

**VILLAGE OF PALM SPRINGS COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, JULY 26, 2007**

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 Bev Smith, Mayor Pro Tem Joni Brinkman, Council Member Chet Osborne, Council Member Patti Waller, Village Manager Karl E. Umberger, Village Attorney Karen E. Roselli, 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 Umberger, followed by the Pledge of Allegiance led by Vice Mayor Smith.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager: Items #6 and #8 continued to August 9, 2007 agenda

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

CONSENT AGENDA

- 1. Minutes of Regular Council Meeting on July 12, 2007**
- 2. RESOLUTION NO. 2007-52 (FEES)**

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING THE SCHEDULE OF FEES FOR THE PUBLIC SAFETY DEPARTMENT AND VILLAGE CLERK/GENERAL GOVERNMENT, AND RESTATING THE FEES FOR THE LIBRARY, CODE ENFORCEMENT, LEISURE SERVICES AND PUBLIC SERVICES DEPARTMENT OF THE VILLAGE; AND PROVIDING AN EFFECTIVE DATE. Staff: Virginia Walton, Village Clerk

- 3. Approval of Task Order No. 94 from Eckler Engineering for Services during Initial Distribution System Evaluation in an amount not to exceed \$26,000**
Staff: Bill Davis, Public Service Director

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

ANNOUNCEMENTS AND PROCLAMATIONS

- 4. Mayor's Proclamation for Water & Wastewater Operators Week as April 6 – 10, 2007**

Mayor Davis read the proclamation and presented to Public Service Director Bill Davis, with thanks for hard work the water plant operators do maintaining high quality water for the

Village.

PUBLIC COMMENT

David Kraftchak, 140 Yucatan Drive, stated he was speaking on behalf of the residents of the Village living north of the Canal who had Lake Worth Power. They had lost power several times during the last week, including Tuesday, when power was out from approximately 3:45 pm to 9:30 pm at night. When Lake Worth was contacted, the people were not cordial at all and didn't seem to care if Palm Springs residents had power or not. People in the neighborhoods had to use their generators. Mr. Kraftchak stated something needed to be done and he was going to be the squeaky wheel reminding the Council the residents could not wait until the renewal of the contract in 2011. Mr. Kraftchak challenged the Council to form a task force made up of Council and lay people to be ready for the 2011 deadline.

Mayor Davis thanked Mr. Kraftchak for his comments and asked Manager Umberger to give an update on what has occurred since the Town Hall Meeting on the Lake Worth Electric Company issue several months ago. Manager Umberger stated that Florida Power & Light was not interested in purchasing the infrastructure to obtain the Lake Worth Power service area and the previous Utilities Director had stated Lake Worth was not interested in giving up its franchise area; therefore, the Village was at a standstill. It was increasingly difficult to make any progress with Lake Worth since they have lost so many management personnel such as the City Manager, Utilities Director, Assistant Utilities Director and now the Finance Director. The best the Village could possibly hope for would be a better delivery of service. The switch to 24K system was supposed to solve the delivery problem; but, as evidenced by these power outages, it has not. Mayor Davis stated he would hold his comments until the end of the meeting.

PUBLIC HEARINGS

5. RESOLUTION NO. 2007-47 (SITE PLAN – QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF HIGH POINT ON CONGRESS, LLC, FOR AMENDMENT TO SITE PLAN (SPR 06-08), TO REMOVE ONE PARKING SPACE ALONG THE NORTH PROPERTY LINE TO ALLOW FOR EXPANSION OF SOUTHERN TERMINAL LANDSCAPE ISLAND AND A WAIVER TO ALLOW A 20 FOOT SETBACK ALONG THE EASTERN PROPERTY LINE, FOR THE PROPOSED 77,210 SQUARE FOOT RETAIL, OFFICE, WAREHOUSE CLUSTER DEVELOPMENT TO BE LOCATED ON THE EAST SIDE OF CONGRESS AVENUE, IMMEDIATELY SOUTH OF HOLLY DRIVE; 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 June 28, 2007. There were no ex parte communications disclosed. The Applicant was not present to give testimony. Manager Umberger advised the Council the removal of the one parking space was needed for the planting of a canopy tree in the terminal island without impacting the water lines and would not reduce the total parking below the required amount mandated by Code. The Land Development Board had recommended approval of the request at their meeting on July 10, 2007. In response to questions from the Council on the reduced setback, Director Lowe replied that there was a road along the eastern

property line; therefore, no residential properties would be impacted.

Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Hearing none, Village Attorney Roselli read the resolution by title. A motion to adopt the resolution and approve the amendment to the site plan was made by Vice Mayor Smith and seconded by Council Member Waller. Motion carried 5 – 0.

This item will be continued to the August 9, 2007 agenda

6. RESOLUTION NO. 2007-48 (SITE PLAN BUENA VISTA COMMERCE CTR)

7. RESOLUTION NO. 2007-49 (SITE PLAN – QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF CARLOS GONZALEZ OF GONZALEZ-MUSIBAY CONSTRUCTORS AND DEVELOPERS, AGENT FOR THE OWNER, C & D PRODUCE INC., FOR A SITE PLAN (SPR 07-12) FOR THE CONSTRUCTION OF A 12,625 SQUARE FOOT PRODUCE MARKET AND RETAIL FACILITIES ON 2.49 ACRES, LOCATED AT 3133 LAKE WORTH ROAD IN THE VILLAGE OF PALM SPRINGS, FL; 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 June 28, 2007. There were no ex parte communications disclosed. Carlos Gonzalez and Director Lowe were sworn in to give testimony. Manager Umberger advised the Council the site plan had previously been approved on June 9, 2005 by Resolution No. 2005-33; however, the applicant had failed to complete the site plan in the required time period. This site plan involved several small parcels and there had been a clear title problem with one of the properties. The problem has been resolved. Mr. Gonzalez testified that the applicant had obtained financing and was ready to commence. The site plan had not changed from the original submission. The Land Development Board had recommended approval of the request at their meeting on July 10, 2007. Director Lowe stated staff had no objections to the plan and conditions of site plan approval were submitted in Exhibit "A" to the resolution. Mayor Davis stated this was a public hearing and asked for questions or comments from Council or the public. Hearing none, Village Attorney Roselli read the resolution by title. A motion to adopt the resolution and approve the site plan was made by Council Member Osborne and seconded by Mayor Pro Tem Brinkman. Motion carried 5 – 0.

This item will be continued to the August 9, 2007 agenda

8. RESOLUTION NO. 2007-50 (SITE PLAN – VILLAGE MAINTENANCE BLDG)

9. RESOLUTION NO. 2007-51 (SITE PLAN – QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF MCN PROPERTIES LLC, FOR A SITE PLAN (SPR 07-14) FOR THE RENOVATION OF A

NON-CONFORMING BUILDING FOR A 23,482 SQUARE FOOT PARTY RENTAL BUILDING ON 3.18 ACRES LOCATED AT 1195 SOUTH CONGRESS AVENUE IN THE VILLAGE OF PALM SPRINGS, FL; 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 June 28, 2007. There were no ex parte communications disclosed. Nicolas and Michael Ivancevic were sworn in to give testimony. Manager Umberger advised the Council that this site plan would include a two story building to be used for the catering office and warehouse and approximately one acre was proposed for paintball fields. The property had been annexed into the Village on July 13, 2006; and an annexation agreement allowed the paintball business, which would normally be a special exception use. The building renovations would bring the site into compliance with Land Development regulations. The Land Development Board, at their meeting on July 10, 2007, had recommended approval of the site plan, but required the paintball field be resubmitted as a new site plan prior to that use being permitted. Director Lowe stated the Board was concerned with the water quality and also wanted some sort of written assurance from DEP or other entity that the paint was not hazardous to the environment and from SFWMD that the neighboring water and run offs would not be impacted. There were also some questions about landscaping and burms on the outside of the wall with the eleven foot setback. Basically, residents and the Board needed more clarification on the site plan prior to recommending approval. Mayor Davis stated this was a public hearing an asked for questions or comments from the public.

Panu Koljonen, 3160 Evans Drive, stated that he was in favor of the paintball fields. It was a good sport and something the Village needed for the youth.

Solomon Kramer, 3157 Riddle Road, stated the water level in this area was about two feet under the surface and was concerned the paint would penetrate into the surrounding wells and lakes. He had no desire to wake up and find colored water coming out of his tap. The paint used food dye for coloring and that could not be good for the people or the water.

Ken Johnson, 1173 Willow Road, stated his property was directly behind this site and he was concerned about the noise since the plan stated they would be open dawn to dusk and sound travels, particularly in the evenings. He was also concerned about paint balls coming over the wall onto his property.

In reply to concerns of the residents, Nicolas Ivancevic replied that they had a long standing business in Lake Worth and had always tried to be good neighbors. They would also try to do this in Palm Springs. They would consider addressing certain times that would be more acceptable. They had submitted a letter from the manufacturer stating that the paint does wash off. Both the Tampa Bay Stadium and the City of Miami on their beach had group events using this paint with no ill affects. With regard to the paint balls, there would be poles with nets to catch the paint balls and the wall should address most sound problems. Michael Ivancevic stated that the nets were 20 feet high and could have either permanent or removable poles. The units used were air powered and would not be loud. In reply to questions from the Council, Nicolas Ivancevic replied that there would be no lights on the field, the area would be sodded and maintained with a well for a sprinkler system, and the poles could stay up or not, depending on the final conditions. Mayor Pro Tem Brinkman stated there was no landscaping outside the wall with the eleven foot setback and this should be added as a condition, since the applicant

had agreed to this.

A letter was read into the record that had been faxed over late this afternoon from Thomas W. Panton, President, Knights of Columbus, who owned the property next to this site. They had previously agreed to work with the Applicants for the installation of a fence/wall; but were now rejecting that agreement until they had reviewed the plans and had assurances regarding the noise levels and heights and type of fences. Manager Umberger stated there were several issues with the Knights of Columbus regarding a lift station and their refusal to be annexed into the Village.

Mayor Davis asked the Applicant if they fully understood the conditions of the site plan approval and were agreeable with those terms that the paintball fields would not be approved until re-submitted at a future date. Mr. Ivancevic replied that he had submitted the letter from the paint manufacturer that the paint was not toxic and was not permanent. He was not sure what more he could submit. Manager Umberger stated the Land Development Board had asked for MSDS sheets on the paint and solvent. Manager Umberger advised the Council that they needed to decide if they felt the explanation and attachments supplied by the Applicant tonight complied with the requirements of the Land Development Board enough to move forward with the entire site plan, or only the catering business. In response to questions from the Council, Director Lowe replied that the Applicant had not met the requirements of the Land Development Board since they had not as yet supplied a sign-off letter from URM or SFWMD on the environmental issues.

Hearing no further comments from the Council or from the public, a motion to approve the entire site plan with the paintball fields, subject to all existing conditions in Exhibit A except for the deletion of items #11 and #13, as well as the following additional conditions: 1) prior to permitting a letter from either URM or SFWMD that this project poses no threat to the environment; 2) the site plan be amended to show the netting and poles meet hurricane standards, and 3) the site plan shows the landscaping outside the wall on the side with the eleven foot setback, was made by Mayor Pro Tem Brinkman and seconded by Vice Mayor Smith. Motion carried 5 – 0.

REGULAR AGENDA

RESOLUTIONS

10. RESOLUTION NO. 2007-53 (SET MILLAGE)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, TENTATIVELY ESTABLISHING A MILLAGE RATE FOR THE 2007-2008 FISCAL YEAR; SETTING REQUIRED PUBLIC HEARINGS; AND PROVIDING AN EFFECTIVE DATE. Karl E. Umberger,
Village Manager

Manager Umberger advised the Council the gross taxable value for fiscal year 2007/2008 would be \$946,603,946, and increase of \$139,866.783 over last year. The rolled back rate was calculated at \$4.40396 (rounded to 4.4040) per \$1,000 of taxable value. The voted debt service millage was \$.5955 per \$1,000 of taxable value, a reduction of .0902 from

last year. The first public hearing to adopt the budget and millage would be held on Thursday, September 13, 2007 at 7:30 pm and the second hearing would be on Thursday, September 27, 2007 at 7:30 pm.

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

VILLAGE COUNCIL COMMENTS

Council Member Waller congratulated Director Bill Davis on his proclamation and the work his water plant operators do on a regular basis. Also congratulations to staff on the good job on presenting the budget. Council Member Waller stated she felt they had done the best they could.

Mayor Pro Tem Brinkman stated when the Village had held the town hall meeting on the Lake Worth Power issue, and again tonight she had heard the residents refer to a contract with Lake Worth Power. This must be clarified that this is a franchise agreement, not a contract. The Village does not have the negotiating powers of a contract, but rather just the choice of how the residents would be charged. Mayor Pro Tem Brinkman suggested to staff that possibly a summary sheet might be produced to explain the difference to the residents and how a franchise works. The service area is decided by the Public Service Commission, not the local municipalities.

Mayor Davis stated Mayor Pro Tem Brinkman could not have said it better. Mayor Davis did not think that the summary sheet would make the residents any happier. He wasn't sure what would. Until the residents within the Lake Worth Power franchise area raise their voices with the Public Service Commission to make some changes, Mayor Davis didn't feel much would change. The individual government entities in the service area have very little to say, but the public Service Commission regulates these power companies and they need to hear the voices of the people not receiving the service. Mayor Davis suggested that possible the Village could put something in the newsletter to let the resident know what venue they need to follow to register their complaints where they would do the most good.

Manager Umberger added that at the town hall meeting the cost of Lake Worth power and the reliability of the service were the main issues. The costs have been addressed and seem to have improved. Reliability is now still the issue. Some of the Village's lift stations are with Lake Worth Power and they have been impacted as well, causing overtime hours for many workers to keep those lift stations going on generators during power outages. The Village has a hard time even collecting the franchise fees from Lake Worth since they are losing so many staff personnel. Lake Worth appeared to be looking at out sourcing many of their services, but no time frame had been set.

ADJOURNMENT

Hearing no further business, Mayor Davis adjourned the meeting at 8:43 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor