

**VILLAGE OF PALM SPRINGS  
VILLAGE COUNCIL MINUTES  
REGULAR MEETING, COMMUNITY ROOM, OCTOBER 13, 2005**

**CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE**

Vice Mayor Joni Brinkman called the regular meeting of the Village Council to order at 7:30 p.m.

Present: Mayor Pro Tem Joni Brinkman, Mayor Pro Tem Patti Waller, Council Member Chet Osborne, Council Member Bev Smith, Village Manager Karl E. Umberger, Acting Village Attorney Thomas A. Sheehan III 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 and Finance Director 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 Mayor Pro Tem Waller.

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

Village Manager: Item No. 14 had scrivener's error-should read 190 parcels not 189  
Item No. 15 had minor language revisions  
Special Council Meeting would be October 19<sup>th</sup>, not October 20<sup>th</sup>

A motion to accept the agenda as revised was made by Mayor Pro Tem Waller and seconded by Council Member Smith. Motion carried 4 – 0.

**CONSENT AGENDA**

1. **Minutes of September 21, 2005 Regular Council Meeting**
2. **Minutes of September 28, 2005 Final Budget Hearing**
3. **RESOLUTION NO. 2005-87**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING ADDENDUM NUMBER 1 TO TASK ORDER NO. 90, IN THE AMOUNT OF \$97,400 FOR ENGINEERING DESIGN, AND IN AN AMOUNT NOT TO EXCEED \$67,200 FOR SERVICES DURING CONSTRUCTION OF RAW WATER WELLS 18 AND 19 TO ECKLER ENGINEERING, INC.; AND PROVIDING AN EFFECTIVE DATE.**

Staff: Bill Davis, Public Service Director

4. **RESOLUTION NO. 2005-88**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE AGREEMENT FOR THE COLLECTION OF SOLID WASTE WITH REPUBLIC SERVICES OF FLORIDA, L.P. D/B/A SUNBURST SANITATION CORPORATION FROM OCTOBER 1, 2005 TO SEPTEMBER 30, 2006; AND PROVIDING AN EFFECTIVE DATE.**

Staff: Virginia M. Walton, Deputy Village Clerk

5. **Approval of Property, Casualty, Liability and Workers Compensation Insurance Renewal.** Staff: Virginia M. Walton, Deputy Village Clerk
6. **Rejection of Bid No. 2005-006 Site Drainage and Construction of Summer Street Parking Lot** Staff: Bill Davis, Public Service Director

A motion to approve the consent agenda as presented was made by Council Member Osborne and seconded by Mayor Pro Tem Waller. Motion carried 4 – 0.

**ANNOUNCEMENTS AND PROCLAMATIONS**

7. **Mayor's Proclamation for City Government Week, October 16-22, 2005**

On behalf of the Mayor, Vice Mayor Brinkman read the proclamation and presented to the Deputy Clerk for posting in Village Hall.

**PUBLIC COMMENT** (was heard at the end of the meeting)

**PUBLIC HEARINGS**

8. **RESOLUTION NO. 2005-41 (SITE PLAN – QJ)**

**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

Deputy Clerk Walton advised the Council that notice of public hearing was placed in the Lake Worth Herald on September 8, 2005. There were no ex parte

communications disclosed. Saeid Mirzahed and Director Lowe were sworn in to give testimony. Manager Umberger advised the Council that the Land Development Board had recommended approval of the request at their meeting on September 13, 2005. Director Lowe advised the Council that there was a typo error on Exhibit "A" at item #38. It should read "a 7 ½ foot setback" not "a 0 ½ foot setback". Director Lowe testified that there were two changes that Mr. Mirzahed had agreed to: 1) take drainage tracks out of the single family lots so that there will be separate tracks; and 2) the property lines would be moved. This would be tracks A & B, for homeowner association maintenance. The Council was concerned about a possible shortage of parking since the plan did not show any visitor parking and would this create a problem for emergency vehicles if parking was on the street. Chief Pickens replied the road was wide enough for emergency vehicles and road patrol would know if vehicles were in the street and make them move. Hearing no further questions or comments, Acting Village Attorney Sheehan read the resolution by title. A motion to adopt the resolution was made by Council Member Osborne and seconded by Mayor Pro Tem Waller. After more discussion on the parking issue, the motion was amended to revise Exhibit "A" and add item #40 to have the same language as was stated in the Hardman Subdivision Exhibit "A" item #10. This revision would also be required in the homeowner association documents. Motion carried 4 – 0. Vice Mayor Brinkman made an additional comment that the Village needed to look at the code on counting the garages as parking.

#### **9. RESOLUTION NO. 2005-77 (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, ABEL ECHEMENDIA; FOR AMENDMENT TO SITE PLAN REVIEW (SPR 05-06) TO RELOCATE STREETS IN ORDER TO ALLOCATE 20.5 FEET FOR FUTURE EXPANSION OF THE 3.58 ACRE HARDMAN'S SUBDIVISION PROJECT 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 the Council notice of public hearing was placed in the Lake Worth Herald on September 8, 2005. There were no ex parte communications disclosed. Carlos Gonzalez was sworn in to give testimony. Director Lowe advised the 20.5 feet would be on the south side and would be reserved as open space for future development if additional adjacent property is obtained. The Land Development Board had recommended approval of the request at their meeting on September 13, 2005. Vice Mayor Brinkman stated this was a public hearing and asked for questions or comments from the public. Hearing none, Acting Village Attorney Sheehan read the resolution by title. A motion to approve the resolution was made by Council Member Smith and seconded by Mayor Pro Tem Waller. Motion carried 4 – 0.

**10. RESOLUTION NO. 2005-78 (SITE PLAN – QJ)**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, APPROVING WITH CONDITIONS THE APPLICATION OF ANGELA D. USHER, AGENT FOR THE OWNER, PALM BEACH COUNTY SCHOOL BOARD; FOR SITE PLAN REVIEW (SPR 05-17) FOR CONSTRUCTION OF A 9,600 SQUARE FOOT TRAINING FACILITY AND ADDITIONAL PARKING ADJACENT TO THE SCHOOL DISTRICT MAIN ADMINISTRATIVE OFFICE COMPLEX ON 3 ACRES LOCATED ON THE EAST SIDE OF TUCKER ROAD, 500 FEET SOUTH OF FOREST HILL BOULEVARD; 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 September 8, 2005. There were no ex parte communications disclosed. Michael Owens was sworn in to give testimony. Manager Umberger advised the Council that there would be a second phase to add a second story to the training facility, which would result in a total square footage of approximately 22,000. The Land Development Board had recommended approval of the request at their meeting on September 13, 2005. Director Lowe advised the Council there was a typo error in the Council letter. The letter stated that conditions #12 and #14 were to be deleted; but it was conditions #8 and #12 which would be deleted due to different district regulations. The revised site plan had just been submitted this afternoon and there had not been time to review. Mr. Owens testified that there would be initially ten modular training units and there would be an additional ten units added in the second phase. Vice Mayor Brinkman stated this was a public hearing and asked for questions from the public. Hearing none, the Council requested that the School Board consider creating a buffer area for alleviating the excess noise and privacy issues created when the trees were taken down for this project. Mr. Owens stated he would be certainly relay the Council's concerns to the School Board. Hearing no further comments, Acting Village Attorney Sheehan read the resolution by title. A motion to adopt the resolution, subject to conditions in Exhibit A and the addition of the revised square footage, was made by Council Member Osborne and seconded by Council Member Smith. Motion carried 4 – 0.

**11. ORDINANCE NO. 2005-25 (SECOND READING)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 30 LAND DEVELOPMENT;**

**ARTICLE VI, LAND USE; DIVISION 1, GENERALLY; AND DIVISION 7. SUPPLEMENTAL DISTRICT REGULATIONS; SUBDIVISION II. RECREATIONAL VEHICLES, COMMERCIAL VEHICLES AND SIMILAR VEHICLES BY AMENDING VARIOUS PROVISIONS RELATED TO PARKING; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Staff: Paul J. Nicoletti, Village Attorney

Deputy Clerk Walton advised the Council that notice of public hearing was placed in the Palm Beach Post on September 14 and October 6, 2005. Acting Village Attorney Sheehan read the ordinance by title. Vice Mayor Brinkman stated this was a public hearing and asked for comments from the public. William Frame, 3137 Frost Road, felt the Village should have dealt with the people who were causing the problems instead of punishing all residents. Mr. Frame thought that Section 30-627 was too restrictive. Hearing no further comments, a motion to adopt the ordinance on second reading was made by Mayor Pro Tem Waller and seconded by Council Member Osborne. A roll call vote was in favor of adoption 4 – 0.

**12. ORDINANCE NO. 2005-29 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA AMENDING ORDINANCE NO. 2003-02 ADOPTED OCTOBER 28, 2004; PROVIDING FOR A GENERAL EMPLOYEES MUNICIPAL PENSION TRUST FUND; PROVIDING DEFINITIONS; CONTINUING THE ESTABLISHMENT AND CREATION OF THE FUND; PROVIDING FOR MEMBERSHIP REQUIREMENTS; PROVIDING FOR TRANSFER OF SERVICE BETWEEN VILLAGE PENSION PLANS; PROVIDING FOR A BOARD OF TRUSTEES; PROVIDING FOR MANAGEMENT OF THE PENSION FUND; PROVIDING FOR FINANCING AND CONTRIBUTIONS; PROVIDING FOR BENEFIT AMOUNTS AND ELIGIBILITY; PROVIDING FOR PENSION BENEFITS; PROVIDING FOR PRE-RETIREMENT DEATH BENEFITS; PROVIDING FOR OPTIONAL FORMS OF BENEFITS; PROVIDING FOR BOARD DECISIONS; PROVIDING FOR INVESTMENT AND MANAGEMENT OF PENSION FUND ASSETS; PROVIDING FOR COMMENCEMENT AND DISTRIBUTION OF BENEFITS; PROVIDING FOR DUTIES AND RESPONSIBILITIES OF TRUSTEES; PROVIDING FOR INDEMNIFICATION OF TRUSTEES; PROVIDING THAT BENEFITS ARE EXEMPT FROM EXECUTION AND ASSIGNMENT; PROVIDING FOR MISCELLANEOUS PROVISIONS; PROVIDING FOR TERMINATION OF THE PENSION FUND; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR PUBLICATION; REPEALING ALL**

**ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.** Staff: Paul J. Nicoletti, Village Attorney

Manager Umberger advised the Council the pension plan amendments were to add language clarifying contributions when transferring from one Village pension plan to another; changed the year to 1983 for the correct Group Annuity Mortality Table to be used in calculating actuarial equivalencies; removed the language "or decrease" in the Cost of Living adjustments percentage calculations; corrected the amount required to be withdrawn by terminated employees, and corrected Section number 2 to number 43 under the Severability section. Vice Mayor Brinkman stated this was a public hearing and asked for comments from the public. Hearing none, Acting Village Attorney Sheehan read the ordinance by title. A motion to adopt the ordinance on first reading was made by Council Member Smith and seconded by Mayor Pro Tem Waller. Motion carried 4 – 0.

**13. ORDINANCE NO. 2005-30 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING ORDINANCE NO. 2004-45, ADOPTED OCTOBER 28, 2004 PROVIDING FOR A REVISED AND RESTATED HAZARDOUS DUTY EMPLOYEES PENSION FUND; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Staff: Paul J. Nicoletti, Village Attorney

Manager Umberger advised the Council the pension plan amendments were to add language clarifying interest for Drop Plan participation when transferring from one Village pension plan to another, and added language clarifying membership in the Deferred Retirement Option Plan (DROP). Vice Mayor Brinkman stated this was a public hearing and asked for comments from the public. Hearing none, Acting Village Attorney Sheehan read the ordinance by title. A motion to adopt the ordinance on first reading was made by Council Member Osborne and seconded by Council Member Smith. Motion carried 4 – 0.

**14. ORDINANCE NO. 2005-31 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, ANNEXING 189 PARCELS OF LAND CONSISTING OF A TOTAL OF 77.8387 ACRES; INDIVIDUALLY OWNED, GENERALLY LOCATED BETWEEN THE LWDD L-10 CANAL ON THE NORTH, AND THE LWDD L-11 CANAL ON THE SOUTH, AND KIRK ROAD ON THE WEST, AND APPROXIMATELY 200 FEET EAST OF ROSTAN LANE ON THE EAST; AND MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR AMENDMENT TO THE**

**CORPORATE LIMITS OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AS SET FORTH IN SECTION 2.01 OF THE VILLAGE CHARTER TO INCLUDE SAID ANNEXED LANDS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR ADVERTISING; AND PROVIDING THAT THIS ORDINANCE SHALL BE FILED WITH THE CLERK OF THE CIRCUIT COURT OF PALM BEACH COUNTY, FLORIDA, AND FLORIDA DEPARTMENT OF STATE UPON ADOPTION.**

Staff: Bette Lowe, Land Development Director

Manager Umberger advised the Council the parcels were located in the Village's target annexation area. The land use and rezoning would be processed early next year with a large scale comp plan amendment. These parcels were annexed in conjunction with a Palm Beach County Annexation Incentive Program in conjunction with the water and sewer expansion, and the Village would be partially reimbursed for these costs. The Land Development Board had recommended approval of the request at their meeting on October 11, 2005. Vice Mayor Brinkman stated this was a public hearing and asked for comments from the public. Hearing none, Acting Village Attorney Sheehan read the ordinance by title. A motion to adopt the ordinance on first reading was made by Mayor Pro Tem Waller and seconded by Council Member Osborne. Motion carried 4 – 0.

**15. ORDINANCE NO. 2005-32 (FIRST READING)**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING CHAPTER 30, LAND USE, AT SECTIONS 30-502, 30-504, 30-522, AND 30-524 TO INCLUDE FAMILY DAY CARE HOMES AS A PERMITTED USE IN THE SINGLE FAMILY RESIDENTIAL, RS, AND MULTI-FAMILY, RM, LAND DEVELOPMENT DISTRICTS; AND AMENDING SECTION 30-564 AND 30-565 TO INCLUDE CAR WASH AS A SPECIAL EXCEPTION USE IN THE COMMERCIAL GENERAL, CG, LAND DEVELOPMENT DISTRICT; PROVIDING FOR CODIFICATION; 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 Land Development Board had recommend approval at their meeting on October 11, 2005. Director Lowe advised the Council that the car wash/auto detailing issue was brought forward because the Village had annexed several car washes already as non-conforming uses and it was felt this should be corrected and the family daycare issue was brought forward because there were many already in the Village working with no licenses and one resident wished to operate a family daycare legally. It was determined that the paperwork and criteria was

too extensive for the small, maximum five pre-school children, daycares. Vice Mayor Brinkman stated this was a public hearing and asked for comments from the public. Hearing none, Acting Village Attorney Sheehan read the ordinance by title. A motion to adopt the ordinance on first reading was made by Council Member Smith and seconded by Council Member Osborne. Motion carried 4 – 0.

## **REGULAR AGENDA**

### **ACTIONS AND REPORTS**

**16. Appointment of Virginia Walton as Village Clerk**  
Staff: Karl E. Umberger, Village Manager

Manager Umberger advised the Council Ms. Walton had been employed by the Village for six years and had served as Interim Village Clerk since January during the leave of the Village Clerk. Ms. Walton had proved her ability to perform the duties of Village Clerk and to be a competent hands-on administrator. The appointment would be effective October 13, 2005. The Council agreed with Manager Umberger's comments and felt Ms. Walton would be an asset to the Village. A motion to appoint Virginia Walton as Village Clerk was made by Mayor Pro Tem Waller and seconded by Council Member Smith. Motion carried 4 – 0.

**17. Council Meeting Schedule for November and December 2005**  
Staff: Virginia M. Walton, Deputy Village Clerk

Manager Umberger advised the Council the Charter of the Village was required to hold one meeting per month and it was recommended that the meeting for November be on the second Thursday, November 10, 2005, and for December be also on the second Thursday, December 8, 2005. A motion to approve the holiday schedule for meeting was made by Council Member Smith and seconded by Council Member Osborne. Motion carried 4 – 0.

## **PUBLIC COMMENT**

Elena Martinez, 4578 Dow Lane, had been a volunteer coach for 6 years with the 11-17 year olds in the Leisure Services programs and had recently been told she was relieved of her duties. There are many problems with disruptive, abusive parents who verbally abuse the children and the coaches. These problems had been brought to the attention of management and there was still no resolution. Ms. Martinez requested the Council institute a full investigation into these complaints.

Chris Carrera, 228 Foxtail Drive, had been a volunteer coach for over ten years, even though he did not have any children on any of the teams. He resigned because of

ongoing problems that were not being addressed. There was no attention from the office and no staff presence on the fields. He had personally been harassed by certain parents.

Alexis Goronsky, 4578 Dow Lane, was a 13 year old who had played on the Village teams for six years. This was the first year she had heard parents cursing and making offensive comments to other kids. She didn't feel welcome this year and was disappointed that nothing was being done.

Alma Martinez, 4186 Centurian Circle, was one of the parents of children who had played soccer for the past three or four years. Her son had experienced harassment and abusive language from the parents as recently as this past Saturday. Staff was there, but had taken no action. The coach on the other team had apologized for the parents actions.

Manager Umberger advised the Council that he had met with both sides of this issue and was conducting presently an investigation. Vice Mayor Brinkman thanked everyone for their comments and stated there were procedures in place to handle these types of problems and she was sure Mr. Umberger would look into the matter.

**VILLAGE COUNCIL COMMENTS - None**

**ADJOURNMENT**

Hearing no further business, Vice Mayor Brinkman adjourned the meeting at 8:50 p.m.

Respectfully submitted,

\_\_\_\_\_  
Village Clerk

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

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Mayor