective group, the Council then felt a workshop was needed, it could be scheduled then. Council Member Brinkman clarified that it would go to Land Development, then come for first reading; then possibly schedule a workshop, if necessary, between first and second reading. Mayor Davis stated that was correct, or if necessary, first reading could be postponed until after a workshop was scheduled.

Mayor Davis stated he appreciated all the work and effort the Land Development Board put in; however, ultimately it was the Council that would decide collectively what

the final decisions on this issue would be. Council Member Brinkman stated, as a point of clarification, that once this was passed, then the Village would not be annexing any of these establishments until the new ordinance was place. Director Lowe responded that the properties could be annexed, but she would not be able to issue an occupational license; so that would pretty much put them out of business. Mayor Davis stated then it appeared the Director would need to get this ordinance revised quicker than six months. Director Lowe responded she would do her best.

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 Council Member Brinkman and seconded by Council Member Gunther. Motion carried 5 – 0.

This item was moved to Item No. 6B

12. ORDINANCE NO. 2009-23 (FIRST READING)

13. RESOLUTION NO. 2009-79 (SITE PLAN – QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF PALM BEACH COUNTY FD&O, FOR SITE PLAN APPROVAL (SPR 09-11) FOR DEMOLITION OF THE EXISTING FIRE-RESCUE STATION NO. 31, AND CONSTRUCTION OF A NEW 6,222 SQUARE FOOT ONE-STORY FIRE-RESCUE STATION, TO INCLUDE TWO EMERGENCY VEHICLE APPARATUS BAYS AND LIVING QUARTERS FOR SIX EMPLOYEES PER 24-HOUR SHIFT, AND A SPECIAL EXCEPTION USE (PSSE 09-11) FOR A NEW CONCRETE 85 FOOT MONOPOLE ANTENNA TOWER TO PROVIDE BACK-UP EMERGENCY COMMUNICATIONS, TO BE LOCATED ON THE SOUTHWEST CORNER OF THE PARCEL, ON 1.22 ACRES, LOCATED AT 3439 LUCERNE AVENUE AND 3484 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 October 29, 2009. Council Member Brinkman disclosed that she would recuse herself from voting on this item because her employer was retained by the Applicant for this project. The proper forms have been filled out and presented to the Clerk. Michelle Cuetara, Meloni Borkowski and Collene Walter were sworn in to give testimony for the Applicant. Manager Umberger advised the Council that the property's land use designation and zoning classification were amended in June 2009 to Public Uses and Facilities land use and Government zoning to permit more flexibility in design. Several waivers are needed to accommodate the building on such a small site, which were included in Exhibit A to the Resolution. The tower would serve only for emergency radio back-up transmissions. The Land Development Board had recommended approval at their meeting on November 10, 2009. Michelle Cuetara stated that the Applicant had reviewed and was in agreement with all conditions listed on Exhibit A.

Mayor Davis stated this was a public hearing and asked for questions or comments from the public and from the Council. Mayor Pro Tem Smith stated she had concerns with regard to the antenna tower photos provided and wanted to know which photo was more realistic to the tower that would be installed. Ms. Walter responded that the tapered design would be utilized since it was the most structurally sound to meet the high wind zones. Mayor Pro Tem Smith also asked Director Lowe if there were any restrictions placed on this tower that nothing else could be added to it in the future. Director Lowe responded that was not in the conditions, but doubted the County would want to add anything to an emergency communications tower. Mayor Pro Tem Smith agreed, but wanted to have a condition added in case something changed in the future. Mayor Davis stated the Village might not be legally able to add such a restriction. Village Attorney Torcivia stated this issue had never come up before, but if Council wished, he could research the legality of the restriction. Ms. Walter stated she could state for the record that the County did not intend to allow any cell phone providers to have an installation on this tower. Council Member Gunther asked if, by approving the waiver condition of a reduced setback for the tower, would the Village be liable should the tower fail and fall down? Village Attorney Torcivia responded that the Village was properly doing their due diligence, and in the case of a tower failure, the owner of the property, in this case the County, and the manufacturer and installer of the tower would be the liable parties.

Hearing no further comments, Village Attorney Torcivia read the resolution by title. A motion to approve was made by Vice Mayor Waller and seconded by Council Member Gunther. Motion carried 4 – 0, with Council Member Brinkman recused.

This Item will be continued to the January 14, 2010 agenda

14. RESOLUTION NO. 2009-86 (SITE PLAN – Kiddie Haven/Gulfstream Road)
15. RESOLUTION NO. 2009-89 (SPECIAL EXCEPTION - QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, (APPROVING/DENYING), WITH CONDITIONS, THE APPLICATION OF ZOEY LEI, OWNER OF TIN TIN RESTAURANT, FOR A SPECIAL EXCEPTION USE (PSSE 09-12) FOR A RESTAURANT IN UNIT #120, ADJACENT TO THE EXISTING RESTAURANT IN UNIT #119, IN LAKESHORE CENTER, LOCATED AT 2677 FOREST HILL BOULEVARD; 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 26, 2009. There were no ex parte communications disclosed and no one was sworn in to give testimony. Manager Umberger advised the Council that Mr. Lei currently operates the Tin Tin Restaurant in Units #119 and wished to expand to the neighboring tenant space in Unit #120, which at present did not have a special exception use. Mr. Lei would be required to obtain building permits from the Village prior to any construction and must submit a new life safety plan, along with modifying his business tax receipt application. The Land Development Board had recommended approval of the request at their meeting on December 8, 2009.

Mayor Davis stated this was a public hearing and asked for questions or comments from the Council and the public. Hearing none, a motion to adopt the resolution was made by Mayor Pro Tem Smith and seconded by Council Member Brinkman. Motion carried 5 – 0.

16. RESOLUTION NO. 2009-90 (SPECIAL EXCEPTION – QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF GOLDEN Q BILLIARDS, FOR A SPECIAL EXCEPTION USE (PSSE 09-13) FOR OPERATION OF AN INDOOR RECREATIONAL FACILITY, WITHIN SYMS PLAZA, LOCATED AT 4340 FOREST HILL BOULEVARD; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that this request was for an indoor recreation use, not a bar, lounge, club or restaurant. Exhibit A imposed restrictions on the business that were appropriate to the use and zoning in progress for bars. The owner had agreed to execute an agreement with the Village for expedited enforcement should he violate any of the conditions placed on his business. The Land Development Board had recommended approval at their meeting on December 8, 2009.

Mayor Davis stated this was a public hearing and asked for questions or comments from the public and from the Council. Council Member Gunther asked about the discrepancy between what was stated on the application that some revenue would come from sale of beer and wine, and Exhibit A conditions, which stated no sale of alcohol. Director Lowe responded that originally this business was to be a sports/billiard bar; however, the Applicant was informed about the Zoning in Progress moratorium and then requested to open whatever was allowed for now and then come back later for a special exception change. Council Member Brinkman stated she would not have had an issue with the beer and wine sales here. Mayor Davis asked the Village Attorney if this could be re-addressed. Village Attorney Torcivia responded the Village had established the Zoning in Progress ordinance and could not alter any requests for waivers for up to the next six months.

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

17. RESOLUTION NO. 2009-91

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING THE LIENS AGAINST CERTAIN PARCELS OF LAND SERVICED BY THE VILLAGE OF PALM SPRINGS AS A RESULT OF VIOLATIONS OF THE PUBLIC NUISANCE ORDINANCE, FOR OUTSTANDING

NUISANCE ABATEMENT SERVICE CHARGES; AUTHORIZING THE VILLAGE MANAGER OR DESIGNEE TO PERIODICALLY IDENTIFY OTHER PARCELS WITH OUTSTANDING NUISANCE ABATEMENT SERVICE CHARGES; DIRECTING THE VILLAGE CLERK TO RECORD SAID LIEN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

Staff: Virginia Walton, Village Clerk

Manager Umberger advised the Council that this resolution would update the original Resolution No. 2009-11, adopted by Council on January 22, 2009. The original resolution lien consisted of eighteen properties in January, and the updated lien now consisted of thirty-eight properties. Pursuant to Section 1070.21 Florida Statutes, the costs incurred by the Village to secure and maintain unsafe or unhealthy conditions was considered a municipal service which benefited that particular property, and the Village therefore had the legal authority to levy this special assessment lien to recover all costs incurred. These liens survive foreclosure.

Mayor Davis asked for questions or comments from the Council. Hearing none, a motion to adopt the resolution was made by Council Member Gunther and seconded by Council Member Brinkman. Motion carried 5 – 0.

REGULAR AGENDA

ACTIONS AND REPORTS

18. Information Report on pending Temporary Use Agreements

Staff: Bette Lowe, Land Development Director

Director Lowe submitted a report on the two pending temporary use agreements. The first was for South Florida Mobile Open MRI, located at 4406 Forest Hill Boulevard, behind Syms Plaza. The portable unit would be placed on site for a period not to exceed three years while a permanent MRI facility was designed and built. The mobile unit would be parked in the loading zone closest to the MRI office. Due to flooding issues, a submersible pump will be used to keep the space dry. Security lighting and surveillance equipment would be provided. The hours of operation would be 9am to 6pm Monday thru Friday and Saturday by appointment only.

The second agreement was for County Auto Inc., located at 3068 Lake Worth Road. This would permit parking and renting of Budget rental trucks from the property for a period of three years, after which the applicant could request an extension. There were several conditions the agreement was subject to:

1. The Hungry Howie restaurant has 6 designated spaces in front of their business assigned to it.
2. There would be a maximum of 5 budget trucks parked on site at any one time. The trucks would occupy the 5 spaces along the west property line at the southern

end of the parking lot.

3. All unlicensed and inoperable vehicles would be removed from the site prior to taking possession of any rental trucks. The remainder of the parking lots, both paved and gravel, would be organized.

4. All litter and debris must be removed from the site and the site must be maintained free of the same.

5. No trucks larger than 19 feet in length shall be permitted.

Council Member Brinkman stated she was familiar with the site and she did not see any issues with items #1 and #2. The vehicles would not be visible from the roadway.

19. Update Report on Lake Worth Franchise Review Committee By Council Member Brinkman

Council Member Brinkman stated she had been called out of town and unable to make the last meeting; however, Mayor Davis went in her place and could update everyone on the meeting results. One of the committee members, Mr. Ready, was also present tonight. Council Member Brinkman summarized that the members of the committee were tasked with researching and finding out what, if any, avenues were available for the Village for a possible transfer of franchise power from Lake Worth Electric to FP&L. Council Member Brinkman stated both she and Mr. Ready had done research on the Public Service Commission and any other entities who might regulate power. That, in conjunction with the legal opinion letter from the Village Attorney, came to the conclusion that no one regulates municipal owned power companies. There is no agency out there for the Village, or the residents, to go to for alleviation of their concerns. That being said, Council Member Brinkman stated she felt the goals and tasks assigned to the committee had been completed. They were at the point where they could sunset the committee.

Mayor Davis stated it was a very interesting meeting and a lot of “venting” took place. After about two hours, Mayor Davis had suggested to the committee that, knowing what they now knew, the only opportunity for the committee members, if they wanted to continue to carry on, was to get with the residents of Lake Worth that did have a vote, form a PAC, and vote out those that didn’t want to listen and vote in those that would. Having a once a month meeting here in the Village would not accomplish anything except offer an avenue to “vent”; and venting would not accomplish what the Village residents who have Lake Worth Power want to accomplish. According to Mr. Kraftchak, there were many Lake Worth residents who applauded him at the Lake Worth Meetings. Find out who those people are, set up a meeting and move forward with them to form a PAC. Mayor Davis had stated at the meeting that he didn’t feel there had to be much involvement from the Village, other than offering the PAC a resource to answers any questions from a legal or administrative standpoint through the Clerk’s Office. Otherwise, it was really for the committee to move forward in another venue. The Committee, as Council Member Brinkman stated, had achieved its goal in discovering the only people who regulate the municipal power entity is the elected body and staff of Lake Worth. That’s the issue to deal with and that’s the reality of it.

Mr. Ready added that he agreed with the Mayor that the committee had gone as far as it could go. The committee had vented their problems to Lake Worth Commissioners Jennings and Maxwell and had suggested they talk it over with their Commission. The Commissioners had basically said they would be reviewing their electrical grid in January. Hopefully, Lake Worth would then upgrade the Palm Springs grid, as they had done in 2005 for their Collage Park grid. The Commissioners had commented that they had no problems in College Park since then. The rates were under the Florida Municipal Power Authority, and were at a standstill until Lake Worth resolved that problem. Mr. Ready commented that the turnout from the public had not been great; and in fact the meeting where the Lake Worth Commissioners came only had one resident from the Lake Worth Power Service Area in attendance.

RESOLUTIONS

20. RESOLUTION NO. 2009-87 (AGREEMENT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING MODIFICATION NUMBER 1 TO THE AGREEMENT WITH AKA SERVICES INC., FOR KIRK ROAD AND LAKEWOOD ROAD SANITARY SEWER SYSTEM CONSTRUCTION SERVICES (PHASE I), IN THE AMOUNT OF \$589,181 AND (PHASE II) IN THE AMOUNT OF \$869,097; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

Manager Umberger gave the Council a brief history of the project progression. The Village had awarded AKA Services a contract for sanitary sewer system improvements for the Kirk Road/Lakewood Road area. The Village had now decided to construct additional gravity sewer mains in the Lakewood and Kirk Road area as part of the current AKA Services projects. This additional work would include installation of a gravity sewer main on Lakewood Road from Kirk Road to Gulfstream Road and along Gulfstream Road from Lakewood Road to Lake Worth Drainage District Canal L-11 Road. This additional work will serve a number of multi-family units on Gulfstream Road and will eliminate future restoration work on Gulfstream Road. There is also additional work required along Kirk Road between Lakewood Road and A Street and then along A Street, which, if done now, will avoid restoring A Street in the future when Palm Beach County rebuilds this street. The first phase, which includes the gravity sewer system within Kirk Road, a portion of Lakewood Road and the master pump station, will be completed and operation by the end of January 2010.

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

VILLAGE COUNCIL COMMENTS

Council Member Brinkman asked the Village Manager what the discussions at League Meetings had been on the County Charter Amendment and the Ethics Ordinance the County was passing. Manager Umberger stated at the meeting level, there had not been much discussion; however, the League Board was waiting to see what the final products would be like. The County Commission seemed to be at odds as to which way to go. There would probably be more information after the first of the year. Council Member Brinkman wished the Council and Staff a Merry Christmas and Happy New Year.

Council Member Gunther wished everyone a Merry Christmas, Happy New Year; and invited everyone to come out on Saturday to see "someone" who will be wearing green leotards!

Mayor Pro Tem Smith thanked everyone who had participated on the Lake Worth Committee and she appreciated all the time and effort it took. Also, a Happy Holidays to everyone.

Vice Mayor Waller stated the Village had done a great job out at the Lakeside Bonnie Boulevard intersection. It looked wonderful and the residents were very happy. Vice Mayor Waller also thanked everyone on the Lake Worth Committee and was looking forward to the Santa Ride this Saturday.

Mayor Davis wished everyone a Merry Christmas and a Happy New Year.

ADJOURNMENT

Hearing no further business, Mayor Davis adjourned the meeting at 8:48 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor