

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, JANUARY 14, 2010**

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 and Leisure Services Director Bill Golson.

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

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager: Add: Item #5A Holiday Decorating Contest Winners
Move Item #11 to Item #5B

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 Local Planning Agency Meeting on December 10, 2009
2. Minutes of Regular Council Meeting on December 10, 2009
3. RESOLUTION NO. 2010-04

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AWARDED A BID FOR THE PURCHASE OF A COMBINATION HIGH PRESSURE CLEANER/VACUUMING TRUCK TO SSES, INC. d/b/a SOUTHERN SEWER EQUIPMENT SALES, IN THE AMOUNT OF \$169,900.00; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Davis, Public Service Director

4. RESOLUTION NO. 2010-07

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR, VILLAGE MANAGER AND VILLAGE CLERK TO EXECUTE AN AGREEMENT WITH PEPSI-COLA BOTTLING COMPANY OF FT. LAUDERDALE-PALM BEACH, INC. FOR THE EXCLUSIVE PRIVILEGE TO SELL

AND PROVIDE ALL SOFT DRINK PRODUCTS FOR LEISURE SERVICES PROGRAMS; AND PROVIDING AN EFFECTIVE DATE.

Staff: Bill Golson, Leisure Services Director

5. RESOLUTION NO. 2010-10

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 2 TO THE INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY TO EXTEND THE PROJECT COMPLETION DATES TO MARCH 15, 2010, 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

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

ANNOUNCEMENTS AND PROCLAMATIONS

Add:

5A. Holiday Decorating Contest Winners

Mayor Davis thanked all the contestants in this year's contest and commented on how beautiful the Village looked during the holidays. Mayor Davis and Public Service Director Bill Davis handed out the plaques and award checks to those contest winners present and gave the rest to Village Clerk Walton for mailing out. The winners for 2009 were John Powell, Santa Anna Drive; Stanley Wilson, Los Altos; Glenn Majewski, Palo Alto Drive; John Booth, Pinehurst Road; Andrew Stamile, Shady Lane Road; Mr. & Mrs. Sykes, Winged Foot Road; The Tieches, Winged Foot Road; Katelyn White, Yucatan Road; Manuela Cortes, Andros Road; Mr. & Mrs. Yero, Henthorne Drive; Ms. Kimberly Leach, Manor Drive; Susan Eshbach, Carol Avenue; Roy Khanna, Carol Avenue; John Howell, Carol Avenue and Richard Jette, Lanier Drive.

Moved from Item #11

5B. Discussion of Moratorium on Bars, Lounges, Nightclubs

Staff: Bette Lowe, Land Development Director

Manager Umberger stated that in conjunction with the pending moratorium on bars and nightclubs, the Village was also developing an ordinance that would better define what a bar or nightclub was. Director Lowe and Staff had been researching

since the last council meeting and would present a short overview and look for direction from Council. Director Lowe stated that they had spoken to Palm Beach County Code Enforcement and Palm Beach County Fire Rescue and received their input, as well as speaking with several other cities, and identified potential issues which needed to be addressed in the new ordinance. The Public Safety already had an ordinance in place and that would be merged into the new ordinance. Director Lowe passed out an outline of the key issues to be addressed in the new ordinance. A draft ordinance was in process now, based on this outline; and would be given to Council for review and comments sometime in February. The final ordinance for first reading would then be at the end of February. Mayor Davis asked if there were any areas of the outline that Director Lowe would like to point out to the Council. Director Lowe responded that definitions were key to separating a bar from a nightclub, a restaurant, a lounge, or a private club. Also hours of operation, distances, and how those distances would be measured, how to treat shopping centers and development standards were other key issues. Several other items were brought out from the outline list.

Mayor Davis asked for comments from the Council. Council Member Gunther stated that everyone had read the headlines about fireworks being used inside these establishments and wanted to know if that would be addressed in the ordinance, since this had a serious safety factor. Director Lowe responded that it should be included in the ordinance and was part of the ingress/egress issues to be addressed. Council Member Gunther stated he would like to see no fireworks as part of the ordinance. Manager Umberger advised the Council that Land Development Board had asked for a workshop on the final ordinance prior to it going to Council; however, that would be a policy decision by Council. Manager Umberger added that Director Lowe and her Staff had worked diligently on this ordinance through the holidays and were near completion on the draft ordinance

PUBLIC COMMENT

Gary Ready, 3118 Meadow Road, stated that since this was an election year for Districts II and IV, Mr. Ready wanted to offer his yard for campaign signs for the two incumbents that he fully supported. The Council thanked him for his offer.

PUBLIC HEARINGS

6. ORDINANCE NO. 2009-22 (SECOND 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

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on November 26 and 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 Council and from the public. Mayor Pro Tem Smith stated the ordinance listed bars and nightclubs, but the overview list also included restaurants. Director Lowe responded that restaurants would be included in definitions, but would not be included in the moratorium.

James Roberts, 4645 Mead Court, Lake Worth, stated he was the new Manager, Operator/Owner of the Club Purple Rain in Syms Plaza on Forest Hill Boulevard. Mr. Roberts stated the Investors and other Partners in this establishment had become aware of the misunderstandings with the previous manager and the Village; and they understand and respect the need for regulations for these type of establishments; however they had not been informed or prepared for the pending moratorium. Mr. Roberts assured the Council that they planned to operate an upscale nightclub, not an adult entertainment business, and added they had no intention of allowing fireworks of any kind. With regard to any regulations that the Village deemed to put into place, they were more than happy, willing and eager to comply with them. Mr. Roberts stated that they had submitted an application for a Special Exception and would request that this be approved so that they might continue to prepare for the opening of the club. They would also like to request a temporary operating permit to open and be able to generate jobs and revenue for the Village. The owners understand that should they not comply with any issues brought forward by the Village, then the temporary permit would be revoked and they would close their doors without hesitation.

Clinton Casey, 705 NE 3rd Street, Pompano Beach, stated he was a Real Estate Broker hired by Syms Plaza to handle their leases. Mr. Casey stated that this bar had come to them asking to rent space prior to the talk about a moratorium and they had agreed to all terms in the lease, which are very strict, including a non-refundable deposit. The bar owners know that if they do not adhere strictly to the lease terms, they will have to leave immediately. The clauses in the lease state no adult entertainment/private dancing/stripping/pornographic videos, etc., the landlord can come in at any time unannounced for inspections, any damage would be repaired at their expense and the parking lot must be cleaned by 5AM. Mr. Casey stated that the investors had put a lot of money into renovations of the space, including \$5-\$10,000 in mirrors. Mr. Casey stated the police know how to contact him and he would be happy to speak with them or anyone from the Village, as well as offering to give a copy of the lease.

Mayor Pro Tem Smith asked if there was anything about the noise level in the lease. Mr. Casey responded that there was a section on quiet enjoyment. The space was isolated with a furniture store on the side that closed early and a hallway behind the space separating them from any other space operator. Council Member Brinkman stated she was not clear on what the definition of adult entertainment was, and asked Director Lowe if scantily clad dancers would be considered adult entertainment. Director Lowe replied they would not. Council Member Brinkman also asked about hours of operation, and Director Lowe responded the code now stated establishments that sold alcohol could be open from 7AM to 5AM. Council Member Brinkman asked if hours of operation were open to conditions in the Special Exception approval. Director Lowe replied they were. Vice Mayor Waller stated she didn't want to see any mud wrestling or wet t-shirt contests. Mr. Casey responded they were willing to amend the lease to address any concerns of the Village. Mayor Davis stated that was not necessary.

Mayor Davis stated he has had a problem with the moratorium from the beginning. What he wanted was an ordinance presented to Council, citing all of the conditions that need to be in it and it shouldn't take six months to do it. Mayor Davis stated that there could be many businesses that wish to open or start up and they will be caught in the conundrum of the moratorium. Any problems would not occur immediately; and, if so, the Village has always dealt very strongly with adult entertainment and will continue to do so, regardless of a moratorium or not.

Council Member Brinkman stated she did not have a problem with not moving forward with the moratorium ordinance either. Her only concern was possibly the same as Staff, where occupational licenses were issued for a company saying they were doing something and then open up doing something else. This then becomes an issue for code enforcement, the police and the attorneys. With regard to the temporary use permit, there has been no presentation for a Special Exception to Council yet and Council Member Brinkman stated she could not support issuing a temporary permit until the Applicant went through the Village approval process.

Council Member Gunther stated that he completely concurred with all of Council Member Brinkman's comments.

Mayor Pro Tem Smith asked Staff if anything negative could happen should the Council not go forward tonight. Director Lowe responded that six months was just a standard length of time historically put on moratoriums and she never felt it would take that long to bring an amended ordinance forward. The six months was asked for because one is never sure what problems, questions, or issues could be run into when researching these regulations and also any business that comes in during this time prior to approving the new ordinance would be grandfathered in. Should the word of the new ordinance get out, there could be an onslaught of this type of business trying to get

in and beat the ordinance. In response to those comments, Mayor Davis stated that the Council was governing authority for approval of Special Exception Uses and could set conditions as an exhibit to that approval.

Vice Mayor Waller stated it seemed reasonable to not move forward if the final ordinance was so close to being presented.

Council Member Brinkman asked if the ordinance was not passed, could the Billiards Center approved at last meeting now move forward with their alcohol license without further Council approval. Director Lowe stated they could.

Hearing no further comments, Mayor Davis asked for a motion to approve the ordinance on second reading. Hearing no motion, Mayor Davis stated the ordinance died for lack of motion.

7. ORDINANCE NO. 2009-23 (SECOND 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

Village Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on November 26 and 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 Council and from the public. Hearing none, a motion to adopt 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.

8. ORDINANCE NO. 2010-01 (FIRST READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 34, LAND DEVELOPMENT, ARTICLE II, LAND USE, DIVISION 7, SUPPLEMENTAL DISTRICT REGULATIONS; SECTION 1022 "DEVELOPMENT STANDARDS", AND REPEALING SECTION 34-1024 "ADDITIONAL REQUIREMENTS"; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.
Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that several medium sized daycares had

been annexed in the past ten years. Several were wishing to expand and there had been requests for new construction of additional daycare facilities. Upon review, it was apparent that the Village regulations were overly restrictive, specifically regarding the size of the outdoor play areas. It was recommended that the Village Code be amended to align with Palm Beach County regulations, which are authorized through the Special Act 59-1698 Laws of Florida as amended by Chapter 77-620 Laws of Florida. The Land Development Board had recommended approval of the request at their meeting on January 12, 2010. A change to correct a type error in the ordinance was made to Section 5 of the ordinance to read 1500 feet instead of 2000 feet.

Mayor Davis stated this was a public hearing and asked for questions or comments from the Council and from the public. Hearing none, a motion to adopt on first reading was made by Vice Mayor Waller and seconded by Council Member Brinkman. Motion carried 5 – 0.

9. RESOLUTION NO. 2010-02

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS REQUIRED FOR GENERAL EMPLOYEES OF THE VILLAGE OF PALM SPRINGS TO PARTICIPATE IN THE FLORIDA RETIREMENT SYSTEM (FRS); AND PROVIDING AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

Manager Umberger advised the Council. Approval of this resolution would initiate participation in the Florida Retirement System Pension Fund (FRS) for all new hires formerly covered by the Village's General Employee Pension Plan. This would be effective for all new hires with the pay period ending July 6, 2010. Existing employees would be given a one time opportunity to decide to enroll in the FRS. Ballots would be distributed to employees with their paychecks on Friday, January 23, 2010.

Mayor Davis stated this was a public hearing and asked for questions or comments. Hearing none from the public, Mayor Davis stated he was a retiree with the FRS and he felt this would be a win/win situation for the Village and for the employees. The new general employees and those who chose to move to FRS would no longer be obligated for 3% of their paycheck contribution to the pension plan. With reduced funding to all cities, pension plans would be something that all cities will need to look at in the near future. Mayor Davis added that the existing Village Pension Plan would remain in effect until the last member received their last check.

Vice Mayor Waller asked how the existing employees were responding to the information about changing to FRS. CFO Morse replied she had met with 50-60 employees so far to discuss the actuarial options and had been pleasantly surprised at

the good questions coming from the employees, proving they had given this a lot of thought.

Hearing no further questions, a motion to approve was made by Council Member Brinkman and seconded by Mayor Pro Tem Smith. Motion carried 5 – 0.

10. RESOLUTION NO. 2010-03

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS REQUIRED FOR LAW ENFORCEMENT EMPLOYEES OF THE VILLAGE OF PALM SPRINGS TO PARTICIPATE IN THE FLORIDA RETIREMENT SYSTEM (FRS); AND PROVIDING AN EFFECTIVE DATE.

Staff: Karl Umberger, Village Manager

Manager Umberger stated this resolution was specifically for the law enforcement employees, but the terms and effective date were the same as with the general employees. The new law enforcement employees and those who choose to move to FRS would no longer be obligated for 6% of their paycheck contribution to the pension plan. Mayor Davis stated this was a public hearing and asked for comments. Hearing none, a motion to approve was made by Council Member Gunther and seconded by Vice Mayor Waller. Motion carried 5 – 0.

REGULAR AGENDA

ACTIONS AND REPORTS

This item was moved to Item #5B

11. Discussion of Moratorium on Bars, Lounges, Nightclubs
Staff: Bette Lowe, Land Development Director

12. Review of Temporary License Agreement
Staff: Bette Lowe, Land Development Director

Director Lowe advised the Council that the Petitioner was requesting the use of Internet Auto Sales at 3395 Lake Worth Road, Suite 8. The conditions for this agreement were that all vehicles must be parked inside the building at all times; repair work shall not be permitted on the vehicles in the facilities or at the property; a life safety plan shall be provided and a fire inspection performed prior to occupancy, all building and fire codes shall be complied with and all other regulations and ordinances of the Village shall be complied with, including but not limited to hours of operation, parking and lighting. After discussion about signage, the Petitioner agreed that there would only be a small sign on the door of the suite and no signage visible from the street,

which might allow for drive in business. The consensus of Council was approval.

13. Appointments to the Land Development Board
Staff: Virginia Walton, Village Clerk

Mayor Davis stated the terms of two current board members would expire on January 25, 2010 and both members, Ralph Lashells and Damon Kolb, had indicated their willingness to continue to serve. Hearing no other nominations, a motion to re-appoint Ralph Lashells and Damon Kolb as regular members for three year terms to expire on January 25, 2013, was made by Council Member Brinkman and seconded by Mayor Pro Tem Smith. Motion carried 5 – 0.

RESOLUTIONS

14. RESOLUTION NO. 2010-01

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNOUNCING QUALIFICATIONS AND THE QUALIFYING TIME FOR CANDIDATES FOR THE GENERAL ELECTION ON MARCH 9, 2010; DESIGNATING VOTING LOCATIONS; APPOINTING THE CANVASSING BOARD; ASSIGNING THE SUPERVISOR OF ELECTIONS TO HANDLE THE ABSENTEE BALLOTS; PROVIDING FOR A RUN-OFF ELECTION; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff: Virginia Walton, Village Clerk

Manager Umberger advised the Council this resolution announced the qualifying period for the Council Member Seats for District 2 and District 4 for two year terms. The qualifying would be from Tuesday, January 26 to February 9, 2010. Also combined polling locations were announced. Mayor Pro Tem Bev Smith and Village Clerk Virginia Walton, along with the Supervisor of Elections, would be appointed to the Canvassing Board, in accordance with the new procedures for municipal elections. Mayor Davis asked for questions or comments from Council. Hearing none, 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.

15. RESOLUTION NO. 2010-05

A RESOLUTION OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS AND THE VILLAGE OF PALM SPRINGS, FOR THE PURPOSE OF SETTING DUTIES AND RESPONSIBILITIES FOR MUNICIPAL ELECTIONS; AND PROVIDING AN EFFECTIVE DATE. Staff: Virginia Walton, Village Clerk

Manager Umberger advised the Council this agreement was the result of the Palm Beach County League of Cities Ad Hoc Committee, which was formed to clarify the duties and responsibilities for supervision of municipal elections and reimbursement of costs to the Supervisor or Elections associated with the Village's Municipal Elections. Mayor Davis asked for questions or comments from Council. Hearing none, 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.

VILLAGE COUNCIL COMMENTS

Vice Mayor Waller commented that she enjoyed being part of the holiday decorating judging committee and she felt there were many other homes that should enter the contest because they looked wonderful. Vice Mayor Waller thanked Mr. Ready for his offer and announced her intention to run again for her District 2 seat. Vice Mayor Waller asked how the Census Committee was moving along. Manager Umberger replied they had been in contact with the Census Representative and there would be articles upcoming in the newsletter, as well as information on the job opportunities for census workers. The big push for advertising would be closer to the census time. The Village has offered the Library and Village Hall as locations for census worker training.

Council Member Brinkman stated the URA code revisions had been pushed back again, and a final draft would probably not be seen until about six weeks or so from now. Also, Council Member Brinkman announced her intention to run again for her District 4 seat. Council Member Brinkman commented that she really enjoyed serving on the Council. The Council and Staff were very professional and she looked forward to continuing to serve.

Council Member Gunther commented that it appeared the Village's gravity main was moving along well and looked as if it were nearly complete. Director Davis stated that was correct. Council Member Gunther also asked if the Oxygen permits had been given out yet. Director Lowe stated they had not. The Applicant had indicated he would be in before March. Palm Beach County Water Utilities had asked him for some changes to the plan. Director Lowe stated she would bring a status report to the next meeting.

Mayor Davis wished everyone a Happy New Year, since he was out of town during the holidays; and then announced the next Council Meeting would be January 28, 2010 at 7:30 pm in Council Chambers.

ADJOURNMENT

Hearing no further business, Mayor Davis adjourned the meeting at 8:35 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor