

**VILLAGE OF PALM SPRINGS  
VILLAGE COUNCIL MINUTES  
REGULAR MEETING, COMMUNITY ROOM, JULY 23 , 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 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 Capt. Mark Hall, as Sergeant at Arms, Land Development Director Bette J. Lowe, Finance Director Rebecca L. Morse and Public Service Director Bill Davis.

Invocation was given by Village Manager Karl E. Umberger, followed by the Pledge of Allegiance led by Mayor Pro Tem Bev Smith.

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

Village Manager: Add Consent # 1A – Res. 2009-57 Award Pump Station Rehab Bid  
Add #1A to Actions/Reports – Temporary License Agreement for Precision Diagnostics LLC

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

**CONSENT AGENDA**

**1. Minutes of Regular Council Meeting on June 25, 2009**

**ADD:**

**1A. RESOLUTION NO. 2009-57**

**A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AWARDED BID NO. 2009B-005 AND AUTHORIZING THE MAYOR, AND/OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT WITH HINTERLAND GROUP, INC., OF COCOA, FLORIDA, FOR REHABILITATION OF AUTOCARE, CRESTHAVEN II, IDA WAY AND REX AVENUE PUMP STATIONS, IN THE AMOUNT OF THREE HUNDRED EIGHTY-NINE THOUSAND FIVE HUNDRED DOLLARS (\$389,500); AND PROVIDING AN EFFECTIVE DATE.**

Staff: Bill Davis, Public Service Director

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

**ANNOUNCEMENTS AND PROCLAMATIONS**

**2. Mayor's Proclamation for July as Parks and Recreation Month**

Mayor Davis read the proclamation recognizing the benefits derived from quality public and private recreation and park resources; and, in the absence of Director Golson, directed the Village Clerk to forward this to the Leisure Services Department for posting.

**3. Mayor's Proclamation for August as Palm Springs Firefighters Appreciation Month**

Mayor Davis read the proclamation paying tribute to the Palm Springs Fire-Rescue personnel for their daily service and dedication to their community and commended them for their efforts on behalf of the Muscular Dystrophy Association by participating for the first time in the Fill-The-Boot Campaign. Mayor Davis presented the proclamation to Capt. Mark Hall for posting at the Fire Station facilities.

**PUBLIC COMMENT**

Gary Ready, 3118 Meadow Road, stated he had contacted Mosquito Control after the July 4<sup>th</sup> event and asked they check out his neighborhood and spray if necessary. They came and also dropped off some literature, which he forwarded to the Village Manager. Manager Umberger responded that information on controlling mosquitoes would be in the upcoming newsletter to residents.

Mr. Ready also brought to attention a possible unsafe practice he noted in our lobby. An employee was seen carrying a large coffee urn and supplies thru three or four doors to return to their department. Mr. Ready suggested using a utility cart would be a safer means to avoid accidents or injury. Manager Umberger replied that this would be brought up at the next employee safety committee meeting.

**PUBLIC HEARINGS**

**4. RESOLUTION NO. 2009-53 (SPECIAL EXCEPTION – QJ)**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF NANCY E. CAERO, AGENT FOR THE OWNER, EL SEMBRADOR; FOR A SPECIAL EXCEPTION USE (PSSE 09-06) FOR OPERATION OF A CHURCH IN AN EXISTING STOREFRONTS LOCATED AT 4352 AND 4356 FOREST HILL BOULEVARD IN THE SYMS PLAZA; 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 July 9, 2009. Manager Umberger advised the Council that the property was annexed in December 2008. The church proposed to occupy a 3,000 square foot space as a sanctuary and Sunday school and office. Their services were Sundays 10am to 1pm and Tuesday and Fridays 7:30pm to 9:30pm. Their business office would be open Monday through Friday from 8am to 6pm. No accessory uses or additional times for the church were proposed. Since the church services were non-peak business hours, the parking would not have a significant impact on the center. The interior renovations would need to comply with Florida Building Codes. A complete review would be performed upon submittal of the building and life

safety plans. The Land Development Board had recommended approval of the request at their meeting on July 7, 2009.

Mayor Davis stated this was a public hearing and asked for questions or comments from the Council and the public. Hearing no comments, Village Attorney Torcivia read the resolution by title. A motion to adopt the resolution approving the request was made by Mayor Pro Tem Smith and seconded by Council Member Gunther. Motion carried 5 – 0.

**5. ORDINANCE NO. 2009-09 (SECOND 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 PALM BEACH COUNTY, AND LOCATED AT 3439 LUCERNE AVENUE AND 3484 LAKE WORTH ROAD, AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; TO PUBLIC BUILDINGS AND FACILITIES; SAID LANDS TO BE CONCURRENTLY DESIGNATED WITHIN A LAND DEVELOPMENT GOVERNMENT 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 June 4 and June 11, 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. Council Member Brinkman stated that she would recuse herself from voting on this item because her employer provided services to this Applicant, and submitted the proper Form 8B. Hearing no other comments, a motion to adopt the ordinance on second reading was made by Vice Mayor Waller and seconded by Mayor Pro Tem Smith. A roll call vote was in favor of adoption 4 – 0.

**6. ORDINANCE NO. 2009-10 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING THE COMPREHENSIVE PLAN BASED ON THE VILLAGE’S ADOPTED EVALUATION AND APPRAISAL REPORT AND UPDATED DATA AND ANALYSIS, WHICH INCLUDE AMENDMENTS TO THE TEXT OF THE FUTURE LAND USE, TRANSPORTATION, HOUSING, INFRASTRUCTURE, CONSERVATION, RECREATION AND OPEN SPACE, INTERGOVERNMENTAL COORDINATION, CAPITAL IMPROVEMENTS, AND PUBLIC SCHOOL FACILITIES ELEMENTS OF THE ADOPTED COMPREHENSIVE PLAN AS AMENDED; TO REVISE AND UPDATE THE EXISTING GOALS, OBJECTIVES, AND POLICIES IN ACCORDANCE WITH THE MANDATES SET FORTH IN CHAPTER 163, FLORIDA STATUTES, AUTHORIZING TRANSMITTAL OF THESE AMENDMENTS TO THE TREASURE COAST REGIONAL PLANNING COUNCIL, FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS, AND OTHER APPLICABLE AGENCIES FOR REVIEW AND COMMENT AS REQUIRED BY**

**FLORIDA STATUTES; 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 ordinance amended the Comprehensive Development Plan to incorporate the recommendations in the Evaluation and Appraisal Report adopted by Council on June 14, 2007. Section 163,3191, Florida Statutes, required that every municipality develop an evaluation and appraisal report every seven years. Following the adoption of that report, the comprehensive plan must be updated to reflect the report's recommendations. After first reading, the ordinance would be transmitted to the Department of Community Affairs for review. Mayor Davis asked for questions from the Council. Council Member Brinkman commented that it appeared that some of the maps were not up to date and did not show all of the annexations. Director Lowe responded that the maps had been prepared when the EAR was first done in 2007 and had not been updated since then; however, they could be updated prior to transmittal. Mr. Jim LaRue confirmed that the latest information and maps would be included in the package transmitted to DCA.

Mayor Davis then 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 Mayor Pro Tem Smith. Motion carried 5 – 0.

**7. ORDINANCE NO. 2009-11 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING A PARCEL OF LAND CONSISTING OF 1.58 ACRES OWNED BY HESS CORPORATION, INC., LOCATED AT 3965 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

Manager Umberger advised the Council that this property was compact and contiguous to the Village with the Balaouras Eleftheria Trust property to the north, and was currently the site of a service station. The proposed zoning designation would be commercial general with a special exception for the service station. The Land Development Board had recommend approval of the request at their meeting on July 7, 2009.

Mayor Davis stated this was a public hearing and asked for questions 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 Vice Mayor Waller and seconded by Council Member Gunther. Motion carried 5 – 0.

**8. ORDINANCE NO. 2009-12 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 78, UTILITIES, ARTICLE II, WATER AND WASTEWATER SYSTEM, DIVISION 1, GENERALLY, AND DIVISION 2, CONNECTIONS; PROVIDING DEFINITIONS; PROVIDING FOR DESTRUCTION CHARGES; PROVIDING FOR TERMINATION OF SERVICE; PROVIDING REMEDIES; PROVIDING FOR PERMANENT DISCONNECTION; PROVIDING FOR MANDATORY CONNECTIONS; PROVIDING FOR AUTHORIZED WORK AND REPAIRS; PROVIDING FOR ASSESSMENT OF READINESS TO SERVE FEE; PROVIDING FOR OTHER AMENDMENTS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.** Staff: Bill Davis, Public Service Director

Manager Umberger advised the Council that this amendment to Chapter 78 further defined definitions of provided services, readiness to service charges and funding of water and sewer expansion through assessments.

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

**9. ORDINANCE NO. 2009-13 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 2, OF THE CODE OF ORDINANCES, ENTITLED “ADMINISTRATION”, BY AMENDING ARTICLE V ENTITLED “CODE ENFORCEMENT”, SECTION 2-232 ENTITLED “CODE ENFORCEMENT BOARD”; ADDING SECTION 2-238 ENTITLED “LIEN REDUCTIONS BY VILLAGE MANAGER”; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING AN EFFECTIVE DATE.** Staff: Glen Torcivia, Village Attorney

Manager Umberger advised that the Council had previously delegated its authority to execute release or satisfaction of code enforcement liens to the Special Magistrate, who hears these cases on a once a month basis. Due to the recent increase in purchases of vacant properties with outstanding code liens, special circumstances have arisen in which the purchasers who have to wait for the next month’s code hearing to have the code liens reduced or satisfied may lost the potential to close on the home. Extending the delegation of power to reduce or satisfy these liens to the Village Manager, under these special circumstances, would assist the purchaser in closing on the property and benefit the Village in quickly bringing these properties back up to Village standards.

Mayor Davis asked for comments from the Council. Hearing none, Mayor Davis commented that he wanted to commend the Village Manager for bringing this forward. Mayor Davis added that the Council had made the decision some time ago to assure that the vacant

foreclosed properties in the Village were cleaned up and maintained for the benefit of the Village and the residents, even though the chances of recouping the costs for this would be slim. With the adoption of this ordinance, the Village would now have the opportunity to recoup at least a portion, if not all, of the costs expended on these properties.

Mayor Davis then 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 Gunther and seconded by Mayor Pro Tem Smith. Motion carried 5 – 0.

## **REGULAR AGENDA**

### **ACTIONS AND REPORTS**

#### **10. Appointment to the Board of Adjustment**

Staff: Virginia Walton, Village Clerk

Mayor Davis stated there was a vacancy on the Board of Adjustment created by the resignation of Ed Burroughs. One application had been received by Elizabeth Shields indicating her willingness to serve. Hearing no other nominations, a motion to appoint Elizabeth Shields as a junior alternate for a term to expire on February 10, 2010, was made by Council Member Brinkman and seconded by Mayor Pro Tem Smith.

#### **11. Appointment to the Lake Worth Utilities Review Committee**

Staff: Virginia Walton, Village Clerk

Mayor Davis stated that this Lake Worth Utilities Ad Hoc Review Committee had been established on February 12, 2009, and five member had been appointed to review the franchise agreement and also to 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 franchise agreement in 2011. Due to various conflicts, three of the members have resigned, leaving this Committee without a quorum to continue meeting. One application had been received from Gary Ready indicating his willingness to service. There were still two open vacancies. A motion to appoint Gary Ready to the Lake Worth Utilities Ad Hoc Review Committee was made by Vice Mayor Waller and seconded by Council Member Gunther. Motion carried 5 – 0.

#### **ADD:**

#### **13. Temporary License Agreement – Precision Diagnostics LLC**

Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that this MRI business was located in the Greenwood Plaza, and was asking for the ability to in portable MRI equipment once a month when their machine was being serviced. This equipment would be locat4ed in the back parking area, out of site of Congress Avenue. It should be no more than two days in any given month. Mayor Davis asked for comments. Council Member Gunther asked if this would require overnight parking of the equipment and Manager Umberger responded that it probably would.

Mayor Pro Tem Smith asked if Director Lowe had canvassed any of the local merchants in this area and Director Lowe responded that she had not. Mayor Pro Tem Smith commented that it appeared the location of the equipment would be in the far northeast corner and would not seem to impede the parking or traffic flow. Director Lowe stated that was correct. Hearing no further comments, a motion to approve granting this temporary license agreement was made by Mayor Pro Tem Smith and seconded by Council Member Brinkman. Motion carried 5 – 0.

## **RESOLUTIONS**

### **12. RESOLUTION NO. 2009-55**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, TENTATIVELY ESTABLISHING A MILLAGE RATE FOR THE 2009-2010 FISCAL YEAR; SETTING REQUIRED PUBLIC HEARINGS; AND PROVIDING AN EFFECTIVE DATE.** Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council that the gross taxable value for the fiscal year 2009/2010 was \$704,187,004, a decrease of \$160,197,153 over last year. The rolled-back rate was calculated at \$5.6242 per \$1,000 of taxable value. The budget was based on a proposed millage rate of \$3.5000 per \$1,000 of taxable value, which was a .8321 decrease from last fiscal year.. The voted debt service millage was \$.7736 per \$1,000 of taxable value, which was an .1411 increase from last fiscal year. The overall total millage of 4.2736 was a .691 decrease from last fiscal year. The first public hearing to adopt the budget and millage would be on Thursday, September 10, 2009 at 7:30 pm in Council Chambers.

Hearing no comments from the Council, 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 5 – 0.

## **VILLAGE COUNCIL COMMENTS**

Vice Mayor Waller commented she was looking forward to the Annual League of Cities Conference coming in August, and also welcomed Mayor Davis back after his extended vacation and absence from the past Council meeting. Vice Mayor Waller also commented that she had attended the County League of Cities meeting yesterday at the TRAN Air Conditioning building facility and was quite surprised at how bad the air was in the room they used.

Council Member Brinkman commented that she, Director Lowe and Manager Umberger had attended the County Commission meeting and all had heard that the County was now expanding their TCEA area to Military Trail, Congress Avenue and Lake Worth Road; and this should be followed up closely to see the impacts on the Village. Also, Council Member Brinkman commented that she had seen something in the paper about Lake Worth Clerk's Office raising the charges for public records requests and hoped the request made by the Lake Worth Franchise Review Committee would not be impacted.

Council Member Gunther commented that it appeared that the contractor working on Gulfstream Road wasn't on the job, and when would they be crossing the canal. Director Davis responded that the contractor was working and when the pipe was finished being installed, there would be pressure testing before the repair and repaving of the street. This was projected in about 30-45 days.

Mayor Pro Tem Smith commented that the mosquitoes were extremely bad this year and asked if the mosquito spraying was automatic or only on request. Manager Umberger replied that he had contacted them for further information on the spray trucks and the helicopter and was informed that the County no longer sprayed east of Military Trail. The trucks are mostly used in urban areas and the helicopter is for the western areas only now.

**ADJOURNMENT**

Hearing no further business, Mayor Davis announced the next scheduled meeting of the Local Planning Agency would be on August 27, 2009 at 7:15 pm and the next Regular Council Meeting would be on August 27, 2009 at 7:30 pm; and then adjourned the meeting at 8:12 p.m.

Respectfully submitted,

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

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

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Mayor