



**VILLAGE COUNCIL MEETING MINUTES
VILLAGE HALL - COUNCIL CHAMBERS
226 CYPRESS LANE, PALM SPRINGS, FLORIDA
DECEMBER 8, 2022 AT 6:30 PM**

CALL TO ORDER:

Vice-Mayor Gunther called the Village Council Regular Meeting to order at 6:30 PM.

ROLL CALL:

Present: Vice-Mayor Doug Gunther, Mayor Pro Tem Joni Brinkman, Council Member Patti Waller, Council Member Gary Ready, Village Attorney Glen Torcivia, Village Manager Michael Bornstein, and Village Clerk Kimberly Wynn

Absent: Bev Smith, Mayor

Also present: Kim Glas-Castro, Assistant Village Manager; Police Chief Tom Ceccarelli, as Sergeant-at-Arms, Iramis Cabrera, Director of Planning, Zoning & Building, Justin Lucas, Director of Parks and Recreation, Utilities Director Dr. Jimmy Johnson, and Assistant Utilities Director Paul Ward.

INVOCATION:

The Village Manager, Michael Bornstein, delivered the Invocation.

PLEDGE OF ALLEGIANCE:

The Village Council led in the Pledge of Allegiance.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager Mr. Bornstein did not have any additions, deletions, or modifications to the Agenda.

Council Member Waller motioned to approve the agenda as presented. It was seconded by Mayor Pro Brinkman. The said motion carried 4-0.

CONSENT AGENDA

Vice-Mayor Gunther offered the public an opportunity to speak on the Consent Agenda. There were no comments from the public.

1. **November 8, 2022 Emergency Meeting Minutes:** Motion to approve November 8, 2022, minutes from the Village Council Emergency Meeting to declare a local state of emergency for Tropical Storm Nicole.
Staff: Kimberly Wynn, Village Clerk

2. **Agent of Record–Employee Benefits Broker Services Agreement – Piggyback (Amendment) – The Gehring Group, Inc.:** Approve the First Addendum to the Agreement for the Agent of Record Employee Benefits Broker Services with the Gehring Group piggybacking the City of Oakland Park - (Group Benefits Consultant/Agent of Record - RFP #052716) for \$30,000 per year (\$7,500 per quarter) for a Consultant to help in the selection of health insurance, dental insurance, vision insurance, and other ancillary products. The contract term is two (2) years, beginning November 5, 2022 and ending November 4, 2024. Funding to support this service is available within the FY 2023 Budget - General Fund and Water & Sewer Enterprise Fund.

Staff: Ashley Saingilus, Human Resources Director

SUMMARY: The Village uses a consultant to select health insurance, dental insurance, vision insurance, and other ancillary products. The Gehring Group currently provides employee benefits.

In March 2022, staff recommended the Village piggyback the current City of Oakland Park's contract awarded to Gehring Group, Inc. This selection by the City of Oakland Park was completed through a competitive selection process - Group Benefits Consultant/Agent of Record - (RFP #052716).

The Village accepted Gehring Groups Employee Insurance pricing by piggybacking the City of Oakland Park's contract, including all terms, conditions, and pricing therein. The term of the agreement expired on November 4, 2022, and provides for two (2) one (1) year renewal options. The Village will not expend more than the amount within the approved budget as it may be adopted/amended each year for these goods and services over the term of this contract.

The City of Oakland Park has extended its agreement with Gehring Group. The agreement has been amended to the following language: "The Term of this Agreement shall be for a two (2) year period beginning November 5, 2022, ending November 4, 2024." The Village is seeking Council Approval to piggyback the City of Oakland Park's amendment to extend services with Gehring Group.

The Village may award a contract by piggybacking or accessing the goods and/or services from any State of Florida contract; contracts of any Florida political subdivision; or from any other governmental entity (other than the Federal government); provided that the same or substantially similar goods and/or services were competitively solicited per Village Purchasing Code.

The Village has worked with the proposed vendor and has received excellent service and a quality product.

Fiscal Impact: Funding to support this service is available within the FY 2023 Budget - General Fund and Water & Sewer Enterprise Fund. The Village will not expend more than the amount within the approved budget as it may be adopted/amended each year for these goods and services over the term of this contract.

Note: A flat annual consulting fee (equal to the estimated commission) will remain the same at \$30,000 (\$7,500 quarterly).

3. **Appointments to the Construction Board of Adjustment and Appeals:**
Approve the Appointment of Brandon Cabrera and Timothy Dornblaser as Regular Board Members for an unexpired term ending May 14, 2023, plus a three-year term ending May 14, 2026. Upon approval of the appointments, there will be one (1) Regular Board vacancy, one (1) Senior Board vacancy, and one (1) Junior Board vacancy.

Staff: Kimberly Wynn, Village Clerk

SUMMARY: There are three (3) Regular board member vacancies and two (2) Alternate board member vacancies on the Construction Board of Adjustment and Appeals due to the resignation of Jerome Roal Small on July 7, 2022 (appointed as a Regular Member on July 11, 2020).

Mr. Brandon Cabrera has expressed an interest in serving as a Regular Member. Mr. Cabrera is self-employed as a Real Estate Developer and would be a valuable asset to the Board. If appointed, he would serve an unexpired term ending on May 14, 2023, plus an additional three-year term ending May 14, 2026.

Mr. Timothy Dornblaser has expressed an interest in serving as a Regular Member. Mr. Dornblaser is self-employed as a General Contractor for CGC Consultants of SFL, LLC, and would be a valuable asset to the Board. If appointed, he would serve an unexpired term ending on May 14, 2023, plus an additional three-year term ending May 14, 2026.

Note: Advisory Board Applications are on file in the Office of the Village Clerk.

If the appointments are approved, there would be one (1) Regular Member vacancy, one (1) Senior Alternate, and one (1) Junior Alternate vacancy on the Construction Board of Adjustment and Appeals.

Fiscal Impact: The proposed appointments do not have a fiscal impact to the Village.

4. **Re-Appointment of Alternate Special Magistrate William P. Doney and Approval of Professional Services Agreement:** Motion to re-appoint Mr. William P. Doney as the Alternate Special Magistrate and approve a Professional Services Agreement with Mr. William Doney, with Caldwell Pacetti Edwards Schoech & Viator LLP, for Alternate Code Enforcement Special Magistrate for the amount of two hundred and ten dollars (\$210.00) per hour. The term of the agreement is for one (1) year, with three (3), one (1) year extensions. The extensions may be exercised by the Village Manager on behalf of the Village. Funds to support this proposed service are available within the FY 2023 Budget - Professional Services - General Fund.

Staff: Kimberly Wynn, Village Clerk

SUMMARY: Mr. William P. Doney of Caldwell Pacetti Edwards Schoech & Viator LLP was appointed alternate special magistrate by the Village on October 15, 2015. Mr. Doney would be the Village's Alternate Special Magistrate if Ms. Diane James-Bigot, Special Magistrate (appointed April 11, 2019), cannot perform her duties on scheduled hearing days.

If approved, the Village would agree to compensate Mr. Doney, Alternate Code Enforcement Special Magistrate for services provided in the amount of two hundred and ten dollars (\$210.00) per hour. The Alternate Code Enforcement Special Magistrate shall not charge for travel time to and from hearings.

Mr. Doney is requested to be re-appointed to provide Alternate Code Enforcement Special Magistrate Services to the Village for one (1) year, with three (3), one (1) year extensions. The extensions may be exercised by the Village Manager on behalf of the Village.

Note: In accordance with Section 58-2. Exempt Purchases within the Village's procurement code, selection of the Special Magistrate is considered exempt from the competitive selection purchase requirements.

The proposed agreement was prepared by the Village Attorney and reviewed by the Village Clerk.

Fiscal Impact: Funds to support this proposed service are available within the FY 2023 Budget - Professional Services - General Fund.

5. **Re-Appointment of Code Enforcement Special Magistrate Ms. Diane James-Bigot and Approval of Professional Services Agreement:** Motion to re-appoint Ms. Diane James-Bigot as the Special Magistrate, and approve a Professional Services Agreement with Ms. Diane James-Bigot, with Law Offices of Diane James-Bigot, for Code Enforcement Special Magistrate for the amount of two hundred and ten dollars (\$210.00) per hour. The term of the agreement is for one (1) year, with three (3), one (1) year extensions. The extensions may be exercised by the Village Manager on behalf of the Village.

Staff: Kimberly Wynn, Village Clerk

SUMMARY: On October 13, 2011, Ms. Diane James-Bigot, was appointed as Code Enforcement Alternate Special Magistrate. Ms. James-Bigot, Law Offices of Diane James-Bigot, has served as the Village's Special Magistrate since April 11, 2019.

If approved, the Village would agree to compensate Ms. James-Bigot as the Code Enforcement Special Magistrate for services provided in the amount of two hundred and ten dollars (\$210.00) per hour. The Special Magistrate shall not charge for travel time to and from hearings.

Ms. James-Bigot is requested to be re-appointed to provide Special Magistrate Services to the Village for one (1) year, with three (3), one (1) year extensions. The extensions may be exercised by the Village Manager on behalf of the Village.

Note: In accordance with Section 58-2. Exempt Purchases within the Village's procurement code, selection of the Special Magistrate is considered exempt from the competitive selection purchase requirements.

The proposed agreement was prepared by the Village Attorney and reviewed by the Village Clerk.

Fiscal Impact: Funds to support this proposed service are available within the FY 2023 Budget - Professional Services - General Fund.

6. **Resolution No. 2022-52 - Announcement of Village of Palm Springs Municipal Election. Polling Locations & Establish Canvassing Board - Tuesday, March 14, 2023:** Motion for approval of Resolution No. 2022-52 announcing the Village of Palm Springs Municipal Election for District #4, Polling Locations and Establishing the Canvassing Board on Tuesday, March 14, 2023. If necessary, a Run-Off Election on Tuesday, March 28, 2022.

Staff: Kimberly Wynn, Village Clerk

SUMMARY: The Village's Municipal Elections have been announced to be held on Tuesday, March 14, 2023, with a possible run-off election date of Tuesday, March 28, 2023. Candidate qualifying was held from 12:00 pm (NOON) on Monday, November 7, 2022 and ended at 12:00 pm (NOON) on Monday, November 21, 2022.

Polling locations for the nine (9) precincts for the municipal election and runoff, if necessary, will be the same as those designated by the Palm Beach County Supervisor of Elections:

- Palm Springs Middle School - 5901 and 5902
- Oasis De Amor Baptist Church 5910 and 5912
- Palm Springs Village Hall - 5911
- Faith Presbyterian Church - 5908
- Holy Redeemer Episcopal Church - 5916, 5920 and 5921

Additionally, Wendy Link (or her designee), the Palm Beach County Supervisor of Elections, will serve as the Canvassing Board. The Canvassing Board will be responsible for attending the Logic & Accuracy Testing of Equipment demonstration prior to the Election as well as canvassing the ballots received (including absentee ballots and provisional ballots) and certifying the results of the Election after tabulation by the Supervisor of Elections.

It should be noted that the Village Clerk (or designee) will represent the Village at the PBC Elections facilities on all occasions as required.

Fiscal Impact: There is no direct fiscal impact on the Village because of this specific request.

7. **Resolution No. 2022-51 - Appointment to Palm Springs Community Redevelopment Agency (CRA) Board – Congress Avenue District Member:** Motion for approval of Resolution No. 2022-51 to appoint Dr. Fabiana DesRosiers to the Community Redevelopment Agency Board to represent the Congress Avenue Corridor to serve an unexpired term that ends November 21, 2023.

Staff: Kimberly Glas-Castro, Assistant Village Manager

SUMMARY: Currently, there is a CRA Board Member vacancy for the Congress Avenue District due to the resignation of Ms. Ejola Cook, who previously served as Vice President and Chief Administrative Officer of Off Lease Only. Ms. Cook's term would otherwise expire on November 21, 2023.

Dr. Fabiana DesRosiers has submitted an application expressing interest in serving as a CRA Board Member from the Congress Avenue District. Dr. DesRosiers is eligible to serve as a CRA Board Member as she serves as an officer of a commercial property/business (Chief Executive Officer) of the Hispanic Human Resources Council, which is located within the Congress Avenue District of the

Palm Springs CRA.

Note: The Palm Springs Community Redevelopment Agency (CRA), created in November 2019, was established by a Board that is made up of seven (7) members - five (5) Village Council members and two (2) additional community members (one from each CRA district).

Note: The approved CRA Board (as provided within Ordinance No. 2019-19 - November 14, 2019) provides that any person may be appointed as a board member if he or she resides or is engaged in business, which means owning a business, practicing a profession, or performing a service for compensation, or serving as an officer or director of a corporation or other business entity so engaged, within the boundaries of the CRA.

If approved, Dr. DesRosiers would serve the remainder of the original four (4) year term, which expires on November 21, 2023, and will be considered for reappointment for a new term at that time.

Note: Dr. DesRosiers Board Application is on file in the Village Clerk's Office.

The proposed resolution was prepared by the Assistant CRA Director and reviewed by the Village Attorney.

Fiscal Impact: The proposed appointment does not have a fiscal impact to the Village.

8. **Motor and Pump Repair Services - Piggyback (Renewal) - Utilities Department (FY 2023 Budget Funded) - Tripp Electric Motors, Inc.:** Approve renewal of a piggyback agreement for Tripp Electric Motors, Inc., for an additional term that expires October 23, 2023, to employ the services to assist the Utilities Department in the repair of motors and pumps throughout the Village's wastewater collection system (i.e., lift station pumps to pump sewage) and two (2) water treatment plants (i.e., high service pumps to deliver drinking water to customers (Martin County - Motor and Pump Repair {RFB #2018-3087 – October 23, 2018}). Funding to support purchases under this proposed authority to purchase is available within the FY 2023 Budget - Water & Sewer Enterprise Fund.

Staff: Paul Ward, Assistant Director of Utilities

SUMMARY: It is necessary for the Utility Department to hire a vendor throughout the year to repair motors and pumps throughout the Village's wastewater collection system (lift station pumps to pump sewage) and two (2) water treatment plants (i.e., pumps used to deliver drinking water).

To ensure the lowest possible price, the staff recommends that the Village renew our ability to contract with Tripp Electric Motors, Inc. by continuing to piggyback

Martin County's contract award, which was recently extended to October 23, 2023.

Note: This selection by Martin County was originally completed through a competitive selection process – Motor and Pump Repair (RFB #2018-3087 – October 23, 2018). The extended piggyback contract (renewal) would provide the same pricing that the Village is currently receiving {All original bid documents provided on November 1, 2021, Village Council Meeting authorizing the initial piggyback agreement with Tripp Electric Motors [Martin County - Motor and Pump Repair (RFB #2018-3087 – October 23, 2018)] are available in the Village Clerk's Office}.

Tripp Electric Motors' pricing would be accepted by the Village if approved. It would allow the Village to continue purchasing by piggybacking on the Martin County contract, including all terms, conditions, and pricing. This contract expires on October 23, 2023. This is the second of two one- year renewal options. During the term of this contract, the Village will not exceed the amount in the approved budget for these goods and services.

The Village's Purchasing Code, Section 58-9, Accessing contracts of other government agencies, provides that the Village may award a contract by piggybacking or accessing the goods and/or services from any State of Florida contract; contracts of any Florida political subdivision; or from any other governmental entity (other than the Federal government); provided that the same or substantially similar goods and/or services were competitively solicited. The proposed amendment to the existing Agreement was prepared by the Village Attorney and reviewed by the Utilities Director and the Finance Director. The Village has worked with the proposed vendor in the past and has received excellent service.

Fiscal Impact: Funding to support purchases under this proposed authority to purchase is available within the FY 2023 Budget - Water & Sewer Enterprise Fund. The Village will not expend more than the amount within the approved budget as it may be adopted/amended each year for these goods and services over the term of this contract.

9. **Contract for Construction Manager at Risk Services - Kaufman Lynn Construction - Police Department Building Expansion (Task Order No. 269):** Approve a Contract for Construction Manager at Risk Services Agreement (RFP# 2022R-003 (Task Order No. 269) for Construction Manager at Risk Services with Kaufman Lynn Construction for the expansion of the Village of Palm Springs Police Department located at 230 Cypress Lane, which includes pre-construction and construction services along with a guaranteed maximum price (GMP) of the construction costs. Funding to support a construction manager for the Police Department building expansion is available within the FY 2023 Budget - General Fund and the Capital Improvement Plan (CIP) utilizing Infrastructure

Surtax (Sales Tax) funds.

Staff: Kimberly Glas-Castro, Assistant Village Manager

SUMMARY: Village staff is requesting approval of a Contract for Construction Manager at Risk Services with Kaufman Lynn Construction, Inc. to provide pre-construction and construction services for the expansion of the police department building, as well as a guaranteed maximum price (GMP) of the construction costs.

As Construction Manager for the Village, Kaufman Lynn will work with the architects, Song and Associates, to review construction drawings, specifications and schedules, and provide "value engineering" recommendations on design and materials to guide a building expansion that 1) will allow continued operations in the existing portion of the building during construction, 2) can be constructed within a 12-18 month timeframe based on supply chain knowledge, and 3) is within the Village's programmed budget.

Kaufman Lynn has a team of highly qualified pre-construction design professionals and experienced construction supervisors/project managers. In addition to preparing a construction budget, as Construction Managers, they will assist in procuring all materials and supplies per Village procedures, take the lead in bidding and awarding all trade contracts, provide full-time staff to coordinate and direct construction and represent Village interests in maintaining the project schedule and cost controls.

Compensation for Construction Manager at Risk services includes (as outlined in Article 7):

<u>Phase</u>	<u>Fee</u>
Pre-Construction	\$10,000 per month (not to exceed \$60,000)
Construction	to be included in GMP (subject to a contract amendment approved by the Village Council)

Note: Industry-wide construction management fees are typically in the range of 5%-15% of the construction costs.

Note: On September 22, 2022, through a Request for Proposals (RFP) for Construction Manager at Risk Services (RFP 2022R-003), the Village Council selected Kaufman Lynn Construction to serve as the Village's construction manager for the expansion of the police department building.

On May 19, 2022, the Village issued a Request for Proposals (RFP) for the Construction Manager at Risk Services (RFP 2022R-003). The purpose of this RFP was to award one company with a contract to provide the Village with pre-construction and construction services for the expansion of the police department building.

As a result, the Village received five (5) responses:

- Di Pompeo Construction Corporation – Pompano Beach, Florida
- Hedrick Brothers Construction – West Palm Beach, Florida
- Kaufman Lynn Construction – Delray Beach, Florida
- Pirtle Construction Company – West Palm Beach, Florida
- Sisca Construction Services, LLC. – West Palm Beach, Florida

The seven members of the Construction Manager at Risk Evaluation Committee, appointed by the Village Manager, included representatives from the Police Department, Public Services, Finance, and the Planning, Zoning & Building Department, which met on August 5, 2022, to review each submittal. Each firm's response was evaluated and scored based on:

- Related Building Experience
- The Volume of Previous Work
- Pre-Construction Services Staff
- Construction Services Staff
- Location of Firm's Offices

Based on the collective scoring of the proposal packages, the Committee unanimously determined that the top three (3) ranked firms should be invited to do a presentation and interview for the Evaluation Committee before final selection. Each firm could present relevant qualifications followed by a question and answer period.

The three firms selected were:

- Hedrick Brothers Construction – West Palm Beach, Florida
- Kaufman Lynn Construction – Delray Beach, Florida
- Pirtle Construction Company – West Palm Beach, Florida

Interviews with the three (3) firms were scheduled by the Procurement Specialist to take place on August 22, 2022. Hedrick Brothers Construction and Pirtle Company Construction withdrew their bid proposal. Ultimately, this left Kaufman Lynn Construction as the only firm that provided a presentation. Based on the total score and ranking from the qualification package and interviews, the Committee selected Kaufman Lynn Construction as the firm to recommend to the Village Council for approval to enter contract negotiation.

Note: All meetings were properly advertised, and the Palm Beach County Inspector General's Office was notified as required by PBC Code Sec. 2-423(8) – ARTICLE XII. INSPECTOR GENERAL.

The original contract was prepared by the Village Project Manager and reviewed by the Village Attorney and Assistant Village Manager. The final contract was prepared by the Village Attorney and Kaufman Lynn and reviewed by the Assistant Village Manager and Project Manager.

Fiscal Impact: Funding to support a construction manager for the Police Department building expansion is available within the FY 2023 Budget - General Fund and the Capital Improvement Plan (CIP) utilizing Infrastructure Surtax (Sales Tax) funds.

This project is expected to extend into the next fiscal year (and possibly additional fiscal years) and will be included within the proposed FY 2024 Budget - General Fund. As a result, some of the expenditures for this project have been funded within the FY 2019, FY 2020, FY 2021, FY 2022, and FY 2023 Budget - General Fund.

10. **Houston-Galveston Area Council (H-GAC) Interlocal Cooperative**

Purchasing Program Membership: Approve an Interlocal Agreement allowing the Village to become a member of the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program to contract or agree under the terms of the Act to make purchases or to provide purchasing services and other administrative functions appropriately established by another government entity. No fiscal impact at this time. However; as a member of this purchasing cooperative, the opportunity exists to utilize awards that will increase efficiency and provide cost-savings. Staff: Justin Lucas, Director of Parks & Recreation

SUMMARY: The Houston-Galveston Area Council (H-GAC) is the largest of 24 Councils of Government (COG) in Texas, and is a political subdivision of the State of Texas. It has been serving local governments for more than 40 years.

H-GAC's Cooperative Purchasing Program, known as H-GAC Buy, was established pursuant to the Texas Interlocal Cooperation Act [Texas Local Government Code, Title 7, Chapter 791]. The Act allows local governments and certain non-profits to contract or agree under the terms of the Act to make purchases or provide purchasing services and other administrative functions appropriately established by another government entity. The Interlocal Contract (ILC) is the required legal document that establishes a link between the End User (local governments and certain non-profits) and HGAC Buy, and gives the End User access to H-GAC Buy contracts.

H-GAC has established Interlocal Contracts with thousands of End Users throughout Texas and across the United States. H-GAC Buy contracts are

established based on the requirements of [Texas Local Government Code, Chapter 252]. Products and services are contracted after having been subjected to either a competitive bid (IFB) or competitive proposal (RFP) process. Contracts are blanket type, usually for a term of two or three years. Use of H-GAC Buy for purchases by any end user is strictly at the discretion of that entity. End users issue their purchase orders to and pay to the H-GAC Buy Contractor.

A large number of municipal and county agencies are members of this purchasing cooperative, including the City of Greenacres, the Town of Lantana, the Village of Wellington, North Palm Beach, the Palm Beach County Sheriff's Office, and the Solid Waste Authority.

This interlocal and review of the H-GAC purchasing cooperative was reviewed by the Village Attorney and the Procurement Specialist.

Fiscal Impact: No fiscal impact at this time. However; as a member of this purchasing cooperative, the opportunity exists to utilize awards that will increase efficiency and provide cost-savings.

End of Consent Agenda....

Council Member Ready motioned to approve the Consent Agenda. Council Member Waller seconded the motion; and the said motion carried 4-0.

PRESENTATIONS

PUBLIC COMMENT

Vice-Mayor Gunther offered the public an opportunity to comment.

Dr. Sharad Walker, 3225 Congress Avenue, Palm Springs (Principal of Palm Beach Preparatory School) - Dr. Walker reported to the Council that Palm Beach Prep Charter School was recognized statewide for an accomplishment. The Council congratulated him on the school's achievement.

Hearing no further comment, Vice-Mayor Gunther closed public comment.

REGULAR AGENDA PUBLIC HEARINGS

11. **(Second Reading/Quasi-Judicial Hearing) Ordinance No. 2022-07 - Comprehensive Plan Amendment - Tenth Avenue Incubator Overlay:** Motion for approval of Ordinance No. 2022- 07 amending the Comprehensive Plan of the Village of Palm Springs, in accordance with the local government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161, et. Seq., Florida Statutes, amending the text of the Village's future land use element of the Comprehensive Plan to create the "Tenth Avenue Incubator Overlay (TAIO)". The

allowances of the TAIO shall only be applicable to Commercial General (CG) zoned properties fronting Tenth Avenue, generally located north of 10th Avenue North, between Palm Drive and South Florida Mango Road.

Staff: Iramis Cabrera, PZB Director

SUMMARY: The Planning, Zoning & Building Department (PZ&B) is proposing text amendments to the Future Land-Use Element to establish a Tenth Avenue Incubator Overlay (TAIO) in an effort to encourage innovative development/redevelopment along 10th Avenue North with uses that are commercial and/or light industrial in nature, designated in a manner that is sensitive to adjacent residential neighborhoods, and create an aesthetic corridor identity.

The allowances of the TAIO shall only be applicable to Commercial General (CG) zoned properties fronting Tenth Avenue, generally located north of 10th Avenue North, between Palm Drive and South Florida Mango Road. The objective of the TAIO would be to promote the redevelopment of the properties by creating a distinct character and identity.

Development in the TAIO shall utilize a harmonious and compatible architectural style. All uses permitted within the CG zoning district are permissible in the TAIO, considering the design elements and development standards outlined in the Village Land Development Regulations for the TAIO.

Projects that comply with the requirements of the TAIO may be approved in accordance with the Land Development Regulations so long as such Incubator Uses do not generate dust or create a noise nuisance, are not obnoxious in nature, and are compatible with adjacent residential uses.

Rather than consider land-use changes on a parcel-by-parcel basis, which leads to concerns about compatibility and "spot zoning", an overlay approach is proposed to permit innovative designs in exchange for design and uses considerations.

The proposed TAIO (land development regulations and design requirements) was initially drafted by the property owner and was discussed with the PZ&B Director, the Assistant Village Manager, and the Village Manager. Staff has proposed various revisions to the property owner's suggested land development regulations and is moving forward as a staff-initiated effort.

The proposed Tenth Avenue Incubator Overlay provides the following:

- The buildings shall be designed in a manner with a harmonious architectural style with allowances for variations in color and design, to establish an identity for the unified planned development.
- The building façade(s) facing 10th Avenue North should be designed in a

- manner to resemble an office, retail, or showroom building.
- Bay doors shall be screened from adjacent residential uses and bay doors shall not face adjacent streets.
- Manufacturing and assembly portions of the design shall be conducted inside the principal structure(s), and activities shall be conducted within a climate-controlled environment, to the greatest extent practicable, to prevent external noise, vibrations, dust, odor, and other conditions.
- The proposed TAIO encompasses 4 parcels and a total of 8.6075 acres. The area is designated in the Commercial Land Use category.

The proposed comprehensive plan amendment was submitted through the Palm Beach County Intergovernmental Plan Amendment Committee (IPARC) for intergovernmental review and no comments were received.

Note: Notifications were mailed to all property owners abutting the TAIO on July 19, 2022.

The Planning and Zoning Board considered this application during their August 9, 2022 meeting and recommended approval. The Local Planning Agency considered the proposed Comprehensive Plan Text Amendment on September 8, 2022 and recommended approval.

The proposed ordinance was approved on the 1st reading by the Village Council on September 8, 2022.

Note: Following approval on 1st reading by the Village Council, the proposed comprehensive plan text amendments were forwarded for state and regional agency review, including the Florida Department of Economic Opportunity (DEO) and Treasure Coast Regional Planning Council (TCRPC). No review comments were issued by the agencies.

The proposed ordinance is being presented for consideration on the 2nd and final reading.

Village Clerk Wynn, read the statement of advertisement into the record. Vice-Mayor Gunther asked the Council to disclose any ex parte communication. There was none. Village Clerk Wynn swore in the applicants. The staff stated that their presentation was provided at the First Reading. The applicant was present and stated that she did not have a presentation, but she was available for questions.

Village Attorney Torcivia read the title of the caption into the record. Vice-Mayor Gunther opened the meeting up for comments from the public and discussion from the Council. Council Member Ready asked about trailers that were parked in the lot for four (4) hours. The Agent for the Applicant could not provide an answer about why the trailers were in the lot for an extended amount of time.

Council Member Waller made a motion to approve Ordinance No. 2022-07. Council Member Ready seconded the said motion. There was a roll call vote as follows: Mayor Pro Tem Brinkman - Yes, Council Member Waller - Yes, Council Member Ready - Yes, and Vice-Mayor Gunther - Yes. The said motion carried 4-0.

Fiscal Impact: Amending the Comprehensive Plan to create a new overlay does not have a fiscal impact; however, redevelopment utilizing allowances under this new overlay district is expected to increase the Village's property tax revenue.

12. **(Second Reading/Quasi-Judicial Hearing) Ordinance No. 2022-08 - Village Code Amendment - Chapter 34 - Tenth Avenue Incubator Overlay:** Motion for approval of Ordinance No. 2022- 08 amending the Village Code of Ordinances at Chapter 34 "Land Development", Article VI "Land Use", Division 7 "Supplemental District Regulations", to establish provisions of a new Subdivision XI, "Tenth Avenue Incubator Overlay (TAIO)", specifically Sections 34-1090 – 34- 1099; to provide incentives for redevelopment located generally located north of 10th Avenue North, between Palm Drive and South Florida Mango Road.

Staff: Iramis Cabrera, PZB Director

SUMMARY: The Planning, Zoning & Building Department is proposing amendments to the Land Development Regulations to establish a Tenth Avenue Incubator Overlay (TAIO) within a new Subdivision XI to encourage innovative development/redevelopment along 10th Avenue North with uses that are commercial or light industrial, designated in a manner that is sensitive to adjacent residential neighborhoods, and create an aesthetic corridor identity.

The allowances of the TAIO shall only apply to Commercial General (CG) zoned properties fronting Tenth (10th) Avenue, generally located north of 10th Avenue North, between Palm Drive and South Florida Mango Road. The objective of the TAIO would be to promote the redevelopment of the properties by creating a distinct character and identity.

Development in the TAIO shall utilize a harmonious and compatible architectural style. All uses permitted within the CG zoning district are permissible in the TAIO, in consideration of the design elements and development standards outlined in the Village Land Development Regulations for the TAIO.

Projects that comply with the requirements of the TAIO may be approved under

the Land Development Regulations so long as such Incubator Uses do not generate dust or create a noise nuisance, and is not obnoxious, and is compatible with adjacent residential uses.

Rather than consider land-use changes on a parcel-by-parcel basis, which leads to concerns about compatibility and "spot zoning," an overlay approach is proposed to be utilized to permit innovative designs in exchange for design and uses considerations.

The proposed TAIO (Land Development Regulations and design requirements) was initially drafted by the property owner and was discussed with the Planning, Zoning, and Building Director, the Assistant Village Manager, and the Village Manager. The staff has proposed various revisions to the property owner's suggested land development regulations and is moving forward as a staff-initiated effort.

The proposed Tenth Avenue Incubator Overlay provides the following:

- The buildings shall be designed in a manner with a harmonious architectural style with allowances for variations in color and design to establish an identity for the unified planned development.
- The building façade(s) facing 10th Avenue North should be designed in a manner to resemble an office, retail, or showroom building.
- Bay doors shall be screened from adjacent residential uses, and bay doors shall not face adjacent streets.
- Manufacturing and assembly portions of the design shall be conducted inside the principal structure(s), and activities shall be conducted within a climate-controlled environment, to the greatest extent practicable, to prevent external noise, vibrations, dust, odor, and other conditions.

The proposed TAIO encompasses four (4) parcels and a total of 8.6075 acres. The area is designated in the Commercial Land-Use category.

Note: Notifications were mailed to all property owners abutting the TAIO on July 19, 2022. It was advertised in the Lake Worth Herald on August 4, August 25, and December 1, 2022.

The proposed ordinance was prepared by the Planning, Zoning & Building Director and reviewed by the Assistant Village Manager and by the Village Attorney.

The Planning & Zoning Board considered the requested land development regulations amendment during their August 9, 2022, meeting.

The proposed ordinance was approved on the 1st reading by the Village Council on September 8, 2022, and is being presented on the 2nd and final reading.

Village Clerk Wynn read the statement of advertisement into the record. Vice-Mayor Gunther asked the Council to disclose any ex parte communication.) There was none. Village Clerk Wynn swore in the applicants earlier (Item #11 & 12). The staff stated that their presentation was provided at the First Reading. The applicant was present and stated that she did not have a presentation, but she was available for questions.

Village Attorney Torcivia read the title of the caption into the record. Vice-Mayor Gunther opened the meeting up for comments from the public and discussion from the Council. Mayor Pro Tem Brinkman noted a change she wanted in the ordinance about hazardous materials (Section 12). The section should read as follows: Any operation that utilizes hazardous materials or creates hazardous waste shall comply with Sec. 34-1383" Village Code of Ordinances. Mayor Pro Tem Brinkman said the language protects the Village.

Fiscal Impact: Amending the Land Development Regulations to create a new overlay does not have a fiscal impact; however, redevelopment utilizing allowances under this new overlay district is expected to increase the Village's property tax revenue.

Vice-Mayor Gunther offered the public and Council an opportunity to speak. There was no further comment. Mayor Pro Tem Brinkman made a motion to approve Ordinance No. 2022-08 as amended. Council Member Ready seconded the said motion. There was a roll call vote as follows: Mayor Pro Tem Brinkman - Yes, Council Member Waller - Yes, Council Member Ready - Yes, and Vice-Mayor Gunther - Yes. The said motion carried 4-0.

13. **(Quasi-Judicial Hearing) Resolution No. 2022-50 - Sign Variances - McDonald's - 3671 South Congress Avenue:** Motion for approval of Resolution No. 2022-50 with conditions is submitted by Mr. Daryl Johnson, an agent for McDonald's (Corporate Office) in response to the request for five (5) sign variances. Two (2) digital menu board signs and two (2) digital presell signs will be installed at each drive-thru lane order point of the McDonald's fast food restaurant located at 3671 South Congress Avenue, one of each sign.
Staff: Iramis Cabrera, PZB Director

SUMMARY: Mr. Daryl Johnson, agent for the Applicant, McDonald's (Corporate Office), is requesting five (5) sign variances to install two (2) digital menu board signs and two (2) digital presell signs, one of each at each drive-thru lane order point, of the existing fast food restaurant located at 3671 South Congress Avenue.

The Corporate Office submits the proposed new digital menu signs to display graphics of menu items in various colors and prices, which, if approved, would be a deviation from the Village Code regarding electronic signs. The applicant has stated that the proposed sign text/copy will only change twice daily - when the menu changes from breakfast to lunch/dinner and vice versa. At this time, some

digital menu boards are being used by McDonald's within Palm Beach County (photos of the digital menu board within the agenda backup are from a sign installed at 2605 South Military Trail). The Village Council recently approved the same requested variances for the McDonald's site located at 3015 Forest Hill Boulevard (Resolution No. 2022-34 - August 18, 2022).

Note: The Village Council amended the sign code (Ordinance No. 2015-13 on May 14, 2015) to reduce the maximum size of electronic changeable copy signs (i.e., time & temperature signs at financial institutions, gas/fuel price signs, public service message signs on governmental/public/educational properties).

In September 2013, the Village Council authorized a sign variance for the restaurant (Resolution No. 2013-47):

- Permit a second rear drive-thru lane with a second menu board, a total of two menuboards, one in each drive-thru lane.

At this time, the applicant is seeking five (5) sign variances:

- **(PSV22-18)** - A request to allow an electronic changeable menu board and presell signs at each of the two (2) drive-thru lane order points. (Provides relief from Section 34-267 of the Village Code that limits changeable electronic signs to public service messages on governmental, public, or educational properties).
- **(PSV22-19)** - Request to allow four (4) changeable electronic signs (Provides relief from Section 34-267(d) of the Village Code that limits only one (1) electronic sign - per property).
- **(PSV22-20)** - Request to allow multiple colors and varying messages (menu items and price) (Provides relief from Section 34-267(i) from Village Code that limits changeable electronic signs to monochromatic, single messages).
- **(PSV22-21)** - to allow graphics and logos (Provides relief from Section 34-267(l) of the Village Code that permits only text and numbers on changeable electronic signs).
- **(PSV22-22)** - to allow 100% changeable copy area (Provides relief from Section 34-263(f) of the Village Code that limits changeable copy area to be 25% of the proposed sign area)
- Permitting commercial businesses to utilize changeable electronic signs.

Based on previous Village Council approvals and direction, the staff is concerned with establishing the following precedence:

- Allowing graphics on changeable electronic signs.

If approved, staff recommends that the proposed variances be conditioned to require the proposed signs to comply with Section 34-267 of the Village Code, which prohibits animation or video displays and requires sign messages to remain static for a minimum of six (6) seconds with instantaneous change of the display within one second or less.

Resolution No. 2022-50 was advertised in the Lake Worth Herald on December 1, 2022.

Fiscal Impact: The proposed request does not have a fiscal impact to the Village.

Village Clerk Wynn read the statement of advertisement on the record and the applicant was sworn in. Vice-Mayor Gunther called for ex parte communication for the Council. There was none. Ms. Cabrera read the staff report into the record. The applicant did not have a presentation, but stated he was available to answer questions.

Village Attorney Torcivia read the title of the caption into the record. Vice-Mayor Gunther opened the meeting for comments from the public and Council discussion. Council Member Ready asked if the drive-thru windows would offer a multi-lingual service. The applicant could not provide a definite response.

Mayor Pro Tem Brinkman made a motion to approve Resolution No. 2022-50. It was seconded by Council Member Waller. The said motion carried 4-0.

14. **Resolution No. 2022-48 - Preliminary Plat - Belmont - 1591 Kirk Road:** Motion for approval of a preliminary plat submitted by Ms. Martha Carter, the agent for D.R. Horton, Inc. ("Applicant"), to subdivide a multifamily property to delineate 42 individual townhouse lots, consistent with the site plan approved by the Village Council (Resolution No. 2022-08 - June 9, 2022), for the property located at 1591 Kirk Road.

Staff: Iramis Cabrera, PZB Director

SUMMARY: Ms. Martha H. Carter, the agent for D.R. Horton, Inc., and applicant, has filed a preliminary plat to re-plat Lot 2, Lutheran Church - Kirk Road, as recorded in Plat Book 117, pages 181 and 182, Public Records of Palm Beach County, Florida and lying in Section 12, township 44 south, range 42 east, Village of Palm Springs, Palm Beach County, Florida. The applicant proposes subdividing the multifamily property to delineate 42 individual townhouse lots for fee-simple ownership, consistent with the site plan approved by the Village council (Resolution No. 2022-08 - June 9, 2022).

The Village Surveyor, Craven Thompson & Associates, Inc., has reviewed the proposed plat and has determined that it complies with Chapter 177, F.S. - Platting Regulations.

The Planning & Zoning Board considered the proposed preliminary plat at their November 22, 2022, meeting and recommended approval.

A final plat will be presented to the Village Council if approved. Recording a plat is required before issuing an occupancy certificate.

Ms. Cabrera read the staff report into the record. She reported that the applicant requested to subdivide a multifamily property into twelve individual single family lots. The applicant was present to answer any questions. Village Attorney Torcivia read the title of the caption into the record.

Vice-Mayor Gunther noted that an advertisement statement was not required for this item. He opened the meeting for public comment and Council discussion.

Council Member Ready asked about the voluntary fee requested for new developments. He wanted to know if there were any objections from the Palm Beach County School Board. The applicant did not receive any objections from Palm Beach County School Board.

Council Member Ready made a motion to approve Resolution No. 2022-48. Mayor Pro Tem Brinkman seconded the said motion. The motion carried 4-0.

Fiscal Impact: There is no direct fiscal impact from the proposed plat.

15. **Resolution No. 2022-49 - Final Plat - 3673 Coconut Road:** Motion for approval of Resolution No. 2022-49, a request from Ms. Molly Brown, agent for BLP Homes LLC, the owner ("Applicant"), for a final plat to subdivide a multifamily property to delineate 12 individual single-family lots, consistent with the site plan approved by the Village Council (Resolution No. 2021-01 - January 14, 2021), for the property located at 3673 Coconut Road.

Staff: Iramis Cabrera, PZB Director

SUMMARY: Ms. Molly Brown, agent for BLP Homes LLC, owner, has filed a final plat to re-plat the east one-half of tracts 22 and 23, in block 4, of Lakewood Gardens Plat No.1 (as recorded in Plat Book 18, Page 38 of the Public Records of Palm Beach County, Florida), less the east 165 feet of the North 60 feet of tract 22 lying in the southwest quarter (S.W. 1/4), of section 19, township 44 south, range 43 east, Village of Palm Springs, Palm Beach County, Florida. The applicant proposes subdividing the multifamily property to delineate 12 individual single-family lots, consistent with the site plan approved by the Village Council (Resolution No. 2021-01 - January 14, 2021).

The Village Surveyor, Engenuity Group Inc., has reviewed the proposed plat and has determined that it complies with Chapter 177, F.S. - Platting Regulations.

The final plat is consistent with the preliminary plat approved by the Village Council (Resolution No. 2022-36 - October 6, 2022).

If approved, the final plat will be recorded in the public records of Palm Beach County before any sales of townhouse lots.

Fiscal Impact: There is no direct fiscal impact from the proposed plat.

Village Clerk Wynn read the statement of advertisement into the record. It was noted that the applicant was not present to give testimony. Staff presented their testimony and entered it into the record. Mayor Smith offered the public and Council an opportunity to speak on Resolution No. 2022-49. Council Member Ready asked if the development would be for ownership or renters. Ms. Cabrera advised the project is ownership.

Village Attorney Torcivia read the title of the caption into the record. Vice-Mayor Gunther clarified the scrivener's error in the Resolution. The correct resolution is 2022-49.

Mayor Pro Tem Brinkman motioned to approve Resolution No. 2022-49. Council Member Waller seconded the motion; and the said motion carried 4-0.

16. **(First Reading) Ordinance No. 2022- 13 - Village Code Amendment - Chapter 34 - Land Development - Article VI. Land Use. Section 34-890 - Home Occupations and Article IV. Signs. Section 34-328 - Wall, Under Canopy, and Window Signs:** Motion for approval of Ordinance No. 2022-13; amending Section 34-328 in the Village Code of Ordinances, to permit and regulate home-based businesses to conform to amendments to Florida Statute 559.955, and to the Home Occupation Code. To minimize adverse impacts from a zoning perspective on residential neighborhoods, Section 34-890 has been modified; and Section 34-328 has been amended to allow and regulate home-based business signage.

Staff: Iramis Cabrera, PZB Director

SUMMARY: The Planning, Zoning, and Building Department is requesting an amendment to the Village Code - Chapter 34 - to amend Home Occupation regulations that have been in place since 1994 and, additionally, amend the sign regulations to allow and regulate signage for home-based businesses.

The Florida Legislature, in its 2021 session, passed House Bill CS/HB 403: Home Based Business, prohibiting local governments from taking specific actions relating to the licensure and regulation of home-based businesses, including

specifying conditions under which a business is considered a home-based business; authorizing home-based businesses to operate in areas zoned for residential use; establishing those home-based businesses are subject to specific business taxes and allowing the prevailing party in challenges to recover specified attorney fees and costs.

House Bill 403 restricts local jurisdictions from overly regulating home-based businesses, but all businesses must establish compliance with all other local, state, and federal laws. In the Florida Statutes, Section 559.955 codifies the law that went into effect on July 1, 2021. To comply with state laws, the staff proposes amending the village code.

The current code regulates home occupations to restrict certain undesired businesses within a residential neighborhood and to keep those businesses within an appropriate zoning district. The new law prohibits regulation of these businesses, and more occupations will now be allowed to operate in residential zoning districts. Thus, the Village is amending its Home Occupations, Chapter 34, Article VI, Section 34-890, and concurrently amending the sign regulations, Chapter 34, Article IV, Section 34-328 to correspond with the statute.

Home occupations are an allowable accessory use in a residential dwelling unit and must conform to performance and design requirements that apply to all residential units. Before beginning any home occupation, you will need a local Business License and a Certificate of Use. In addition, zoning officials may be required to decide whether the home occupation is permitted.

Some of the principles that the staff recommendations are designated to address the following:

1. Home occupations are allowed as an accessory use of the residential dwelling.
2. Home occupations cannot be the principal use of the dwelling unit. The occupant must live there and be involved in business activities, except for up to two employees, who may be independent contractors or employees.
3. Parking related to the business must comply with local zoning requirements and cannot generate more parking than is allowed at a similar residence without a business. In addition, vehicles used in connection to the home occupation must be legally parked and not located on the right-of-way or the sidewalk.
4. Architectural modifications to the residence must conform to the residential character and aesthetic of the neighborhood.
5. A maximum of one non-electrical sign shall be permitted to advertise the home occupation and shall not exceed two (2) square feet. No window signs are allowed.
6. No home occupation may occupy more than 20% of the gross floor area of a residence and, in no event, a total of more than 300 square feet. Any home occupation over 20% will be considered a principal use.

While the Village has designed the draft regulations to comply with State law, the new regulations are designed to mitigate adverse impacts on residential neighborhoods from a zoning perspective. Home occupations must still adhere to the building and fire regulations.

The Planning, Zoning & Building Department prepared the proposed ordinance and reviewed it with the Assistant Village Manager, Village Attorney, and the Village Code Enforcement Officers.

The Planning & Zoning Board considered the proposed ordinance during their meeting on November 22, 2022, and recommended approval.

Fiscal Impact: The proposed ordinance does not have a direct fiscal impact to the Village.

Ms. Cabrera presented Ordinance No. 2022-13. She explained that this was statutory, and that the Village must conform to the signage regulations. Vice-Mayor Gunther offered the Council and public an opportunity to speak about this item. Mayor Pro Tem Brinkman asked about lighting permitted for commercial and multi-family developments.

Village Attorney Torcivia read the title of the caption into the record.

Mayor Pro Tem Brinkman motioned to approve Ordinance No. 2022-13. Council Member Ready seconded the motion; and the said motion carried 4-0.

17. **(First Reading) Ordinance No. 2022-14 Village Code Amendment - Chapter 2 - Local State of Emergency:** Motion for Approval of Ordinance No. 2022-14 to modify the procedures by which a local state of emergency is declared in the Village.

Staff: Kimberly Glas-Castro, Assistant Village Manager

SUMMARY: Administration proposes text amendments to Chapter 2 "Administration" to modify the procedures by which a local state of emergency is declared in the Village.

Currently, a meeting of the Village Council is required in order to enact or authorize the Village Manager to enact a local state of emergency. In most cases, this is an emergency meeting due to an impending threat. Garnering a physical quorum of the Village Council for an emergency meeting cannot be conducted as expeditiously as needed for an imminent threat.

The proposed ordinance provides that a local state of emergency can be enacted

by the Mayor (Vice-Mayor or Mayor Pro Tem in the case of absences). This procedure is utilized in many Palm Beach County cities, including West Palm Beach, Jupiter, Delray Beach, Boca Raton, Lake Park and Greenacres. The Village needs the ability to declare an emergency when an incident arises (such as an airplane crash or other mass casualty event, hazardous chemical spill, or civil disturbance) that necessitates immediate emergency response/protective and recovery activities and coordination with external agencies.

The proposed ordinance is the first step in modifying emergency response procedures to allow the Village to be nimbler and more positioned for State or Federal assistance.

The proposed ordinance was prepared by the Assistant Village Manager and reviewed by the Village Attorney.

If approved on the 1st reading, the proposed ordinance will be presented to the Village Council for consideration on the 2nd and final reading during the January 12, 2023 meeting.

Fiscal Impact: Proposed Ordinance No. 2022-14 does not have a direct fiscal impact on the Village.

The Assistant Village Manager, Mrs. Glas-Castro presented this item. She explained the purpose of Ordinance No. 2022-14 is to eliminate the need for the Council to have a quorum and a meeting held before the Village Manager can declare a local state of emergency. It gives the authority to the Village Manager to make timely decisions. Vice-Mayor Gunther offered the public an opportunity to speak on Ordinance No. 2022-14. There were no questions from the public.

Council Member Ready motioned to approve Ordinance No. 2022-14. Council Member Waller seconded the motion; and the said motion carried 4-0.

ACTIONS AND REPORTS

At this time (former employee) Mr. Freddy Mirabel came to address the Council regarding his recent termination. The Council and Village Manager advised Mr. Mirabal that there is a process to file a grievance with HR that he must adhere to.

The Village Manager had no further Actions and Reports.

VILLAGE MANAGER COMMENTS

The Council complimented the staff on their holiday spirit throughout the Village (i.e., party, and door decorating contest). The Village Manager announced the official rollout of the CORE values. He would go around to the different departments and promote the CORE values to gain momentum.

PBC Fire Battalion Chief, Tracy Adams, gave an update on the events attended by Fire Rescue. She gave an update on the number of response calls. Council Member Ready asked about CPR and AED training for staff.

VILLAGE COUNCIL COMMENTS

The Village Council gave a recap of the holiday activities attended around the Village and wished everyone a Happy Holiday. They also thanked the staff for doing the re-striping on Greenbrier.

ADJOURNMENT

Hearing no further business, Vice-Mayor Gunther adjourned the meeting at 7:26 PM.

The undersigned is the Village Clerk of Palm Springs, Florida, and the information provided herein is the Minutes of the Regular Council Meeting held on **December 8, 2022**. Which minutes were formally approved and adopted by the Village Council on **February 9, 2023**.

Kimberly M. Wynn

Kimberly W. Wynn, Village Clerk

NEXT REGULAR MEETING:

**THURSDAY, JANUARY 12, 2023
AT 6:30 PM**