



**MINUTES, COUNCIL CHAMBERS
226 CYPRESS LANE
VILLAGE OF PALM SPRINGS,
FLORIDA JANUARY 12, 2023 AT 6:30 PM**

CALL TO ORDER

Mayor Smith called the Village Council Regular Meeting to order at 6:30 PM.

ROLL CALL

Present: Mayor Beverly Smith, Vice-Mayor Doug Gunther, Mayor Pro Tem Joni Brinkman, Council Member Patti Waller, and Council Member Gary Ready

Absent: None

Also Present: Village Manager Michael Bornstein, Village Attorney Susan Garrett, Village Clerk Kimberly Wynn, Assistant Village Manager Kim Glas-Castro, Police Chief Tom Ceccarelli as Sergeant-in-Arms, Planning, Zoning and Building Director Iramis Cabrera, Assistant Finance Director, Mariana Ortega, Finance Director, Rebecca Morse, Parks and Recreation Director, Justin Lucas, Public Works Supervisor Michael Woods, Assistant Utilities Director Paul Ward, Library Services Director Josefina Maliska, and Utilities Director Dr. Jimmy Johnson.

INVOCATION

The Village Manager, Mr. Bornstein, led the Invocation.

PLEDGE OF ALLEGIANCE

The Village Council led the Pledge of Allegiance.

ADDITIONS, DELETIONS OR MODIFICATIONS, AND APPROVAL OF AGENDA

Village Manager Bornstein stated there were no changes to the Agenda.

Council Member Ready made a motion to approve the Agenda as presented. Council Member Waller seconded. The said motion carried 5-0.

CONSENT AGENDA

1. **November 10, 2022, Village Council Regular Meeting Minutes:** Approval of November 10, 2022, Village Council Regular Meeting Minutes.
Staff: Kimberly Wynn, Village Clerk
2. **Resolution No. 2023-01 - Supporting the 2023 Florida League of Cities (FLC) Legislative Platform:** Motion to Approve Resolution No. 2023-01 to support the FLC legislative platform.
Staff: Kimberly Wynn, Village Clerk

SUMMARY: As part of the Florida League of Cities Legislative Platform established on December 2, 2022, the League of Cities seeks the support of all municipalities for their 2023 FLC Legislative Platform. In the upcoming Legislative Session of 2023, the Village of Palm Springs will work closely with the local delegation to support the issues affecting Florida's towns, cities, and Villages.

On March 7, 2023, the Florida Legislature will convene the 2023 Legislative Session.

In light of this resolution, the Village Clerk is directed to provide a certified copy of Resolution No. 2023-01 to all members of the Florida Legislature, the Governor, the Florida League of Cities, the Palm Beach County Legislative Delegation, as well as any other interested parties.

3. **Work Authorization No. 5 - Piggyback - Roadway Asphalt Milling & Resurfacing - Public Works Department (FY 22/23 Budget Funded) - Ranger Construction Industries, Inc.** - Motion for approval of Work Authorization No. 5 with Ranger Construction Industries, Inc., in the amount of \$155,707.31 for milling and resurfacing five (5) roadways within the Village. Funding to support Work Authorization No 5 is available within the FY 2023 - General Fund.

Staff Timothy Crespo, Assistant Public Works Director

Summary: The Public Works Department recommends that five (5) roadway segments throughout the Village be milled and resurfaced based on visual inspection and rating by staff. These roadways currently have pavement; however, they have significant pavement deterioration and will need to be milled and resurfaced to extend their service life.

The Public Works Department is recommending that the following five (5) roadways be approved to be milled and resurfaced utilizing the Village's existing piggyback contract with Ranger Construction Industries, Inc. for the amount of \$155,707.31:

- Anna Lane (From Donald Road - Dead End)
- Bermuda Road (From Meadow Road - Dead End)
- Lillian Road (From South Congress Avenue - Lori Drive)
- Line Drive (From South Military Trail - Dead End)
- Woodhaven Drive (From Forest Hill Boulevard - Dead End)

To get the lowest possible price, the Village staff recommends using our existing agreement and piggybacking off the current Palm Beach contract awarded to Ranger Construction Industries on October 16, 2021. Palm Beach County conducted a competitive selection process for the Palm Beach County Annual Milling and Resurfacing Contract (ITB # R2021-0984 - Project Number 2021050 - August 17, 2021).

The Village accepts Ranger Construction Industries' pricing under the Palm Beach

County contract, including all conditions, terms, and prices. Palm Beach County's contract expires on October 16, 2024, but a six (6) month renewal option is available.

All original bid documents authorizing the initial piggyback and renewal agreements with Ranger Construction Industries, Inc. are available in the Village Clerk's Office.

The Village's Purchasing Code, Section 58-9. By using contracts from other government agencies, the Village can award contracts by piggybacking or accessing the goods and services from contracts with the State of Florida, Florida political subdivisions, or any other governmental entity (other than

the Federal government). The agreement is valid if the goods and services are identical or substantially similar and procured competitively.

March/April 2023 is the estimated completion date of the project.

The proposed project Work Authorization No. 5 was prepared by the Village Attorney and reviewed by the Assistant Public Works Director, Assistant Village Manager, and the Finance Director.

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

Fiscal Impact: Funding to support purchases under this proposal is available within the FY 2023 - General Fund (01441-55300).

FY22/23 Approved Budget	01441-55300	\$245,000.00
Project Request - General Fund	01441-55300	\$155,707.31

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.

4. **Temporary Use Permit - FDOT - Lake Worth Road - 3475 2nd Avenue North:** Motion for approval of an application submitted by Mr. Kevin McGinley, "Agent for the Applicant," Zahlene Enterprises Inc., for a Temporary Use Permit for two (2) years with the intent of allowing construction staging area for the reconstruction of a Lake Worth Road project located at 3475 2nd Avenue North (FDOT project number T4605).

Staff: Iramis Cabrera, PZB Director

SUMMARY: Mr. Kevin McGinley, agent for the applicant, Zahlene Enterprises Inc., is requesting a Temporary Use Permit to allow a construction staging area to reconstruct the Lake Worth Road project, FDOT project number T4605. Approval of the request will enable the applicant, also the Contractor for the project, to stage the materials required.

Due to the proximity of this property to the construction area, the use of this property as a staging area will help expedite the project's construction. It will allow the Contractor to finish all construction activities quicker, reducing the time the traveling public will have due to the construction activities.

This preliminary site plan shows the proposed arrangement of temporary storage materials. Staging area accessibility is limited to the existing driveway connection on 2nd Avenue North.

The applicant is requesting a two (2) year Temporary Use Permit while the reconstruction of Lake Worth Road is ongoing.

Fiscal Impact: The proposed temporary use has no direct budgetary impact. This property is within the Palm Springs Community Redevelopment Agency (CRA).

5. **Trenchless Technology Rehabilitation and Related Products and Services Agreement - Cooperative Purchasing - Utilities Department (FY 2023 Budget Funded) SAK Construction, LLC.:** Motion to approve a Service Agreement with SAK Construction, LLC to provide as-needed, trenchless technology rehabilitation, as a need to line (or repair) our wastewater collection pipes throughout the Village and our utility service area due to cracks and leaks within the existing piping, as well as to do various sewer manhole repairs. Funding to support purchases under this proposed agreement is available within the FY 2023 Budget - Water & Sewer Enterprise Fund.

Staff: Paul Ward, Assistant Director of Utilities

Summary: The Utilities Department, throughout the year, needs to line (or repair) our wastewater collection pipes throughout the Village and our utility service area due to cracks and leaks within the existing piping, as well as to do various sewer manhole repairs. These infrastructure vulnerabilities allow for infiltration and inflow (I&I) to enter the Village sewer collection system, increasing the cost of disposal through the Lake Worth Sub-Regional and Palm Beach County interconnects.

To ensure the lowest possible price, staff is recommending that the Village piggyback off the current OMNIA Partners (previously National Intergovernmental Purchasing Alliance) contract that was awarded to SAK Construction. This selection by OMNIA Partners was completed through a competitive selection process – RFP Trenchless Technology Rehabilitation and Related Products and Services (RFP No. R220402 – August 26, 2021).

If approved, the Village would accept SAK Construction's pricing by utilizing the cooperative purchasing contract including all terms, conditions, and pricing

therein. The proposed contract is set to expire on February 28, 2025. The Village will not expend more than the amount in the approved budget as it may be adopted/amended each year for these goods and services over the term of this contract.

The Village's Purchasing Code, Section 58-8. Cooperative Purchasing; provides the Village may participate, sponsor, conduct, or administer a cooperative purchasing agreement for purchasing. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between government entities. Purchases made through a cooperative purchasing agreement are exempt from competitive selection purchase requirements outlined in this purchasing code. The Council must approve all Village purchases from a cooperative purchasing agreement that may have a total value of more than \$35,000.00.

The Village Attorney prepared the renewal agreement, and the Utilities Director, Assistant Utilities Director, and Finance Director reviewed it.

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

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

6. **Submersible Pump Purchase - Utilities Department (FY 2023 Budget Funded - Water & Sewer Enterprise Fund) - PSI Technologies, Inc.:** Motion to approve an agreement with PSI Technologies, Inc., Hudson Pump & Equipment, and Wastewater Solutions, LLC, in the amount of \$59,220 for the purchase of submersible pumps to replace three (3) aging pumps used at the Main Water Treatment Plant in the MIEX Transfer Station. Funds to support the proposed purchase are available within the FY 2023 Budget - Water & Sewer Enterprise Fund.

Staff: Paul Ward, Assistant Director of Utilities

SUMMARY: As a result of replacing the pumps with new, more reliable, and more efficient pumps that are standard within the Water Plants, the Village will be able to save considerable amounts of money (as a result of lower electricity costs, staff maintenance costs, etc.). In addition, our utility customers will benefit from improved operational efficiency.

To ensure the lowest possible price and to standardize the types of pumps, accessories, and repair services utilized within our utility processes, the Village issued an Invitation to Bid (ITB) and awarded contracts to three (3) qualified vendors - PSI Technologies, Inc., Hudson Pump & Equipment, and Wastewater Solutions, LLC on June 9, 2022. The Village of Palm Springs selected a vendor through a competitive selection process – Submersible Wastewater Pumps,

Accessories, and Service (ITB #2022B-010 - March 31, 2022).

The Village agreed to the three vendors' terms, conditions, and pricing. The duration of each contract expires on June 9, 2025, with a renewal option to extend two additional one (1) year terms.

Through the existing agreement with PSI Technologies, the staff was able to obtain the following proposed cost for the purchase of three (3) submersible pumps:

<u>Item:</u>	<u>Amount:</u>
Main WTP MIEX Transfer Station Pumps (3 Pumps) PSI Technologies	\$59,220.00
<i>Total</i>	\$59,220.00

As part of the approved Water & Sewer Fund budget for FY 2023, MIEX Transfer Pumps were funded.

The proposed quotes were prepared by PSI Technologies and reviewed by the Utilities Superintendent, Assistant Utilities Director, Utilities Director, and Finance Director.

The Village has worked with the proposed vendors previously, and they have provided excellent service and quality products.

Fiscal Impact: Funds to support the proposed purchase are 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.

7. **Change Order No. 2 - Gulfstream Road Stormwater Improvements Project (Task Order No. 277) - Public Works Department (FY 2023 Budget Funded - Stormwater Enterprise Fund) - Hinterland Group, Inc.:** Motion for approval of Change Order No. 2 (Task Order No. 277) for Gulfstream Improvements to provide a credit of \$29,000 for additional and revised construction services for Hinterland Group Inc. Also, extend the project completion date by 42 calendar days (total contract completion time from 150 days to 259 days). Funding to support the Gulfstream Road Stormwater Improvements Project (Task Order No. 277) was provided by the Stormwater Enterprise Fund.
Staff: Walter Sanchez, Project Manager

SUMMARY: On March 10, 2022, the Village Council approved Task Order No. 277 with Hinterland Group, Inc. for construction services for the Gulfstream Road Stormwater Improvements Project in the amount of \$778,325.00.

Note: On November 10, 2022, Change Order No. 1 was approved for time

extensions for approved changes captured via Allowance Releases No. 1 & No. 2 (37 days) and for material delivery delays (30 days) due to supply chain issues for a total of 67 days with no change in contract amount.

During the installation of stormwater lines within the right-of-way, the Contractor encountered several conflicts with the existing sanitary sewer lines that required several field adjustments to the stormwater line elevations and modifications to the stormwater structures. Also, a water main deflection was required where it intersected the new storm line within the street between two storm structures.

The Contractor is also providing credit to mill and pave 1" of pavement of a good portion of the road within the two sections of roadway along Gulfstream instead of individually removing and replacing the road sections that were disturbed during the storm line installation per the contract.

Note: A marked-up plan detailing the sections to be milled and repaved is attached as an exhibit.

The Village's contracted engineer, Craven Thompson & Associates, Inc., and the Public Works department are requesting an amendment to the contract for Task Order No. 277 (Change Order #2) for credit in the amount of (\$29,873.94) for additional and revised construction services and to extend the project completion date by an additional 42 calendar days (total contract time from 150 days to 259 days):

<u>Item</u>	<u>Contract Amount</u>	<u>Contract Time / Add'l Days</u>
Original Contract Amount	\$778,325.00	150 days
CO #1 (Approved)	0.00	67 days
CO #2 (Proposed)	<u>(\$29,873.94)</u>	<u>42 days</u>
Revised Contract Amount	\$748,451.06	259 days

If approved, the total cost of the Gulfstream Road Stormwater Improvements Project within Task Order No. 277 will be decreased to \$748,451.06 and the total contract time will be increased to 259 days.

If approved, it is estimated that the proposed Gulfstream Road Stormwater Improvements Project will be substantially complete by mid-January 2023.

The proposed Change Order No. 2 was prepared by Hinterland Group, Inc. and reviewed by the Village's Engineer, Craven Thompson & Associates, Inc., the

Assistant Village Manager, the Village Attorney, the Village Project Manager, and the Finance Director.

Fiscal Impact: Funding to support the Gulfstream Road Stormwater Improvements Project (Task Order No. 277) was provided by the Stormwater Enterprise Fund:

<u>Allocated/Estimated Project Funding:</u>	<u>Amount</u>
FY 2023 Approved Funding - Stormwater Enterprise Fund:	<u>\$ 650,000.00</u>
<i>TOTAL APPROVED FUNDING</i>	<i>\$ 650,000.00</i>
<u>Expected Project Costs:</u>	<u>Amount</u>
Projected Costs - Design & Engineering - Stormwater Fund (TO #277):	\$ 5,054.38
Projected Costs - Construction - Stormwater Fund (TO #277):	<u>\$ 473,133.67</u>
<i>TOTAL PROJECTED COSTS:</i>	<i>\$ 478,188.05</i>

The Village will not expend more than the amount in the approved budget as it may be adopted / approved each year for these goods and services for the term of the contract.

8. **Work Authorization No. SAK-U03 Trenchless Rehabilitation Services (Sewer Lining) (FY 2023 Budget Funded - Water & Sewer Enterprise Fund) - SAK Construction, LLC.** - Motion for approval of Work Authorization No. SAK-U03 with SAK Construction, LLC for the amount of \$268,988.00 for sewer lining and manhole rehabilitation for the Village's utility system. Funding to support purchases under this proposed agreement is available within the FY 2023 Budget - Water & Sewer Enterprise Fund.

Staff: Paul Ward, Assistant Director of Utilities

Summary: The Utilities Department must utilize trenchless rehabilitation services to line gravity sewer mains to reduce inflow and infiltration into the Village's wastewater system. Infiltration is water that leaks into the sanitary sewer system through cracks, broken joints, and holes in manholes and sewer pipes. Inflow occurs when storm sewers are connected to sanitary sewers, or downspouts are connected to sanitary sewer laterals. Infiltration and inflow increase the Village's sewage transmission costs as these costs are based on the volume of liquid measured by flow meters at the point where sewage leaves the Village collection system. In addition, infiltration and inflow consume part of the Village's fixed sewage treatment capacity which would otherwise be available for new sewer customers. For these reasons, it is important to annually seal those portions of the Village's sewage collection system which are experiencing significant infiltration and inflow. Village staff have identified 5,068 linear feet of cured-in-place pipe lining and 200 vertical feet of manhole rehab that will be completed. The total cost for the identified areas of sewer lining and manhole rehabilitation is

\$268,988.00.

Note: To ensure the lowest possible price, the staff recommends that the Village utilizes our existing agreement, which is a cooperative purchasing contract with SAK Construction, LLC. OMNIA Partners/Region 4 Education Service Center awarded that to SAK on March 1, 2022. This selection by OMNIA Partners was completed through a competitive selection process – RFP Trenchless Technology Rehabilitation and Related Products and Services (RFP No. R220402 – August 26, 2021).

The Village accepted SAK's pricing as approved under OMNIA Partner's contract including all terms, conditions, and pricing. The term of the proposed OMNIA Partner's contract would expire on February 28, 2025. The Village will not expend more than the amount within the approved budget as it may be adopted/amended for each of these goods and services over the term of this contract. All original bid documents authorizing the cooperative purchasing contract with OMNIA Partners are available in the Village Clerk's Office.

The Village's Purchasing Code, Section 58-8. Cooperative Purchasing; provides the Village may participate, sponsor, conduct, or administer a cooperative purchasing agreement for purchasing. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between government entities. Purchases made through a cooperative purchasing agreement are exempt from competitive selection purchase requirements outlined in this purchasing code. The Council must approve all Village purchases from a cooperative purchasing agreement that may have a total value of more than \$35,000.00.

The approved FY 2023 Budget - Water & Sewer fund included \$270,000.00 for wastewater lining. If approved, it is estimated that the proposed project would be completed within 90 days (May 2023) following the Notice to Proceed by the Village.

The proposed project Work Authorization No. SAK-U03 was prepared by SAK Construction, LLC, and reviewed by the Assistant Utilities Director, Utilities Director, Finance Director, and the Village Attorney.

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

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

End of Consent Agenda....

Mayor Smith offered the public an opportunity to comment on the Consent

Agenda, but there was none.

Vice-Mayor Gunther made a motion to approve the Consent Agenda. Council Member Brinkman seconded it. The said motion carried 5-0.

PRESENTATIONS

9. Presentation - 2022 Christmas Decorating Contest Awards

Staff: Justin Lucas, Director of Parks & Recreation

SUMMARY: The Village received 26 entries to participate in the 2022 Christmas Decorating Contest. Numerous persons served as judge and visited each location between December 8 and 15, 2022 to evaluate each entry.

Sixteen (16) residential winners were selected. There were no commercial entries submitted for consideration.

All winners were invited to attend the Council Meeting on January 12, 2023, to receive their award from Village Council in the amount of \$100.

- 444 Los Altos Road
- 356 Pinehurst Road
- 216 Poe Drive
- 602 Springdale Circle
- 352 Pinehurst Road
- 245 Davis Road
- 309 Henthorne Road
- 421 Santa Anna Drive
- 304 Alameda Drive
- 357 Pinehurst Road
- 324 Pinehurst Road
- 424 Santa Anna Drive
- 3198 Carol Avenue
- 3220 Carol Avenue
- 205 Rex Court
- 305 Winged Foot Road

Mr. Lucas and Mayor Smith explained the Christmas Decorating Contest. Residents in the Village submitted applications and decorated their homes for Christmas. A panel of judges scored each of the applicants and sixteen of the homes were selected. No business submitted an application in the decorating contest. Each of the 16 winners received a check for \$100. Four of the winners attended the meeting to receive their check and take a picture with Mayor Smith

Fiscal Impact: Funding to support the Christmas Decorating Contest Awards is available within the FY 2023 Budget-General Fund - Public Works - Trophies and Awards.

10. **Crossing Guard Appreciation Day February 3, 2023 - Recognizing the Village of Palm Springs Crossing Guards with a proclamation.**

Staff: Kimberly Wynn, Village Clerk

Mayor Smith read the proclamation into the record and presented it to representatives from the Police Department Crossing Guards - Olga Sanchez and Maureen from Kirklane Elementary and Palm Springs Middle School.

11. **Palm Springs 2022 Community Survey - The National Community Survey/Polco:** Mr. Brandon Barnett and Steven Vickers, Survey Specialists with the National Research Center/Polco, will present the first scientific Palm Springs 2022 Community Survey.

Staff: Kimberly Glas-Castro, Assistant Village Manager

SUMMARY: Mr. Brandon Barnett and Steven Vickers, Survey Specialists with the National Research Center/Polco, will present summary findings of the 2022 Community Survey.

In the future, the Village will conduct community surveys every 3-4 years, and 2022's results will be benchmarks for subsequent years. In the future, the Village will conduct community surveys every 3-4 years, and 2022's results will be benchmarks for subsequent years. The advanced report also includes comparisons with other communities that conducted The National Community Survey in the past.

Fiscal Impact: There is no fiscal impact resulting from this presentation.

At this point, Palm Beach County Battalion Fire Chief Tracy Adams gave an update on fire rescue calls in the area and response times. She also discussed charity and special events attended by the Fire Department in December.

The Assistant Village Manager, Mrs. Glas-Castro introduced this item along with Brandon Barnett and Steven (???), Consultant with Polco. The consultants explained how they acquired the data and results for the survey. In addition, there was communications on utility bills, mailings, public meetings. Links to the website were sent.

The consultants discussed the results of the survey, which overall ranked high, especially in the areas of public safety and parks. Economic impact received a low rating. However, this is nation-wide. Safety is the strength and priority of the community; hence a high mark in public safety that is above average is good. The consultants said that the Village's overall rating was higher than the national benchmarks.

The Council were pleased with the survey results and thanked Polco.

PUBLIC COMMENT

Mayor Smith offered the public an opportunity to comment.

1. Rosa (sp?) Canal Road - Rosa talked about the multiple code issues around her home and sidewalk. She said a bush needed to be trimmed in her neighbor's yard (nuisance).
2. Mr. Alberto Jordat - 217 Talia Circle - Mr. Jordat gave his opinion about the survey. He felt the numbers were inaccurate (2,800 surveys were distributed. Only 175 residents responded). He then discussed a shooting that happened the previous night in a community that involved three people, including two students. He said he spoke with residents who discussed how they did not feel safe in the (Almar Street) neighborhood, and who was not there. He also talked about lighting and speeding on the streets.

REGULAR AGENDA

12. **Village Manager Annual Evaluation:** The Village Council will discuss their annual evaluation of the Village Manager, Michael Bornstein.

Staff: Kimberly Wynn, Village Clerk

SUMMARY: The Village Council will conduct the annual performance evaluation of the Village Manager, Mr. Michael Bornstein.

Each Council Members provided a summary of their evaluation of the Village Manager. Council Member Ready noted that the Village Manager is a good listener and overall problem-solver. He said the Village Manager should give more constructive budgetary direction and develop good ideas. Vice-Mayor Gunther appreciated the Village Manager. He goes above and beyond satisfaction with great direction. Mayor Pro Tem Brinkman discussed the training and teambuilding that the Village Manager does with the staff. He genuinely cares about people, and it shows.

Council Member Waller expressed pleasure in seeing the staff happy when she comes to Village Hall. Mayor Smith loves the vision and positive culture created. The employees have an understanding of the CORE Values. The Council recommended a 5% increase.

Council Member Waller made a motion to approve a 5% salary increase. Mayor Pro Tem Brinkman seconded the motion. The said motion carried 5-0..

Council Member Waller expressed pleasure in seeing the staff happy when she comes to Village Hall. Mayor Smith loves the vision and positive culture that is

being created. The employees have an understanding of the CORE Values. The Council recommended a 5% increase.

Council Member Waller made a motion to approve a 5% salary increase. Mayor Pro Tem Brinkman seconded the motion. The said motion carried 5-0.

PUBLIC HEARINGS

13. **(Second Reading/Quasi-Judicial Hearing) Ordinance No. 2022-12 - Land Use Amendment and Rezoning (Small-Scale) - Oxygen Development:** A motion to approve Ordinance No. 2022-12 to amend a small-scale land use and zoning designation for 17.74 acres comprised of eleven parcels. To facilitate an industrial development project that is a proposed small-scale land use change from a Commercial and Medium Density Residential to a Light Industrial, concurrent with rezoning from Commercial General (CG) and Residential Multiple-Family (RM) to Light Industrial (LI) for manufacturing and warehouse facilities at the Oxygen Development west of Congress Avenue and north of Forest Hill Boulevard.

Staff: Iramis Cabrera, PZB Director

SUMMARY: Mr. Marty Minor from Urban Design Studio, the agent for Oxygen Holdings, LLC. ("Applicant"), is requesting a Small-Scale land use plan amendment and rezoning on 17.74 acres (comprised of eleven parcels) to facilitate an industrial development project.

The proposed small-scale land use change would be from Commercial and Medium Density Residential to Light Industrial, concurrent with Rezoning from Commercial General (CG) and Residential Multiple-Family (RM) to Light Industrial (LI). The combined properties are less than 50 acres in size (17.74 acres total) and planned for a mix of manufacturing and warehouse use.

The applicant is concurrently requesting Site Plan approval to allow a 150,780 square foot warehouse in addition to the 211,363 square foot existing warehouse-manufacturing building. Therefore, the proposed site plan is presented (within this item) for informational purposes only (action does not need to take place at this time).

Note: The Village does not typically place conditions of approval on future land use map changes. The legislative decision as to the appropriateness of the land use map and rezoning amendments are approved on the 2nd and final reading, and the proposed Site Plan will be considered by the Village Council under a separate resolution.

Ordinance No. 2022-12 was advertised in the Lake Worth Herald on September 29, 2022, October 27, 2022, and December 29, 2022.

The proposed request was submitted through the PBC Intergovernmental Plan Amendment Review Committee (IPARC) for intergovernmental review and no comments were received.

Note: IPARC is designated to provide coordination of proposed plan amendments, cooperation between affected local governments and service providers and provides opportunities to resolve potential disputes only within the plan amendment.

The Planning and Zoning Board considered this application during their October 11, 2022 meeting and recommended approval.

The Local Planning Agency (LPA) considered this item during their November 10, 2022 meeting and recommended approval.

The proposed ordinance was approved on the 1st reading by the Village Council on November 10, 2022, and is being presented on the 2nd and final reading.

Fiscal Impact: The proposed land use and zoning amendments are not expected to provide a direct fiscal impact on the Village; however, it would facilitate development that will increase the Village's property valuation.

Mayor Smith requested that the Council disclose any ex-parte communication. Due to her employment with the applicant (Urban Design), Mayor Pro Tem Brinkman must recuse herself from Item #13 and #14 of the record. Items #13 and #14 were sworn in by the Village Clerk. There was a statement of advertisement read into the record.

Ms. Cabrera entered the staff report into the record and gave a summary of the project. The applicant, Mr. Minor, gave his presentation during the first reading, but was available to answer questions.

Mayor Smith offered the public an opportunity to speak on Ordinance No. 2022-12; there were no comments. Village Attorney Garrett read the title of the caption into the record.

Vice-Mayor Gunther motioned for the approval of Ordinance No. 2022-12; Council Member Ready seconded the motion. There was a roll call vote as follows: Vice-Mayor Gunther - Yes; Council Member Waller - Yes; Council Member Ready - Yes; Mayor Smith - Yes. The said motion carried 4-0 (Mayor Pro Tem Brinkman - Abstained).

14. **(Quasi-Judicial Hearing) Resolution No. 2023-03 - Light Industrial Planned Development Site Plan (SPR22-16) - Oxygen Development - 1525 South Congress Avenue:** Motion to approve Resolution No. 2023-03, of an application for a Site Development Plan (SPR22-16) submitted by Mr. Marty R. A. Minor, agent for the owner, Oxygen Holdings LLC. requested to expand the Oxygen Development site to include a 150,780 square-foot warehouse building on 17.74 acres (comprised of eleven parcels). At present, Oxygen Development leases warehouse space off-site, but wants to bring that use to its existing campus located at 1525 South Congress Avenue. The Congress Avenue District of the

Palm Springs Community Redevelopment Agency (CRA) would benefit from redevelopment, and revenue could be increased through Tax Increment Financing (TIF).

Staff: Jane Worth, Deputy Village Clerk

SUMMARY: Mr. Marty R. A. Minor, agent for the owner, Oxygen Holdings LLC., is requesting a Site Development Plan (SPR22-16) approval to allow an expansion of the Oxygen Development site to include a 150,780 square-foot warehouse building on 17.74 acres (comprised of eleven parcels), generally located at 1525 South Congress Avenue. Currently, Oxygen Development leases warehouse space off-site and would like to bring that use to their existing campus in the Village.

Note: To achieve this desired expansion, the applicant is requesting the abandonment of a portion of Dalinda Lane right-of-way, Future Land Use Amendment, and Rezoning, at a future meeting, which are the subject of separate requests. The site includes 17.63 acres of land owned by the applicant and approximately 0.102 acres of the Dalinda Lane right-of-way.

On February 26, 2009, the Village Council adopted Resolution 2008-87, approving the Oxygen Development site plan and special exception used to allow a Light Industrial Planned Development Site Plan to construct 211,363 square feet of manufacturing/warehouse building for the development of personal care services on the site.

Currently, the applicant is seeking to expand the site to facilitate the construction of a 150,780- square-foot warehouse building. The proposed warehouse building will have a ground-level connection to the existing building to allow materials to be moved from one building without being impacted by inclement weather. The proposed expansion also includes 74 new parking spaces, the relocation of 79 existing spaces, and the relocation of the existing drainage lake to the southwest portion of the subject site. In addition, a future phase has been identified for the development of 191 parking spaces on 2.04 acres, located north of the L-7 canal. This parking lot is not proposed to be developed at this time unless additional parking is needed.

Access to the proposed site will use the existing two entrances on Congress Avenue with the trucks servicing the proposed warehouse using the same truck entrance as the existing Oxygen Development building. Additional access to the site will be provided from the extension of Lone Pine Way into the site, where truck traffic will be directed away from Lone Pine Way.

Approval of the Light Industrial Planned Development Site Plan depends on the approval of the Land Use Amendment, Rezoning, and Dalinda right-of-way abandonment.

The Planning, Zoning & Building Staff does not object to the Light Industrial Planned Development Site.

Fiscal Impact: The proposed development will enhance the Village's assessed property valuation. This property is located within the Palm Springs Community Redevelopment Agency (CRA) - Congress Avenue District and redevelopment would result in increased tax increment financing (TIF) revenue.

Mayor Pro Tem Brinkman declared a conflict of interest and recused herself from this item as well.

Mayor Smith asked the Council if there was any ex parte communication; there was none.

Ms. Cabrera read the staff report into the record. The Applicant, Mr. Minor presented his testimony and entered it into the record. Mayor Smith invited the public and the Council to comment.

The Council asked if there would be future development within the next 10 years. They wanted to know about the entrances at the location and when it would take place during the day. Mr. Minor explained that he could not confirm developments within the next 10 years. He discussed the two entrances to the location. There was discussion about local employment preference, and having a gate at the location. There is a gate that shares a cross access to the shopping center. Council inquired about the vacant lot, the route along Pine Way, and if there were any pending code cases.

Mrs. Peggy Van Arman 4077 Luzon Avenue - Mrs. Van Arman commented on the traffic conditions on Kirk Road. She inquired if a traffic study had been conducted. Mr. Minor said a traffic study was conducted as of April 12, 2022.

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

Council Member Ready made a motion to approve Resolution No. 2023-03; Council Member Waller seconded the motion. The said motion carried 4-0 (Mayor Pro Tem Brinkman abstained).

15. **(Second 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 are 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 are 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.

Ordinance No. 2022-13 was advertised in the Lake Worth Herald on December 29, 2022.

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.

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

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

The Village Clerk read the statement of advertisement into the record. Ms. Cabrera stated that the staff's report was provided on first reading; however, she wanted to note that she made the Council's suggested changes to the Ordinance.

Village Attorney Garrett read the title of the caption into the record. Mayor Smith offered the public and Council an opportunity to speak. There were no comments.

Mayor Pro Tem Brinkman made a motion to approve Ordinance No. 2022-13. Council Member Waller seconded the motion. There was a roll call vote as follows: Vice-Mayor Gunther - Yes; Mayor Pro Tem Brinkman - Yes; Council Member Waller - Yes; Council Member Ready - Yes; Mayor Smith - Yes. The said motion carried 5-0.

16. **(Second 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.

Ordinance No. 2022-14 was advertised in the Lake Worth Herald on December 29, 2022.

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

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

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

The Village Clerk, Ms. Wynn, read the statement in the advertisement. Assistant Village Manager, Mrs. Glas-Castro, summarized the item. She explained that the intent of the ordinance is to eliminate the need to call Special Meeting to declare a Local State of Emergency. After looking at other municipalities, it was determined that many cities do not hold a special meeting.

Mayor Smith offered the public and the Council an opportunity to speak. There were no comments from the public.

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

Vice-Mayor Gunther made a motion for the approval of Ordinance No. 2022-14.

Council Member Waller seconded the motion. There was a roll call vote as follows: Vice-Mayor Gunther - Yes; Mayor Pro Tem Brinkman - Yes; Council Member Waller - Yes; Council Member Ready - Yes; Mayor Smith - Yes. The said motion carried 5-0

ACTIONS AND REPORTS

There were no Actions and Reports.

VILLAGE MANAGER COMMENTS

The Village Manager complimented the staff's hard work and employees investing in the betterment of the community and workplace. He talked about Six Sigma training that Management would begin. Mr. Bornstein updated the Council on the rollout of CORE values. He explained the importance of having the CORE values in place to hold employees accountable.

VILLAGE COUNCIL COMMENTS

The Council gave their reports that included the holiday decorating around the Village. Mayor Pro Tem Brinkman mentioned that Valerie Nielsen from the Transportation Planning Agency (TPA) advised her that the Village did not have anyone appointed to the Vision Zero Committee. She spoke about opportunities to get funding through the TPA.

The Council announced that VITA tax services would be at the Village Library beginning January 17, 2023. AARP will begin on February 1, 2023. There was discussion about motor scooter regulations and semi-trucks going down Greenbrier at 7 PM and 8 PM in the evenings.

ADJOURNMENT

Hearing no further business, Mayor Smith adjourned the Regular Council Meeting at 8:15 PM.

Submitted by

Kimberly M. Wynn
Village Clerk

**NEXT REGULAR MEETING:
THURSDAY, JANUARY 26, 2023
VILLAGE COUNCIL SPECIAL MEETING
AT 6:30 PM
(IMMEDIATELY FOLLOWING THE LPA MEETING)**