

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, AUGUST 27, 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, 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: Pull item #17 from the agenda to be revised and brought back to Council at a later date

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 Local Planning Agency Meeting on July 23, 2009
2. Minutes of Reconvened Local Planning Agency Meeting on July 23, 2009
3. Minutes of Regular Council Meeting on July 23, 2009
4. Approval of Library Long Range Plan for 2010 – 2012
Staff: Elena Romeo, Library Director
5. Approval of Public Safety Forfeiture Fund Expenditure in the amount of \$6,000 to be used to support the After School Tutoring Program, the Boy Scouts of America and the Palm Springs Explorer Post.
Staff: Jay Pickens, Public Safety Director

6. Public Safety Budget Amendment to recognize grant funds in the amount of \$43,142.15 from Federal Edward Byrne Justice Assistance Grants (JAG), to be utilized for the purchase of Patrol Officer specialized equipment, including Level IIIA Ballistic Shields, Level IIIA Ballistic Helmets, Tasers™ and PepperBall™ Launchers. Staff: Jay Pickens, Public Safety Director

7. RESOLUTION NO. 2009-61

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, SUPPORTING EFFORTS OF THE LEISURE SERVICES DEPARTMENT IN OBTAINING GRANT FUNDS FROM THE FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM (FRDAP) PURSUANT TO CHAPTER 375.075 FLORIDA STATUTES, AND CHAPTER 62D-5 PART V OF THE FLORIDA ADMINISTRATIVE CODE, FOR CONSTRUCTION OF PLAYGROUND AND SURFACING IMPROVEMENTS TO MEET ADA REQUIREMENTS TO THE SAGO PARK AND CYPRESS LANE PARK AREAS; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Golson, Leisure Services Director

8. RESOLUTION NO. 2009-62

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ACCEPTING TWO DEDICATED AGREEMENTS AND QUIT CLAIM DEEDS FROM NEW LEARNING ENTERPRISES, INC., FOR THE ROAD RIGHT-OF-WAYS LOCATED AT 3851 MILLER ROAD, PARCEL 1 AND PARCEL 2; PROVIDING FOR RECORDATION; AND PROVIDING AN EFFECTIVE DATE. Staff: Bill Davis, Public Service Director

9. RESOLUTION NO. 2009-63

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH STUDENTS IN THE ARTS TV/G-STAR, INC. FOR THE USE OF VILLAGE RECREATIONAL FACILITIES; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Golson, Leisure Services Director

10. RESOLUTION NO. 2009-64

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING MODIFICATION NUMBER 1 TO TASK ORDER NO. 98 FOR CONSTRUCTION OF THE GULFSTREAM ROAD FORCE MAIN, TO AKA SERVICES, INC, IN THE AMOUNT OF \$6,500; AND PROVIDING AN EFFECTIVE DATE. Staff: Bill Davis, Public Service Director

Mayor Davis asked for any questions on the consent items. Council Member Gunther asked if the Village Attorney had reviewed Item No. 9 since his signature was not on the copy provided in the agenda book. Village Attorney Torcivia stated the item had been reviewed and the original was signed off. A motion to approve the consent agenda as presented was made by Vice Mayor Waller and seconded by Mayor Pro Tem Smith. Motion carried 5 – 0.

ANNOUNCEMENTS AND PROCLAMATIONS

11. Mayor's Proclamation for August 17 – 21, 2009 as Florida Water Professionals Week

Mayor Davis read the proclamation giving recognition to the operators who maintain water and waste water plants, distribution systems, collection and storm water drainage systems and those personnel performing laboratory analysis to maintain the highest levels of water quality. Mayor Davis presented the proclamation to Public Service Director Bill Davis.

PUBLIC COMMENT

Kristen Puhalamen, with Palm Beach County League of Cities, introduced herself to the Council and extended an invitation to those Council Members not already on League Committees to join a committee and come to the League Meetings. Also, she was available if they had any questions.

Gary Ready, 3118 Meadow Road, wanted to know how many hours a week the tennis courts were being used. Every time he has been to the Park, he has never seen anyone playing tennis. Mr. Ready wanted to know if the courts could be used for something else. Manager Umberger responded the Courts were used for classes through the Leisure Services Department, as well as a new agreement for the G-Star School to use our facilities for the physical education classes. Mr. Umberger added that tennis is a sport for only two to four people per court, so it would appear not to be as crowded as other sports, and also the hot summer weather was not conducive for playing in the late morning or early afternoon hours. Once the Fall weather comes, the courts would be much busier.

Mr. Ready also commented that he was unhappy with people who were going through the recycling bins and taking all the aluminum cans. Mr. Ready stated he used recycling to try to cut his garbage bill and not for someone to come along and steal them. Mr. Umberger responded that once the cans were put at the curb, there was little that could be done to prevent people from taking the cans, since this was not considered theft. The people taking the cans were also picking up any loose cans left

on the streets and the in the parks, so there were, in a sense, helping keep the Village clean.

Johnnie Tieche, 305 Winged Foot Road, stated the original Community Patrol group had dropped off to almost no one; but now Chief Pickens had graduated a new class of residents. The Community Patrol numbers were now up to seven (7) and the program was back on track and he wanted to thank Chief Pickens for his efforts for this program. Mr. Tieche stated there were still more people needed to keep the program running.

PUBLIC HEARINGS

12. ORDINANCE NO. 2009-11 (SECOND 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 Department

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on July 2 and July 9, 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 Brinkman. A roll call vote was in favor of adoption 5 – 0.

13. ORDINANCE NO. 2009-12 (SECOND 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

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on July 2 and July 9, 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 wanted a clarification that if a tenant came in to open an account, there was a procedure in place to verify the owner of the property and the owner was notified of the account opening, should there be any problems with payment from the tenant. Director Davis responded that a new requirement was that tenants must bring a copy of the signed lease and notices would be sent to the owners advising them of their responsibilities for their tenants. Director Davis added that it might take up to eighteen months to audit the existing accounts to determine if they were tenants or owners and then those owners would also be sent letters. Hearing no other comments, 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.

14. ORDINANCE NO. 2009-13 (SECOND 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: Karl Umberger, Village Manager

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on July 2 and July 9, 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 Council Member Gunther and seconded by Mayor Pro Tem Smith. A roll call vote was in favor of adoption 5 – 0.

15. ORDINANCE NO. 2009-14 (FIRST READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING THE COMPREHENSIVE LAND USE PLAN OF THE VILLAGE TO "COMMERCIAL" AND "LOW DENSITY RESIDENTIAL", PURSUANT TO THE "SMALL SCALE" COMPREHENSIVE LAND USE AMENDMENT LAWS OF THE STATE OF FLORIDA, FOR A TOTAL OF FIFTY (50) PARCELS, SAID LANDS CONSISTING OF LESS THAN 10 ACRES, OWNED INDIVIDUALLY, LOCATED ON BARBRIDGE ROAD, ERIE TERRACE, FOREST HILL BOULEVARD, KIRK ROAD AND SOUTH MILITARY TRAIL, AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" AND EXHIBIT "B" ATTACHED HERETO; SAID LANDS TO BE CONCURRENTLY DESIGNATED WITHIN LAND DEVELOPMENT "COMMERCIAL GENERAL", "COMMERCIAL GENERAL/SPECIAL EXCEPTION" AND "RESIDENTIAL MULTI-FAMILY" ZONING DISTRICTS 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 these fifty (50) parcels had been annexed into the Village by Ordinance No. 2008-24 in December 2008. The parcels were included in the Interlocal Service Boundary Agreement between the Village and Palm Beach County. This ordinance incorporated the fifty (50) parcels as individual small scale amendments of less than 10 acres each. The Land Development Board had recommended approval of this ordinance at their meeting on August 11, 2009.

Mayor Davis stated this was a public hearing and asked for questions from the Council and then from the public. Hearing no comments, Village Attorney Torcivia read the ordinance by title. A motion to adopt the ordinance on first reading was made by Mayor Pro Tem Smith and seconded by Council Member Brinkman. Motion carried 5 – 0.

16. ORDINANCE NO. 2009-15 (FIRST READING)

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING 24 PARCELS OF LAND CONSISTING OF A TOTAL OF 6.2022 ACRES, MORE OR LESS, INDIVIDUALLY OWNED, LOCATED AT 0000, 4077, 4048, 4055, 4067, 4078, 4093, 4103, 4128, 4141, 4144, 4155, 4163, 4164, 4175, 4188, 4203, 4216, 4231, 4239 DALE ROAD, 2597 DONALD ROAD AND 2577 KIRK ROAD; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" AND EXHIBIT "B" ATTACHED HERETO; AND CONCURRENTLY AMENDING THE COMPREHENSIVE LAND USE PLAN OF THE VILLAGE TO MEDIUM DENSITY RESIDENTIAL, 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 RESIDENTIAL MULTI-FAMILY 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 all twenty-four (24) parcels were compact and contiguous to the Village with other Dale Road properties to the east. All the properties currently consisted of one and two family dwelling units. The Land Development Board had recommended approval of this ordinance at their meeting on August 11, 2009.

Mayor Davis stated this was a public hearing and asked for questions or comments from the Council and then from the public. Hearing no comments, Village Attorney Torcivia read the ordinance by title. A motion to adopt the ordinance on first reading was made by Vice Mayor Waller and seconded by Council Member Gunther. Motion carried 5 – 0.

This item was pulled from the agenda

17. ORDINANCE NO. 2009-16 (FIRST READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, PERTAINING TO THE REGULATION OF NIGHTCLUBS; AMENDING CHAPTER 1, SECTION 1-2 “DEFINITIONS”; AND AMENDING CHAPTER 10 “BUILDINGS AND BUILDING REGULATIONS”, TO CREATE SECTION 10-15 “NIGHTCLUBS/LAW ENFORCEMENT PRESENCE”; PROVIDING A SECURITY PERSONNEL/LAW ENFORCEMENT PRESENCE; PROVIDING MANDATORY IDENTIFICATION REQUIREMENT; PROVIDING ENFORCEMENT AND PENALTIES; PROVIDING POLICE SUPERVISION LIMITATION; PROVIDING RIGHT OF ENTRY FOR PURPOSE OF INSPECTION; PROVIDING FOR LIMITATION OF LIABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. Staff: Jay Pickens, Public Safety Director

18. RESOLUTION NO. 2009-56

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ADOPTING THE FINAL NON-AD VALOREM ASSESSMENT ROLL SO AS TO PROVIDE A UNIFORM METHOD FOR COLLECTING A NON-AD VALOREM ASSESSMENT FOR GARBAGE, TRASH

AND RECYCLABLES COLLECTION SERVICES AND RELATED SERVICES ON THE PALM BEACH COUNTY TAX NOTICES; AND PROVIDING AN EFFECTIVE DATE. Staff: Karl Umberger, Village Manager

Notice of public hearing was published in the Palm Beach Post on August 8, 2009. Manager Umberger advised the Council the final non-ad valorem assessment roll rates for fiscal year 2009-2010 were divided into categories for single family homes at \$144.00, multi-family homes at \$78.00 and mobile homes at \$78.00 for the yearly assessment. These categories were provided by Palm Beach County Property Appraisers Office to Solid Waste Authority, who was providing the billing services to the Village. The rates were calculated to coincide with the rates established with Republic Services of Palm Beach, the service provider for the Village. The assessment roll had been reviewed and verified for accuracy with Solid Waste Authority and the Property Appraisers Office.

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

19. RESOLUTION NO. 2009-59 (PRELIMINARY PLAT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING THE PRELIMINARY PLAT FOR A BURGER KING RESTAURANT, SUBMITTED BY THE OWNERS, J. WELLS HOFFMAN LLC AND W. J. WELLS FAMILY LLC, FOR UNIFYING THREE PROPERTIES LOCATED AT THE SOUTHEAST CORNER OF FOREST HILL BOULEVARD AND MILITARY TRAIL AND GRANTING ADDITIONAL RIGHT-OF-WAY FOR MILITARY TRAIL; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Village Clerk Walton advised the Council that there was no advertising requirement for this item. There were no ex parte communications disclosed and no one was present to give testimony. Manager Umberger advised the Council this resolution would approve a replat of a portion of Tract 5 Block 4 Plat No. 1 Palm Beach Plantations. The plat would unify three parcels of the Burger King property for redevelopment and granted additional right-of-way for Military Trail. The Land Development Board had recommended approval of this request at their meeting on August 11, 2009.

Mayor Davis stated this was a public hearing and asked for questions or comments from the Council and then from the public. Mayor Pro Tem Smith asked for clarification that the plans appeared to show the new Burger King would go all the way

to the corner. Director Lowe responded that was correct. The access to the site would be improved with this design. Mayor Pro Tem Smith stated there was still a For Sale sign on one parcel and she wanted to confirm that Burger King owned all parcels. Director Lowe responded that someone had just forgotten to remove the sign.

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

20. RESOLUTION NO. 2009-60

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY FOR FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES FOR A PERIOD OF TEN (10) YEARS, COMMENCING OCTOBER 1, 2009; AND PROVIDING AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council that this agreement would be for a term of ten (10) years with Palm Beach County to provide the personnel and equipment necessary provide to the Village fire suppression, emergency medical services, special operations, hazardous material response and mitigation, emergency response communications, community education programs, confined space rescue, dive rescue, fire code inspection and testimony related thereto, and response to all subpoenas related to fire rescue emergency services. The agreement would commence on October 1, 2009 at 7:30 am and all current Palm Springs Fire Rescue personnel will become employees of the County at that time. Our Fire Station would become Station #39 and the County would lease the facilities on an annual gross lease amount of \$50,000, payable to the Village on January 1st of each fiscal year. Mayor Davis stated this was a public hearing and asked for questions or comments from the Council and then from the public.

Council Member Brinkman acknowledged that Staff had been working on this agreement for a long time; however, she was concerned about Section 23 on page 17. The County was being granted “force majeure”, while the Village was not being given quid pro quo. If a hurricane should hit, the County would not be liable, but the Village would be. Council Member Brinkman wanted to know if the County Commission was aware the Village had a problem with this matter, and suggested the Village attach a memo or letter to the agreement that could be put on the record at the County Commission Meeting. Village Attorney Torcivia replied that he and Village Staff and tried to negotiate this and several other items in the agreement but the County refused to agree to the changes. Village Attorney Torcivia stated he was fairly certain the Commission had not even seen the agreement yet; and adding a cover letter requesting

that Section 23 be amended to a mutual paragraph was a good idea. Manager Umberger would advise the Council when the agreement was on the Commission Agenda. Mayor Davis asked for and received a consensus from the Council to direct the Village Attorney to draft the letter.

Mayor Davis commented that he would be the first to say that if "Let Us Vote" had passed seven years ago, this item would not have been before the Council now for a vote. The Village had an excellent level of service before the County mandate. Mayor Davis stated he would go on record that he was not happy about this, but the County was holding all the cards.

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

21. RESOLUTION NO. 2009-65 (FINAL PLAT)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING THE FINAL PLAT FOR A BURGER KING RESTAURANT, SUBMITTED BY THE OWNERS, J. WELLS HOFFMAN LLC AND W. J. WELLS FAMILY LLC, FOR UNIFYING THREE PROPERTIES LOCATED AT THE SOUTHEAST CORNER OF FOREST HILL BOULEVARD AND MILITARY TRAIL AND GRANTING ADDITIONAL RIGHT-OF-WAY FOR MILITARY TRAIL; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Village Clerk Walton advised the Council that there was no advertising requirement for this item. There were no ex parte communications disclosed and no one was present to give testimony. Manager Umberger advised the Council this resolution would finalize the preliminary plat previously approved by Council with Resolution No. 2009-59.

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

REGULAR AGENDA

ACTIONS AND REPORTS

22. Discussion on Village and Village Employees Participation in the Florida Retirement System (FRS) Staff: Rebecca Morse, Finance Director

Manager Umberger advised the Council that during the process of moving the Village's Fire-Rescue personnel to Palm Beach County, the Staff had several discussions with the Florida State Retirement Division (FRS), as well as receiving actuarial figures for the anticipated Village contribution to the General and Hazardous Employees Pension Funds. The figures showed a possible savings for the Village in the future if the FRS was considered. Information on this was given to Council as part of the budget workshop memo, and Council had directed the Manager and Director Morse to look further into this plan and prepare a report for Council. Director Morse has researched the plans.

Director Morse stated that the summary provided in the agenda packet was a brief comparison of the FRS plan in relation to the Village's General Employees Plan. Director Morse agreed with Manager Umberger that there was no immediate savings; however, with the state of the economy, it was felt that plans looking into the future for the Village were appropriate. Both plans had escalating costs to the Village, based mostly on the market. When investment returns go down, the Village's contribution goes up. Going over the summary, the Employer contribution was presently 21.90% for the Village and would be 9.25% for FRS. Currently the Village General Employees contribute 3% towards this plan, but would not have to contribute to the FRS. The vesting for the FRS was a bit more generous with a 6 year vesting opposed to 10 years for the Village Plan. The final average earnings were the same with the 5 highest years, the normal retirement age was the same at 62 and the early retirement penalty was the same at 5% per year. The multiplier was less in the FRS plan at 1.60% as opposed to 2.50% with the Village. The cap for years of credited service in the Village Plan was 25 years, but there was no cap for the FRS. The annual cost of living increase is fixed at 3% with the FRS and the Village plan varies from 0-3%, marked to the CPI. In all the years this plan has been active, this was the first year that retirees are not seeing an increase in their checks because the CPI actually declined by 2%. The FRS has a unique addition known as the Health Insurance Subsidy, which was provided to participants in the plan based on \$5.00 per month for every year of credited service up to \$150.00 maximum. The current Village General Plan does not offer a drop plan, but the FRS does.

The FRS Plan would be offered to new hire employees; however, any time you offer an FRS plan, the employees currently in the existing Village plan would have a one-time option to leave the existing plan and join the FRS plan. The benefits of changing plans would be individual and based on their age, their years of service with the Village, whether they were already vested or not and how many more years they planned to work before they retire. There are additional benefits for existing employees, such as myself, who have prior years in FRS from another employer. Also, current employees who have reached their 25 year cap on service might benefit.

Manager Umberger added that with regard to the Hazardous Employees, they would have to hold an election on whether they wish to have the FRS Plan offered, rather than a Council decision. The vote would need to be 50% plus 1. As Director Morse mentioned, the benefits are pretty much identical to the existing Village Plan, but with Hazardous Employees, their multiplier would stay the same. Out of the nineteen Village Fire-Rescue personnel, two opted to retire through the Village plan, but the rest opted to go over to the FRS plan. There were 37 eligible employees in the current Hazardous plan and 23 of those had less than five years of service.

Any employee with less than five years in a Village plan that chooses to leave the plan and go into the FRS plan would receive a refund of their contributions from the Village plan. Also, the employee would then save the 3% contribution for general employees and 6 ½% for hazardous employees now be deducted from their pay. Manager Umberger added that sufficient time and information would be given to the current general employees to assist them in making a decision whether to change plans or not. Director Morse had developed a formula that could put in an employee's time, salary and expected years of service and show them what the benefits would be to them in either plan.

Director Morse stated that the State had a fiscal year of July 1st to June 30th; and it was felt this would be enough time to meet with employees, discuss their options and allow them an opportunity to make the choice.

Mayor Davis opened the discussion for questions. Council Member Brinkman asked if employees with less than five years of service could roll their time into the FRS Plan. Director Morse stated they might be able to roll it over into another 457 plan or similar, but they could not roll over into FRS. Manager Umberger added that the employees, once vested in the FRS plan, would have an option of buying back their municipal time.

Mayor Pro Tem Smith stated if the FRS plan was to be active in July 2010, does that mean the employee has until July to decide? Director Morse responded that all paperwork would have to be completed and to the State FRS by the 15th of the month prior to the beginning of the plan.

Manager Umberger added that the Pension Attorney for both plans was adamant that both the Hazardous and General Plans would continue until the last beneficiary received the last check.

Mayor Davis commented that he was familiar with the FRS plan since he was a retiree in this plan, and he felt that there were a few other things that should be mentioned. The FRS plan also had a defined contribution plan and the employee had the option of being in defined benefit or defined contribution. The FRS had done a

study several years ago and had determined that most employees did not stay for 30 or more years; so the plan was amended at that time to drop the vesting from 10 years to the present 6 years and offer the defined contribution option so that the employee could direct their pension to a 457 and carry it with them if they left. It was still non-contributory on the part of the employee. With regard to the drop plan mentioned previously, once an employee in FRS reaches 30 years of service or age 62, they would go into the drop plan. The FRS would put the retirement money aside in another account and guarantee the employee 6 ½ % for anywhere from one month to 60 months that the employees chooses to stay in the drop plan, or the employee could roll it over into a tax deferred investment. Mayor Davis stated the FRS was the best funded retirement plan in the entire country. At one point this plan was 117% funded and currently was in the 94-96% range.

Mayor Davis felt this was a good deal for the Village, because if you look at Lake Worth and some other municipalities around us, the retirement plans are what was causing problems for them. Employer contributions keep escalating and those cities that have not been as prudent with the budgeting as the Village could find themselves in a lot of trouble attempting to meet those rising costs. Mayor Davis stated this would definitely enhance employment for present and future employees because they would have stable employment with the Village, a stable pension with the FRS and they would effectively get a raise once they no longer had to pay the percentage contribution they were paying now. This would also be a financial incentive for the Village for future budgets.

Vice Mayor Waller just wanted to clarify that if an employee was already retired and collection a check, they would not have any option but to stay in the current plan. Mayor Davis stated that was correct.

Hearing no further comments, Mayor Davis asked for and received a Council consensus to direct staff to move forward with whatever paperwork was necessary to proceed with the General employees and to do whatever was required to prepare for the Hazardous employees participation.

VILLAGE COUNCIL COMMENTS

Vice Mayor Waller commented that she had been happy until the vote for the Council Fire-Rescue MSTU came along. Vice Mayor Waller felt handcuffed, but realized it was something that had to be done.

Council Member Brinkman stated she was now the Vice-Chair for the Subcommittee reviewing the first draft of the County Urban Redevelopment Area Plan. There were so many questions on the draft that it would stay in sub-committee for at least two or three more meetings. The Village would definitely be impacted on

proposed new developments, particularly now that Lake Worth Road and Military Trail were included.

Council Member Gunther commented that school was in full swing now and he stated Chief Pickens and his Staff were doing a great job with the traffic at Kirklane Elementary. He particularly wanted to recognize Officer Johnson, Officer Perez and Officer Castro.

Mayor Pro Tem Smith asked Director Davis for an update on the Gulfstream Road water/sewer project and final paving. Director Davis responded there had been a pressure test today and a leak was found on the south side of 10th Avenue. This was being repaired and the paving should start next Monday and Tuesday. Mayor Pro Tem Smith commented that she concurred with all the comments on the Fire-Rescue Agreement. This was a particularly sad issue for her. She was sure that the Palm Beach County Fire-Rescue had some good points, but she just couldn't think of any right now. The County's line of thinking was that a Metro System was a better system, but the Village did not agree with that. The County has mandated the Level of Service for their needs, not for a good response time; thereby stacking the deck in their favor, with smaller municipalities having no chance to meet the levels. This was a battle that the Village could not win, so hopefully the relationship in the future would be a good one, even though the agreement was definitely one-sided.

Mayor Davis just commented that his position on the Council prevented him from saying how he really felt. Mayor Davis then announced that the next Regular Council Meeting and First Budget Hearing would be September 10, 2009 at 7:30 PM in Council Chambers.

ADJOURNMENT

Hearing no further business, Mayor Davis adjourned the meeting at 8:27 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor