

**VILLAGE OF PALM SPRINGS  
VILLAGE COUNCIL MINUTES  
REGULAR MEETING, COMMUNITY ROOM, SEPTEMBER 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 and Leisure Services Director Bill Golson. Public Service Director Bill Davis was absent.

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

Mayor Davis announced that there was sad news to bring forward. Mr. Robert Becak, a long time resident of the Village, had passed away this past week. Mr. Becak was a strong supporter of the Village, having served on the initial Master Planning Committee, which started the bond referendum passed in 1999 and funded the construction of the new municipal complex, as well as a long time trustee on the Hazardous Employees Pension Board. Both Mr. Becak and his wife, Thalia, had MS and moved to Chapel Hill, S.C. because of this condition. The sympathy and prayers of the Council go out to Thalia Becak.

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

Village Manager: Add Item #13 under Action & Reports: Discussion of Letter from Oxygen Developers  
Council Member Brinkman: Pull Item No. 3 (now Item #6A) and Item No. 5 (now Item No. 6B) from Consent Agenda for discussion

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

**CONSENT AGENDA**

1. Minutes of Local Planning Agency Meeting on August 27, 2009
2. Minutes of Regular Council Meeting on August 27, 2009

**This item was pulled for discussion as Item No. 6A**

3. RESOLUTION NO. 2009-67

4. RESOLUTION NO. 2009-68

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY TO EXTEND THE PROJECT COMPLETION DATES FOR IMPLEMENTING 2005 DISASTER RECOVERY INITIATIVE PROGRAM GRANT FUNDS, IN THE AMOUNT OF \$150,000, PROVIDED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT UNDER ITS COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM, PURSUANT TO SECTION 125.01 AND SECTION 163, PART III, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

**This item was pulled for discussion as Item No. 6B**

5. Approval of Task Order No. 108 for Eckler Engineering Inc.

A motion to approve the consent agenda as presented was made by Council Member Brinkman and seconded by Mayor Pro Tem Smith. Motion carried 5 – 0.

**ANNOUNCEMENTS AND PROCLAMATIONS**

6. Mayor’s Proclamation for September as Sickle Cell Awareness Month

Mayor Davis read the proclamation announcing the activities throughout Palm Beach County conducted by the Sickle Cell Foundation of Palm Beach County to increase awareness about sickle cell disease, educate the public and about the services they provide for screening, counseling, family support and education. The proclamation would be mailed to the Foundation.

**PUBLIC COMMENT**

Gary Ready, 3118 Meadow Rd, commented that he had noticed that the bricks surrounding the fountain area outside Village Hall had not been offered for sale since 2005 and wondered if they would be offered again soon. Leisure Services Director Golson replied that there had been two campaigns for sale of bricks to date and he had not had any other requests since that time. The minimum order would be 100 bricks. The Council suggested a notice be put in the monthly newsletter to see if there was any new interest.

Mr. Ready also stated that he had attended his first Lake Worth Committee meeting last week and had heard from several members of the audience that they had not known about the meeting, and he wondered if the placards used in each department to notify holiday closings could be used to help get the word out to residents. Council Member Brinkman responded that the meeting agendas were posted on the website, they were listed in the monthly newsletter and they were sent to the Palm Beach Post. Everything had been tried equally with all other meetings schedule, and possibly word of mouth by committee members might still be the best way.

Debby Callaway, 429 San Mateo Drive, stated that she lived in her home for 30 years and had been babysitting children in her home for that entire time; until March of this year she was closed down by the Health Department and told she needed a license and training to run a daycare. She complied with all the County requirements, with the exception of obtaining a license to operate in Palm Springs. Ms. Callaway stated she was told she needed to pay \$500 for a license and she didn't understand why and was asking the Council's assistance. She could possibly understand the fee if this was a free standing daycare building, but she was just babysitting 4 or 5 children in her home. The Council asked for input from Director Lowe. Director Lowe stated that a family daycare with less than six children, which was what Ms. Callaway wanted to run, was a special exception use in a residential district, and the \$500 fee was a Special Exception Application Fee. This request would go to the Land Development Board for review and recommendation and then come before Council for approval. The Code does not permit this to be done administratively. Although the Village has not had very many home daycares, the few requests that have been received have all had to go through this same process. Director Lowe commented that this was a sign of the times and the Village might be seeing more of these requests. The actual license fee was approximately \$110.25.

Mayor Davis asked for comments from the Council. Mayor Pro Tem Smith commented that this was a fee set by Village Code and all others have had to pay as well; but possibly some sort of payment plan could be worked out to extend the timeframe for payment. Mayor Davis stated that it appeared the most the Council could do was to allow Director Lowe to assist Ms. Callaway in working out a payment plan, with reasonable payments that would fit in Ms. Callaway's budget. However, this would be with the understanding that if the payments were not made within the time frame set in the payment agreement, Ms. Callaway would no longer be allowed to run her daycare. Mayor Davis stated application fees were normally paid prior to processing the application; however, with Council consensus, Ms. Callaway would be allowed to work with Director Lowe to arrange a mutually agreeable payment plan.

Mayor Davis stated he did have a comment card from someone wishing to speak about Item No. 10 on the agenda, and they would be heard at that time.

## **PUBLIC HEARINGS**

### **ADD:**

6A. RESOLUTION NO. 2009-67

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A NEW INTERLOCAL AGREEMENT WITH SOLID WASTE AUTHORITY ("SWA") FOR A MUNICIPAL REVENUE SHARING RECYCLING PROGRAM AND DELIVERY OF MUNICIPAL SOLID WASTE TO A DESIGNATED FACILITY, FOR A PERIOD BEGINNING OCTOBER 1, 2009 THROUGH SEPTEMBER 30, 2014; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

Manager Umberger advised the Council that this new revenue sharing recycling program

would allow the Village to receive from SWA a minimum of 50% of the new revenues earned from the sale of residential recovered materials, attributable to the Village, on a quarterly basis. Since the Village continues to receive awards for its participation in the recycling program, this should be an additional benefit to the Village.

Council Member Brinkman stated she wanted to let residents know that had previously complained about recycling cans being taken from the bins at the curb, that clause #14 in this agreement was a "scavenging clause", which would give the Village authority to take action should this occur in the future. Manager Umberger added that the SWA had defined this section to state that once the recycling was placed at the curb, it then belonged to the SWA and anyone stealing items from the bins could possibly be subject to a larceny charge. Council Member Brinkman suggested information on this be put in the Village newsletter. Manager Umberger added that SWA recommended a warning for first offenses.

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

**ADD:**

- 6B. Approval of Task Order No. 108 for Eckler Engineering Inc. in the lump sum amount of \$7,000 for design services and for additional services during construction in an amount not to exceed \$7,000, for a curb on east side of Miller Road for collection of storm water and conveyance to existing catch basin.  
Staff: Bill Davis, Public Service Director

Manager Umberger advised the Council there was a need for design and construction services necessary to provide storm drainage improvements for Miller Road, to include a Miami curb along the east side of Miller Road, the regrading of Miller Road to drain toward this Miami curb, the modification of the adjacent driveways to accommodate any elevation changes and the installation of two catch basins at the intersection of Miller Road and 2<sup>nd</sup> Avenue, approximately 500 feet west to an existing storm drain catch basin. Eckler Engineering proposed to provide the design services for this phase of the work for the lump sum fee of \$7,000 and to provide the construction services for this phase at an hourly rate plus direct expenses not to exceed the sum of \$7,000 without prior authorization of the Village Council. This is also in conjunction with a sewer project we are also installing on Miller Road.

Mayor Davis asked for questions or comments from the Council. Council Member Brinkman stated she wanted to have a little bit of discussion about this on the record. The necessary right-of-way had been obtained up to a certain point on Miller Road at the north end, as well as easements from the residents on the road, to put the sewer lines in. When you get up to the north end, the Village did not have easements for sewer lines. That property owner had refused to give the Village an easement. Council Member Brinkman stated she wanted it on the record that the Village will be stubbing the sewer out; and in the future, if the owner on the north end wanted sewer service, or it was required in the future, the owner had been made aware that he had to cover that cost; and also that we would not be affecting the drainage on his property with what we were proposing to do on the rest of the

street. The Village has had numerous issues with this property owner and Council Member Brinkman wanted this matter clearly on the record. Hearing no other comments, Mayor Davis asked the Council for a Consensus for this language to be added to the approval of this item on the consent agenda. There was a unanimous consent by Council.

7. ORDINANCE NO. 2009-14 (SECOND 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

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on August 13 and August 20, 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 Gunther. A roll call vote was in favor of adoption 5 – 0.

8. ORDINANCE NO. 2009-15 (SECOND 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

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on August 6 and August 13, 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 Brinkman and seconded by Vice Mayor Waller. A roll call vote was in favor of adoption 5 – 0.

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

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ADOPTING THE FINAL LEVY OF AD VALOREM TAXES IN AND FOR THE VILLAGE OF PALM SPRINGS, FLORIDA FOR FISCAL YEAR 2009/2010; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Staff: Rebecca Morse, Finance Director

Manager Umberger advised the Council this ordinance established the operating millage rate of \$3.5000 per \$1,000 of assessed valuation and established a voted debt service millage rate of \$0.7736 of \$1,000 of assessed valuation, for a total millage rate of \$4.2736 for the fiscal year 2009/2010. This was 37.77% less than the rollback rate. The operating rate of \$3.5000 produced \$2,464,654 (at 100% collection) in ad valorem tax revenue for the General Fund. The voted debt millage rate of \$0.7736 would produce \$546,844 (at 100% collection) in revenue to cover the debt services costs for the 2002 General Obligation Bonds. The second and final reading of the ordinance would be on September 24, 2009.

Mayor Davis stated this was a public hearing and asked for questions or comments 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.

10. ORDINANCE NO. 2009-18 (FIRST READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ADOPTING AN ANNUAL BUDGET FOR THE YEAR BEGINNING OCTOBER 1, 2009 AND ENDING SEPTEMBER 30, 2010; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. Staff: Rebecca Morse, Finance Director

Manager Umberger advised the Council this ordinance established a total Village budget of \$25,890,153 for fiscal year 2009/2010, comprised of the General Fund budget of \$11,541,807; the Debt Service Fund budget of \$524,940, and a budget of \$13,823,406 for the Water and Sewer Enterprise Fund. The revenue by sources appeared in the attached

budget summary and would be published in the Palm Beach Post on September 21, 2009. The second and final reading of the ordinance would be on September 24, 2009.

Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Linda Tillman, 701 Lori Drive #109, stated she had lived in the West Palm Beach zip code area since 1950; and had moved to an apartment in Palm Springs four years ago. Ms. Tillman stated she had been so impressed with the Village of Palm Springs that she wanted to commend the Council, the Staff, the Police Department, and everyone that worked for the Village. Ms. Tillman also wanted to thank the Council for the projected 19% savings on her tax bill. Mayor Davis replied that the Council certainly appreciated Ms. Tillman's comments, since the Council certainly got enough of the other kind. It was refreshing to have positive comments every once in a while.

Hearing no other 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 Brinkman. Motion carried 5 – 0.

11. RESOLUTION NO. 2009-58

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY, PURSUANT TO SECTION 163.01, AND SECTION 171.046 FLORIDA STATUTES, ET SEQ., FOR THE PURPOSE OF ANNEXING TWO (2) ENCLAVES CONSISTING OF A TOTAL OF FOUR (4) PARCELS, OF TEN ACRES OR LESS, THOSE LANDS BEING MORE FULLY DESCRIBED IN EXHIBIT "A" TO THE INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that these two enclaves, consisting of four parcels, were located at 4117, 4062, 4090 and 4106 Dale Road. This Interlocal agreement procedure for annexations was a result of the State's policy to eliminate enclaves and improve service delivery. The Land Development Board had recommended approval at their meeting on August 11, 2009. This agreement will be transmitted to Palm Beach County for approval by the Board of County Commissioners.

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

12. RESOLUTION NO. 2009-69

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE 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 when the original agreement was adopted at the Council Meeting of August 27, 2009, the Council had given direction to the Village Attorney to submit a cover letter with the agreement disputing the terms of Section we "Force Majeure" as not being a mutual paragraph, thus placing an undue burden on the Village. Village Attorney Torcivia was successful in negotiating the removal of Section 23 entirely from the agreement. This amendment was the revised agreement with Section 23 deleted.

Mayor Davis stated this was a public hearing and asked for questions or comments from the Council and from the public. Mayor Davis added that he wanted to give kudos to Council Member Brinkman for suggesting the cover letter be sent to the County at the previous meeting. Mayor Davis commented that he did not think it would work, but it appeared the Commission saw the letter and agreed to the change; so, you never know unless you try. Vice Mayor Waller also thanked Council Member Brinkman for her suggestion, Mayor Davis for the letter and Village Attorney Torcivia for his successful negotiation. Hearing no other comments, 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.

## **REGULAR AGENDA**

### **ACTIONS AND REPORTS**

#### 13. RESOLUTION NO. 2009-66

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ESTABLISHING A COMPLETE COUNT COMMITTEE FOR THE 2010 CENSUS AND APPOINTING COMMITTEE MEMBERS; AND PROVIDING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that the 2010 Census was fast approaching and held more significance for municipalities in light of the reduced state revenues and property values. It would be necessary to educate the public on the importance of returning accurate and timely census data. These initial appointments to the Complete Count Committee would allow staff to begin organizing and developing a plan to work with local businesses, churches, schools and residential areas to promote an understanding of the importance of the Census. The Council was asked to appoint three to five positions from the following employees: Director Bette Lowe, Capt. Mark Hall, Director William Davis, Village Clerk Virginia Walton and Director William Golson.

Mayor Davis asked for questions or comments from the Council. Vice Mayor Waller stated she would like to appoint all five members to insure there would be a quorum should a member be unable to attend. There was a consensus of Council to appoint all five members. Council Member Brinkman asked if the Committee would be meeting during the day.

Manager Umberger responded that although these five were pre-chosen because they had the most contact with Village residents on a daily basis; that did not preclude other members from being appointed or doing some of the work. Like a lot of cities, some residents would not be available during the day, so there would probably be some night meetings as well. Vice Mayor Waller, myself, and Director Lowe had already attended some initial organizing meetings and had received information on some programs that might generate interest. One program would involve having residents bring their census forms to the Village and receive a recognition memento, as well as learn why the census was so important to the Village; possibly coordinated through the Utilities Department, since so many people bring in their utilities payments. It was their understanding from these initial meetings that even residents who were not legally here should be counted as well. In the past, these residents went uncounted. Director Lowe had estimated unofficially that the Village population was sometimes closer to 18,000, rather than the 16,000 that was reported.

Vice Mayor Waller suggested that a resident at Lakeside Village be appointed to the Committee, since they could go around to all the Northern and Canadian part time residents and make sure they were counted. Mayor Davis suggested that the Manager contact all the condominiums in the Village and see if they wanted to have a representative on this Committee, as well. These new members could be appointed at a later date. The Council concurred with this idea.

Hearing no further 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.

**ADD:**

13A. Discussion on Letter received from Mr. Philippe Cohen, Oxygen Development

Manager Umberger commented that the Council must have seen the very favorable press about the Oxygen project coming to Palm Springs; and although the articles did not mention it, Director Lowe, myself, Mr. Cohen and others have been working on this for almost four years. Mr. Cohen had been successful in obtaining some bond money from the County to assist with construction and was also contacting the County regarding impact fees. Mr. Cohen wished to speak with the Council about some of the Village permit fees associated with the project.

Mr. Cohen stated that the bond money from the County was not a gift, but rather money that would have to be paid back. Mr. Cohen stated he had no problem paying his fair share of impact fees, building permit fees, etc.; however, Mr. Cohen felt that there had never been a building of this size built in the Village and the Village Code did not reflect this in the procedure for calculation of charges. The fees were calculated with historical data, rather than data relevant to today's market. Mr. Cohen presented an optional General Contractor's contract, which would charge on the true cost of the construction. The permit fees, based on the International Building Code used in the Village Code would set the construction costs at \$23,160,100. Using the current proposal for construction costs, the amount would be \$15,745,246. Even allowing for an additional \$500,000 to \$1 million for any change orders during construction, the fees would still only amount to \$16,745,246, which would be a more

realistic amount. Mr. Cohen stated he would be happy to provide to the Village a copy of all documentation during construction; and stated he was not looking for a handout or gift, only a fair rational number.

Mayor Davis responded that they realized that this was a big project for the Village and the Council was happy that Mr. Cohen had chosen here to build. Even though the Village did not have too many layers of bureaucracy, it did take almost four years to bring this forward because there were other entities involved beyond just the Village. Mayor Davis asked Director Lowe if there would be any problem working with Mr. Cohen to come to a bilateral agreement with regard to the construction costs. Director Lowe stated if it was the Council's direction, she would certainly work with Mr. Cohen. Mayor Davis asked the Council for their comments or consensus to have Director Lowe work with Mr. Cohen for a mutual agreement. Council Member Brinkman state she had spoken to the Attorney prior to the meeting and wanted to disclose that the Firm she worked for had represented Oxygen during the site plan process. This was not a project specific issue; but more of a policy, or big picture, decision and both she and the attorney felt there would be no conflict for her to participate. Therefore, Council Member Brinkman stated that this was a different environment and she would support an effort for use of a different methodology.

Council Member Gunther added that if the roles were reversed and the Council was questioning the values and asking for an increase; then he understood that with values down, Mr. Cohen was doing the same thing asking for a decrease and he would support this. Vice Mayor Waller stated she had no problem with Mr. Cohen and Director Lowe working on a mutual solution. Mayor Davis stated it appeared as if there was a Council consensus on this issue and he hoped to see the project start very soon. Mr. Cohen thanked the Council for their time.

## **VILLAGE COUNCIL COMMENTS**

Council Member Brinkman gave the Council an update on the Lake Worth Power Committee and request some items from the Village Attorney. Council Member Brinkman stated the committee had met three times, but one was not a meeting since there wasn't a quorum. The committee was still in need of members. There were residences in the audience from Russell Drive. At the first meeting, there was an agreement that the committee needed to set a goal, and to find out what information the committee would need to reach that goal. This has not been accomplished yet. There was a lot of discussion about not liking Lake Worth Power, not wanting Lake Worth Power, and wanting to change to FP&L. However, until there was a clear picture of what could be done and what it would take to get it done, the committee could not move forward. Council Member Brinkman had gone online to do some research herself and stated that both the Public Service Commission and the Florida Municipal Power Association state on their websites that they don't regulate the reliability of municipal utilities. It appears no one regulates reliability.

Council Member Brinkman had also spoken with one of the candidates for the Lake Worth Commission and he had voiced a possible suggestion of taking the power away from the Commission and having a separate Power Board, with residents of all cities impacted, as well as Lake Worth residents, being represented on the Board. Council Member Brinkman

asked for guidance on what it would take to either affect a change in provider or make it a requirement that service be reliable. The Lake Worth City Commission was holding a budget hearing tonight and one of the items on the agenda was a resolution to increase the electric fees this coming year and at least two other additional increases of the next few years. Council Member Brinkman requested a Council consensus to direct the Village Attorney to look into what the legal statutory and procedural guidelines would be, so that the committee could better define their goals. At this point, the committee was floundering.

Mayor Davis commented that he would think that someone had to have given Lake Worth Power a franchise to provide power for Lake Worth residents and portions of unincorporated Palm Beach County and Palm Springs. Whoever was the granting authority should have the authority to pull the franchise if there was sufficient evidence that they were not fulfilling their agreement. Village Attorney Torcivia responded that it was more of a service area contract than a franchise. Village Attorney Torcivia added that he had attended the first meeting of the committee to give some education on the Sunshine Law, Ethics and Conflicts. From very preliminary research, there didn't seem to be much out there that could be done; however, he would be willing to delve further into the research. Village Attorney Torcivia had some brief conversations with an attorney representing FP&L and they had stated that FP&L would not outwardly attempt to take a service area from another provider, particularly a municipal provider. This was a tough situation.

Mayor Davis agreed that the Council had looked into this some time ago and there were many problems and issues. Mayor Davis stated he had no trouble, if it was the Council's wishes, having the Village Attorney assist the Lake Worth Committee to formulate their goal, with oversight by the Village Manager to control legal costs. Mayor Davis tended to agree they might be fighting a losing battle, but it was still worth looking into and possibly the committee could bring forward some new negotiating strategies when the Village's franchise agreement was up for renewal in 2011. There was Council consensus to have the Attorney assist the committee, while keeping costs down.

Council Member Brinkman added she had also spoken at some length with Mark Beauchamp, who was the Consultant for Lake Worth Utilities and the Utilities Director had also returned her call and left a voice message. Mr. Beauchamp had given her a lot of information and had also confirmed that no one really had the authority to regulate reliability.

Council Member Gunther commented that it was good to see Gulfstream Road getting finished. There were some minor things to finish; but for the most part it was looking good.

Mayor Pro Tem Smith added that Gulfstream Road did look great, and complimented Director Golson on the Teen Trailer building, which looked wonderful.

Vice Mayor Waller also thanked Director Golson on the Teen Center Trailer, which was looking great.

Mayor Davis stated the Council certainly wanted to thank County Commissioner Vana, who was present for the ribbon cutting of the Teen Center tonight before the Council Meeting. Without her assistance, the trailer would have cost the Village considerably more. The

Village staff also did a good job of putting everything together. Mayor Davis then announced that the next regular Council Meeting and Final Budget Hearing would be in Council Chambers on September 24, 2009, at 7:30 PM.

**ADJOURNMENT**

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

Respectfully submitted,

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Village Clerk

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

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Mayor