

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, JUNE 9, 2005**

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 Joni Brinkman, Mayor Pro Tem Patti Waller, Council Member Bev Smith, Village Manager Karl E. Umberger, Village Attorney Paul J. Nicoletti, and Deputy Village Clerk Virginia Walton.

Absent: Council Member Chet Osborne

Staff present: Lt. John DeMarco as Sergeant at Arms, Land Development Director Bette J. Lowe and Finance Director Rebecca L. Morse, Public Services Director Bill Davis, Leisure Services Director Bill Golson and Village Engineer Don Eckler.

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

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Manager: Item No. 4 on Agenda – There was a typographical error at the end of the sentence in the 2nd line of the agenda letter. It should read "east of Reo Lane" (not west of Reo Lane).

Item No. 7 on Agenda will be continued to the June 23rd Regular Council Meeting at the applicant's request.

Item No. 8 on Agenda will be continued to the June 23rd Regular Council Meeting at the applicant's request.

A motion to accept the agenda as revised was made by Vice Mayor Brinkman and seconded by Council Member Smith. Motion carried 4-0.

CONSENT AGENDA

- 1. Minutes of Local Planning Agency Meeting of May 26, 2005**
- 2. Minutes of Regular Council Meeting of May 26, 2005**

A motion to approve the consent agenda as presented was made by Council

Member Smith and seconded by Mayor Pro Tem Patti Waller. Motion carried 4-0.

PUBLIC COMMENT - None

PUBLIC HEARINGS

Ann Dodd, 1871 Palm Acres Drive, stated she had been a resident of the Village for 5 years, and she wanted to thank the Council for the improvement in the taste and color of the water during the past few months. Mayor Davis advised the improvement was a due to the recent 8 million dollar expansion and renovation to both water plants. Mayor Davis stated that the Village water is drawn from an aquifer, not from surface water, but treatment was still required; and the Village had some of the best water in Palm Beach County.

3. RESOLUTION NO. 2005-33 (SITE PLAN)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF CARLOS M. GONZALEZ, AGENT FOR THE OWNER, DANIEL SALDANA & C&D PRODUCE INC.; FOR SITE PLAN REVIEW (SPR 05-04); FOR CONSTRUCTION OF A 12,625 SQUARE FOOT RETAIL BUILDING ON 2.49 ACRES LOCATED AT 3133 LAKE WORTH ROAD; AND ESTABLISHING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council that this request was for approval of a site plan for a new building and accessory amenities for an existing produce business. At their May 10, 2005 meeting, the Land Development Board approved the site plan subject to conditions listed in Exhibit "A".

Deputy Clerk Walton advised Notice of Public Hearing was placed in the Lake Worth Herald on April 7, 2005. Deputy Clerk Walton swore in Director Bette Lowe and Mr. Carlos Gonzalez to present their testimony.

Director Lowe stated C & D Produce, Inc. was currently an existing vegetable stand on the property in an old tent-style structure. The request was to replace this with a brand new building. She advised that Council was given a revised Staff's comments as Exhibit "A" tonight adding Item #36: The soccer field designation shall be removed from the site plan prior to permitting. The open area shall be designated as retention/open space.

Mr. Gonzalez questioned Director Lowe regarding the comments concerning the rear area of the property designated as a soccer field. Ms. Lowe advised that the area was not a formal soccer field and should be designated as a retention open space area, where people may choose to play soccer. Mr. Gonzalez stated they were going to provide a walking trail around the perimeter of the retention area, as requested by Staff. Mr.

Gonzalez agreed to amend the site plan to reflect the Land Development Board's concerns. The center parking area had been eliminated to accommodate the turning around of tractor trailers and delivery trucks, but the number of parking spaces would still comply with code requirements. A portion of the building would be a storage warehouse for produce and would require only one parking space per 2,000 square feet.

In reply to questions, Mr. Gonzalez stated the completion date would be one year, and if the Village received any complaints about the retention area used for soccer, the owner would address the issue at that time.

No additional comments from Council were made, and no public comments were made. Village Attorney Nicoletti read the resolution by title. A motion to adopt the resolution, subject to the Exhibit "A" comments, was made by Council Member Smith and seconded by Mayor Pro Tem Waller. Motion carried 4-0.

4. RESOLUTION NO. 2005-38 (SITE PLAN)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF CARLOS M. GONZALEZ, AGENT FOR THE OWNER, ROSA I. TARQUINO; FOR SITE PLAN REVIEW (SPR 05-05) FOR CONSTRUCTION OF TWELVE (12) ONE-STORY AND TWO-STORY PUD CLUSTER MULTI-FAMILY RESIDENCES ON 2.02 ACRES LOCATED ON THE EAST SIDE OF REO LANE, SOUTH OF PARK LANE; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Deputy Clerk Walton advised Notice of Public Hearing was placed in the Lake Worth Herald on May 5, 2005.

Director Lowe advised the request to construct twelve (12) one and two-story homes as a cluster development. It was not a conventional cluster development, so there were quite a few waivers on the Exhibit "A". The homes would be of substantial size and range between \$200,000 and \$250,000. The streets and utilities would be dedicated to the Village, negating any necessity for a Homeowner's Association. The Land Development Board heard the request at their May 10, 2005 meeting, and recommended approval subject to Exhibit "A".

Mr. Gonzalez stated they were working with all of the conditions of approval. He advised Reo Lane was in the process of being developed by the Village, and this was one of those properties. The lots are 122 feet deep by 50 feet wide. There was a waiver for 40 feet right-of-way in lieu of the required 50 feet. Basically, since there were only 12 lots, 40 feet should be sufficient. Mr. Gonzalez concurred with Director Lowe that the completion

date was January 1, 2007, and that all conditions would be met prior to permitting. Mr. Gonzalez addressed the easement being requested for the pump station and stated they were moving it from Lot #12 to the southwest corner of Lot #1.

Director Lowe explained to the Council that normally a cluster development involves a Homeowner's Association and certain common space for tot lots, pools, cabanas and large green areas. These were smaller lots and affordable without having to generate a homeowners association. Condition #5 dealt with the normally required minimum 35% open space, but the green area for every lot would actually be at 50% so the owners were actually getting more, and it would be theirs. Since Council defines everything but height and density in a cluster development, approval of the waiver was necessary.

Vice Mayor Brinkman asked Mr. Gonzalez if he had disclosed the utility easement to all potential buyers. Mr. Gonzalez replied the lot that will carry the easement will be disclosed automatically on the survey.

Adrianna Vander Wiele, 2825 Gulfstream Road, had several concerns. In reply to her questions, she was assured a perimeter buffer for privacy (6-foot PVC fence or wall with a 5-foot buffer of hedges & trees) would be installed behind her property; the single-family homes consisted of Model A, 1-story, and Model B, 2-story; which homes would be on which lots depended on the decisions of the purchasers, and the term multi-family had to do with the number of units per acre rather than multi-family units.

Mr. James Schmitz, 2933 Gulfstream Road, stated he had a number of issues. In reply to his questions, he was advised the owner of the lot of the 2 ½ acre lot near Mr. Schmitz had not expressed any intention to sell; but the property behind Mr. Schmitz's home, which had been recently cleared, and probably would be developed with more upscale homes ranging between \$375,000 & \$400,000. Mr. Schmitz was advised the Village could not restrict building to 1-story per the Village code, and the street lighting would be handled by the Village. In reply to a density question, Mr. Schmitz was advised that 6 units per acre was the norm and the Village had allowed only one extra unit as part of the annex agreement.

In reply to drainage questions, Director Lowe advised a drainage system was being designed for Reo Lane. Mr. Schmitz stated concerns about new property owners installing pools. Mayor Davis stated that they would have to meet code and comply with the Land Development Department's requirements. Otherwise, the pool requests would not be approved.

Hearing no further questions or comments, Village Attorney Nicoletti read the resolution by title. A motion to adopt the resolution subject to conditions listed in Exhibit "A" was made by Mayor Pro Tem Waller and seconded by Vice Mayor Brinkman. Motion carried 4-0.

5. RESOLUTION NO. 2005-39 (SITE PLAN)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF CARLOS M. GONZALEZ, AGENT FOR THE OWNER, ABEL ECHEMENDIA; FOR SITE PLAN REVIEW (SPR 05-06) FOR CONSTRUCTION OF TWENTY (20) TWO-STORY PUD CLUSTER TOWNHOME RESIDENCES ON 3.58 ACRES LOCATED ON THE WEST SIDE OF REO LANE, SOUTH OF PARK LANE; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Deputy Clerk Walton advised Notice of Public Hearing was placed in the Lake Worth Herald on May 5, 2005. The owner of the property, Abel Echemendia, was sworn in to present his testimony.

Director Lowe advised that Council had a revised attachment of Exhibit "A" which contained the underlined revised conditions #10 ; 12; 17; & 25. Director Lowed stated this was a proposed cluster development of twenty (20) 2-story homes. The utilities would be dedicated to the Village.

Mr. Gonzalez stated the western 10 feet were being requested to be dedicated as roadway improvements for drainage purposes. They were proposing twenty (20) lots with the average size of 106.62 feet by 57 feet with the exception of lots facing Reo Lane, which were 65 feet, and on the western property line, which were 62 feet. The application proposed upper scale homes to be priced in the range of \$350,000 to \$400,000.

Lisa Albu, 2961 and 2971 Reo Lane, was concerned about drainage problems during construction. Mayor Davis, Director Lowe, Village Engineer Eckler assured Ms. Albu the required State Permit required contractors to provide facilities for water to be retained during construction. Mayor Davis and Engineer Eckler agreed that the existing houses were so low their drainage may not be improved by the new development, but it would not be any worse, and it possibly could be better.

Hearing no further questions or comment, Village Attorney Nicoletti read the resolution by title. A motion to adopt the resolution subject to conditions listed in Exhibit "A" was made by Vice Mayor Brinkman and seconded by Council Member Smith. Motion carried 4-0.

6. RESOLUTION NO. 2005-42 (SITE PLAN)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING EXISTING SITE PLAN (SPR 02-04) TO EXTEND THE BUILD-OUT DATE FROM DECEMBER 31, 2004 TO

DECEMBER 31, 2005; TO EXTEND THE COMPLETION DATE FOR THE BUS SHELTER AND THE TOT LOT TO ISSUANCE OF CERTIFICATE OF OCCUPANCY FOR THE LAST RESIDENTIAL BUILDING; FOR THE SITE TO BE KNOWN AS ESTANCIA; LOCATED AT DAVIS ROAD, SOUTH OF 10TH AVENUE NORTH; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Deputy Clerk Walton advised Notice of Public Hearing was placed in the Lake Worth Herald on May 5, 2005. Council Member Bev Smith disclosed she had spoken with Mr. David Z. Eunice briefly before the meeting; however and she would base her decision upon the evidence presented at the meeting. Deputy Walton swore in Mr. Steven Amster, Attorney for the owners, and Mr. David Eunice to present their testimony.

Director Lowe stated this was an item approving a site plan amendment for Estancia of Palm Springs located south of 10th Avenue North, and east of Davis Road. The Estancia site plan was approved on May 23, 2002. It was subsequently amended on March 13, 2003.

The applicant had requested several amendments:

- #1. Extension for build-out date from 12/ 31/ 2004 to 12/31/2005
- #2. Extension of completion of bus shelter to prior to the issuance of CO of last residential building
- #3. Permission to replace Tot Lot with a Picnic Area with build-out date to be extended to prior to CO of last residential building
- #4. Permission for the location of the portion of fence along the western property line adjacent to the Eunice property (currently located 15 feet inside the property line) to be located to the western property line

The Land Development Board heard the requests at their May 10, 2005 hearing. The Board recommended approval of Requests #1 and #2. The Board did not recommend Request #3, but It did recommend the extension of time to build the Tot Lot. Their position was that Petitioner had not shown sufficient justification for the elimination of playground equipment.

With regard to Request #4, the Board determined the original site plan approval years ago provided that the fence would stay in the pre-development position location. Mr. Eunice had attended the public hearing and requested that condition, to which the previous owners agreed. The Board, having no documentation to clarify the exact location or size of the easement, recommended a compromise that the fence be permitted to remain in its current location, approximately 15 feet inside the property line, in lieu of being moved to the property line. Mr. Amster stated his clients accepted the Land Development Board's recommendations.

Mr. David Z. Eunice, 629 South Woodward Avenue, Deland, FL, stated he was the owner of 31 Miller Road and was trying to protect his property rights. Mr. Eunice attended Land Development Board on May 10th, when the Board recommended the fence be left where it was. After that meeting, Mr. Eunice found his easement recorded in 1958 on Page 14 of Book 258, Palm Beach County Records, which showed the easement was 153.66 feet across on the west side, 153.66 + 23 & ½ on the east (his side), 34.34 on the south end and 30.28 on the north end. By looking at the survey, it appeared that Mr. Eunice's easement was longer and wider than originally thought.

Mr. Eunice requested Council support his full easement which had been recorded long before May 23, 2002. Attorney Nicoletti said the predecessor stated he would not move the fence, but the fence had been moved. The fence was moved again, but not to where it was originally located. Mayor Davis verified with Attorney Nicoletti that the site plan was to run with the land, and that the fence needed to go back to the original location.

Per Mayor Davis' proposal, Mayor Pro Tem Waller made the motion that Council agree with Amendments #1 and #2, but not with Amendment #3, and with regard to Amendment #4, the fence would go back to the original location of the prior owner. Vice Mayor Brinkman proposed to amend the motion requiring that the bus shelter be completed in a timely manner after the drainage problems have been addressed rather than waiting a year. Mayor Pro Tem Waller amended her motion. Council Member Smith seconded. Motion carried 4-0.

This item will be continued to June 23, 2005 Agenda

7. RESOLUTION NO. 2005-40 (SITE PLAN)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF CARLOS M. GONZALEZ, AGENT FOR THE OWNER, VILLAGE OF PALM SPRINGS; FOR SITE PLAN REVIEW (SPR 05-07) FOR CONSTRUCTION OF A 7,000 SQUARE FOOT UTILITIES MAINTENANCE BUILDING ON .85 ACRES LOCATED ON THE EAST SIDE OF KIRK ROAD, ONE HALF MILE NORTH OF 10TH AVENUE NORTH; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

This item will be continued to June 23, 2005 Agenda

8. RESOLUTION NO. 2005-41 (SITE PLAN)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF SAEID MIRZADEH, AGENT FOR THE OWNER, MIRZA HOME &

CONSTRUCTION CO.; FOR SITE PLAN REVIEW (SPR 05-08) FOR CONSTRUCTION OF FIVE (5) SINGLE FAMILY TWO-STORY RESIDENCES ON .52 ACRES LOCATED ON THE EAST SIDE OF DAVIS ROAD, ONE QUARTER MILE NORTH OF LAKE WORTH ROAD; AND ESTABLISHING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

REGULAR AGENDA

ACTIONS AND REPORTS - None

FIRST READING OF ORDINANCES - None

RESOLUTIONS - None

VILLAGE COUNCIL COMMENTS

Vice Mayor Brinkman requested Council's concurrence to change the application procedure and require abstract surveys and adjoining easements be submitted at the time of the application of site plan. In answer to Mayor's request for any ramifications to that suggestion, Director Lowe stated that it might require additional expense for the developer, but it would not create a hardship. Vice Mayor Brinkman said the developers would eventually have to obtain that information and would need to know where the easements were before they did a site plan. Accordingly, Mayor Davis stated it was the consensus of Council that the Land Development Board obtain those items early on.

Council Member Smith stated she had attended League of Cities Board of Directors meeting. The judge had made his decision on the annexation issue. Attorney Nicoletti advised it was a fairly long opinion, and he would submit a written summary to Council. Council Member Smith stated that basically the cities won in that the judge came back and stated if it wasn't in the charter amendment, the County could not go to a separate ordinance to address it. The County went to a separate ordinance and went forward and approved that ordinance last month. The judge came back and said the language has to be in the charter amendment that was approved. The language that was in the charter amendment includes the designation of rural areas, but the language they put in the ordinance had to do with the incorporated cities.

Council Member Smith stated she and Mr. Golson had met with the SAC Committee and Jefferson Davis Middle School regarding the topic of renaming the new school building. They are going to recommend to the School Board to name the school "Palm Springs Community Middle School". The meeting would be June 29th at 5:30 PM, and she asked that Council be represented as she will be out of town. Council Member

Smith said it might be a good idea if Mayor Davis Mayor wrote each of the School Board Members asking for their support. Mayor Davis stated that he would be happy to write the members of the School Board. Council Member Smith stated that Jefferson Davis Middle School was highly complimentary with the response time of the Village's Public Safety Department and their assistance with possible truants on the streets.

Mayor Pro Tem Waller stated that she was always in favor of the fence being moved back to its original location. She had no further comments.

Mayor David stated that there would be a workshop on the parking ordinance on Thursday, June 16th at 6:30 PM in Council Chambers, and the next Regular Council Meeting would be at 7:30 PM on Thursday, June 23, 2005.

ADJOURNMENT

Hearing no further business, Mayor Davis adjourned the meeting at 9:10 p.m.

Respectfully submitted,

Deputy Village Clerk

Approved by Council _____

Mayor