

**VILLAGE OF PALM SPRINGS
VILLAGE COUNCIL MINUTES
REGULAR MEETING, COMMUNITY ROOM, JULY 28, 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 7:32 p.m.

Present: Mayor John M. Davis, Vice Mayor Chet Osborne, Mayor Pro Tem Joni Brinkman, Council Member Patti Waller, Village Manager Karl E. Umberger, Village Attorney Paul J. Nicoletti, and Village Clerk Virginia Walton. Council Member Bev Smith was absent.

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, Leisure Services Director Bill Golson and Library Director Elena Romeo.

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

Village Manager: Continue Item No. 10 to the August 11th Agenda at request of applicant
Continue Item No. 11 to the August 11th Agenda due to issues from
the Land Development Board
Continue Item No. 12 to the August 11th Agenda at request of applicant
Continue Item No. 14 to the August 11th Agenda due to issues from the
County
Amend Item No. 18 to add language to Title "Setting Required
Public Hearing

Vice Mayor Brinkman: Pull Item No. 1 for Discussion – Move to Item No. 9A.

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

CONSENT AGENDA

- 1. Moved to Item 9A.**
- 2. Minutes of Local Planning Agency Meeting on July 14, 2005**
- 3. Minutes of Regular Council Meeting on July 14, 2005**
- 4. Minutes of Budget Workshop on July 16, 2005**

5. **Leisure Services Budget Amendment to provide funds in the amount of \$64,500 to cover costs of replacing/repairing ball field fencing damaged from last year's hurricanes.**
Staff: Bill Golson, Leisure Services Director
6. **Sanitation Budget Amendment to provide funds from FEMA proceeds in the amount of \$223,200 to cover increased costs related to clean-up from last year's hurricanes.**
Staff: Bill Davis, Public Service Director
7. **Legal and General Government Budget Amendment to provide funds in the amount of \$50,000 for the cost of the GRIT Insurance Settlement and in the amount of \$19,000 to cover the cost of contractual services for cleaning of Village Hall, Public Safety Building and the Library.**
Staff: Rebecca Morse, Finance Director
8. **Approve Long Range Plan for Village Library for Years 2006 through 2008.**
Staff: Elena Romeo, Library Director
9. **RESOLUTION NO. 2005-52**

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE AN AGREEMENT WITH MUTUAL TRUST LLC, FOR TWO (2) PARCELS OF LAND CONSISTING OF .97 ACRES, LOCATED AT 2719 10TH AVENUE NORTH; FOR VOLUNTARY ANNEXATION INTO THE VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

A motion to approve the consent agenda as revised was made by Mayor Pro Tem Waller and seconded by Vice Mayor Brinkman. Motion carried 4 – 0.

9A. Minutes of Parking Ordinance Workshop on June 16, 2005

Vice Mayor Brinkman stated that on page 3, second paragraph, last sentence, the word "not" should be stricken. Crushed asphalt and crushed concrete were materials that would be allowed. Clerk Walton stated the minutes would be revised.

A motion to approve the Parking Ordinance Workshop Minutes as revised was made by Vice Mayor Brinkman and seconded by Mayor Pro Tem Waller. Motion carried 4 – 0.

PUBLIC COMMENT

David Hargraves, 4131 Kent Avenue, introduced himself as a new resident to the area and asked for assistance in finding the responsible authority for the drainage culvert near his home and also how he could find out about volunteering opportunities in the Village. Mayor Davis stated he could speak to Leisure Services Director Bill Golson about volunteering and Public Service Director Bill Davis advised the drainage culvert was in unincorporated Palm Beach County and they would maintain that drainage area.

PUBLIC HEARINGS

This item continued to August 11, 2005 Agenda

10. RESOLUTION NO. 2005-56 (SITE PLAN – QJ)

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, GONZALEZ-MUSIBAY CONSTRUCTORS & LAND DEVELOPERS LLC; FOR SITE PLAN REVIEW (SPR 05-09); FOR CONSTRUCTION OF FORTY-TWO TOWNHOUSES IN A CLUSTER DEVELOPMENT TO BE KNOWN AS ST. CHARLES LANDINGS PHASE II, ON 3.20 ACRES LOCATED ON 2ND AVENUE NORTH BETWEEN CONGRESS AVENUE AND DAVIS ROAD; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

This item continued to August 11, 2005 Agenda

11. RESOLUTION NO. 2005-57 (SITE PLAN – QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF PAUL A. HERSHORIN, AGENT FOR THE OWNER, HALFWAY HOUSES OF FLORIDA, INC.; FOR SITE PLAN REVIEW (SPR 05-10); FOR CONSTRUCTION OF HALFWAY/REHABILITATION HOUSING CONSISTING OF FOUR BUILDINGS, FOR A TOTAL OF SIXTEEN UNITS, ON 1.65 ACRES LOCATED ON LONE PINE WAY AND DEALINDA LANE NORTH OF FOREST HILL BOULEVARD; AND ESTABLISHING AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

This item continued to August 11, 2005 Agenda

12. RESOLUTION NO. 2005-58 (SITE PLAN – QJ)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF PETER GILSTAD/SONG & ASSOCIATES, AGENT FOR THE OWNER, COMPREHENSIVE COMMUNITY CARE NETWORK, INC.; FOR SITE PLAN REVIEW (SPR 05-11); FOR RENOVATION OF THE ENTIRE 15,000 SQUARE FOOT FIRST FLOOR AREA FOR A SPECIAL NEEDS CLINIC, SOCIAL SERVICES OFFICES AND A NEW ENTRANCE/RECEPTION AREA, AND 5,000 SQUARE FEET ON SECOND FLOOR AREA FOR NEW MEETING ROOMS AND STAFF SUPPORT AREAS, AND EXTERIOR RENOVATIONS TO INCLUDE NEW SITE LIGHTING, FULL LANDSCAPING, RECONSTRUCTED PARKING SURFACE AND REPLACEMENT OF EXISTING MANSARD ROOFS WITH NEW STUCCO SURFACES, FOR THE EXISTING BUILDING LOCATED AT 2330 SOUTH CONGRESS AVENUE; AND ESTABLISHING AN EFFECTIVE DATE. Staff: Bette Lowe, Land Development Director

13. RESOLUTION NO. 2005-59 (SITE PLAN – QJ)

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF MYRA JEAN RANCK, AGENT FOR THE OWNER, PALM BEACH PLAZA LLC; FOR MINOR SITE PLAN REVIEW (SPR 05-12) AND SPECIAL EXCEPTION (PSSE 05-03); FOR A MONTESSORI ACADEMY CHARTER SCHOOL TO ESTABLISH BUSINESS IN AN EXISTING BUILDING IN A COMMERCIAL GENERAL ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 2925 10TH AVENUE NORTH; AND ESTABLISHING AN EFFECTIVE DATE.
Staff: Bette Lowe, Land Development Director**

Deputy Clerk Walton advised the Council notice of public hearing was placed in the Lake Worth Herald on July 7, 2005. There were no ex parte communications disclosed. Deputy Clerk Walton swore in Gerard Oakley, Architect, Jean Ranck and Director Bette Lowe to give testimony. Manager Umberger advised the Council the Land Development Board had recommended approval, subject to conditions, at their meeting of July 19, 2005.

Gerard Oakley stated this would be a kindergarten, first grade and pre-school charter school for special needs children. The school would meet all state requirements

and the additional requests made by the Land Development Board. In response to questions from the Council, Mr. Oakley stated that existing wall and the fence noted on the plans would both be extended to 6 feet, rather than the existing 4 feet; the landscaping requirements were not noted on the present plans, but would be amended on the plans submitted for permit; overflow parking would use the gravel parking adjacent to the school at the Summer Street Park and the sidewalk would be extended to the Park. It was suggested by Council that the flow of traffic noted on the plans be amended to possibly add a stop sign to better control the two-way traffic flow and one-way traffic flow leaving the school drop off area. In response to questions from Council, Jean Ranck stated there would be 20 children in kindergarten and first grade from 8AM to 2PM; then there would be 20 pre-k students for a morning shift and 20 pre-k students for an afternoon shift. It was suggested the conditions be amended to state a maximum of 40 students at any one time.

Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Hearing no further comments, Village Attorney Nicoletti read the resolution by title. A motion to approve the resolution was made by Council Member Osborne and seconded by Vice Mayor Brinkman. Motion carried 4 – 0.

This item continued to August 11, 2005 Agenda

14. ORDINANCE NO. 2005-18 (SECOND READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING A PARCEL OF LAND CONSISTING OF 8.55 ACRES OWNED BY LAKESHORE CENTER LLC; LOCATED AT 2677 FOREST HILL BOULEVARD; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; AND CONCURRENTLY AMENDING THE COMPREHENSIVE LAND USE PLAN OF THE VILLAGE TO COMMERCIAL, PURSUANT TO THE "SMALL SCALE" COMPREHENSIVE LAND USE AMENDMENT LAWS OF THE STATE OF FLORIDA, SAID LANDS TO BE CONCURRENTLY DESIGNATED WITHIN A LAND DEVELOPMENT COMMERCIAL GENERAL, WITH A SPECIAL EXCEPTION FOR SHOPPING CENTER USE, 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

15. ORDINANCES NO. 2005-19 (FIRST READING)

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING TWO (2) PARCELS OF LAND CONSISTING OF 0.97 ACRES OWNED BY MUTUAL TRUST LLC; LOCATED AT 2719 10TH AVENUE NORTH; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; AND CONCURRENTLY AMENDING THE COMPREHENSIVE LAND USE PLAN OF THE VILLAGE TO COMMERCIAL, PURSUANT TO THE "SMALL SCALE" COMPREHENSIVE LAND USE AMENDMENT LAWS OF THE STATE OF FLORIDA, SAID LANDS TO BE CONCURRENTLY DESIGNATED WITHIN A LAND DEVELOPMENT COMMERCIAL GENERAL ZONING DISTRICT ON THE VILLAGE OF PALM SPRINGS OFFICIAL ZONING MAP; PROVIDING DIRECTIONS TO THE VILLAGE CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council the parcels were located within the Village's target annexation area. The Land Development Board had recommended approval of the request at their meeting of June 14, 2005. Vice Mayor Brinkman asked if there was an easement for these lots. Manager Umberger stated there was an easement that was part of one of the lots and would be maintained. Mayor Davis stated this was a public hearing and asked for questions or comments from the public. Hearing no comments, Village Attorney Nicoletti read the ordinance by title. A motion to adopt the ordinance on first reading was made by Mayor Pro Tem Waller and seconded by Vice Mayor Brinkman. Motion carried 4 – 0.

REGULAR AGENDA

ACTIONS AND REPORTS

16. Approval of Change in Dates for both Council Meetings in September to accommodate Budget Hearing Requirements

Mayor Davis stated the first hearing would be on Wednesday, September 7th and the second hearing would be on Wednesday, September 21st. A motion to approve the change in dates was made by Council Member Osborne and seconded by Mayor Pro Tem Waller. Motion carried 4 – 0.

RESOLUTIONS

17. RESOLUTION NO. 2005-60

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING A COMPREHENSIVE SETTLEMENT AGREEMENT WITH JOHN J. KIRLIN, INC. AND MKI SERVICES, INC. AND PROVIDING AN EFFECTIVE DATE.

Staff: Village Attorney Paul J. Nicoletti

Manager Umberger advised the Council this settlement agreement concluded months of negotiations regarding outstanding plant completion and warranty items for the Main Water Treatment Plant and the R.L. Pratt Water Treatment Plant. This settlement favored the Village by assuring completion of the plant improvements and gave direct contractual relationship with MKI, the materials supplier. Both parties have agreed to this settlement to avoid the issue of liquidated damages. In return, the Village received substantial additional supply items, spare parts, labor and additional warranty time.

In reply to questions from Council Member Osborne, Village Engineer Eckler replied MKI had been made a part of the agreement after issues arose regarding modifications necessary to meet the 6 million gallon output required for the Main Treatment Plant. Both plants would be tested this coming Tuesday, August 2, to confirm that the total for both plants would now be 10 million gallons. Council Member Osborne stated he was very concerned that the original date of December 2004 for upgrading of the plants and 10 million gallon output had been delayed for such a long period of time. Council Member Osborne and Vice Mayor Brinkman were not clear as to why the agreement should be approved or the funds paid prior to the testing to confirm compliance with the standards of the original contract. Village Attorney Nicoletti replied that the agreement had been in preparation for several months and the agreement and testing were not related or contingent on each other. In reply to questions from Council Member Osborne regarding page 6 of the agreement, item 14 warranties for latent defects, Village Attorney Nicoletti stated this paragraph gave the Village the ability to sue for latent defects in spite of the covenant not to sue clause. Attorney Nicoletti stated there were several lessons learned and contracts would be reviewed and amended to avoid such situations in the future. Mayor Davis stated he was not totally happy with this agreement either, and there were some mistakes and errors of judgment; however, there are always problems in construction. Mayor Davis stated he felt this settlement was the best possible conclusion for the Village and hoped there were lessons learned for the future. Council Member Osborne asked Village Engineer Eckler to contact him on Tuesday with the results of the testing.

Hearing no further comments, Village Attorney Nicoletti read the resolution by title. A motion to approve the resolution was made by Council Member Osborne and seconded by Mayor Pro Tem Waller. Motion carried

4 – 0.

18. RESOLUTION NO. 2005-61

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, TENTATIVELY ESTABLISHING A MILLAGE RATE FOR THE 2005-2006 FISCAL YEAR; AND PROVIDING AN EFFECTIVE DATE.

Staff: Rebecca Morse, Finance Director

Manager Umberger advised the Council the gross taxable value for 2005/2006 was \$565,0942,832, and increase of \$107,404,770 over last year. The rolled-back rate was calculated at \$4.3553 per \$1000 of taxable value. The voted debt service millage was \$.9692 per \$1000 of taxable value for fiscal year 2005/2006. The proposed millage rates were 4.7714 for operating and .9692 for debt service, for a total millage rate of 5.74. The first public hearing to adopt the budget and millage would be Wednesday, September 7, 2005.

Mayor Davis stated the bottom line was the Village would go down about 8% in absolute dollars, but the Village would have to advertise a tax increase because the millage was over roll-back. Hearing no future comments, Village Attorney Nicoletti read the resolution by title. A motion to adopt the resolution was made by Council Member Osborne and seconded by Vice Mayor Brinkman. Motion carried 4 – 0.

VILLAGE COUNCIL COMMENTS

There were no Council comments. Mayor Davis advised the next Local Planning Agency Meeting was August 11, 2005 at 7:15 PM and the next Regular Council Meeting was August 11, 2005 at 7:30 PM.

ADJOURNMENT

Hearing no further business, Mayor Davis adjourned the meeting at 8:25 p.m.

Respectfully submitted,

Village Clerk

Approved by Council _____

Mayor