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**RESOLUTION NO. 08-119**

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CANAL EROSION; REQUESTING THE STATE TO FUND AND UNDERTAKE THE RESTORATION AND PERMANENT HARDENING OF CANALS WITHIN THE VILLAGE OF PALMETTO BAY; PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Eugene P. Flinn, Jr).**

**WHEREAS**, on November 2<sup>nd</sup>, 2008, the Mayor and Village Council heard first reading of a “no wake” ordinance for canals located in the Village; and,

**WHEREAS**, Florida Fish and Wildlife Conservation Commission (FWC), Division of Law Enforcement, Office of Boating and Waterways regulates speed waterway speed zones within Florida waterways; and,

**WHEREAS**, Speed regulations and establishment of no wake zones by the FWC is statutorily authorized under chapter 327, Florida Statutes; and,

**WHEREAS**, the Army Corps. Of Engineers also has jurisdiction over the canals in order to ensure protection of the drainage canals and protect against further erosion of the canals; and,

**WHEREAS**, pursuant to section 324.70, Fla. Stat., local law enforcement have the inherent power to regulate the waterways after the designation of no wake zones as provided under the Florida Administrative Code (FAC), section 68(d) 23.1051; and,

**WHEREAS**, the FAC provides that no wake zone needs to be for public safety, either due to blind corner, vegetation, manatee protection, or for some other recognized purpose; and,

**WHEREAS**, a recognized purpose is not ordinarily for the protection of dock or seawall integrity, as such a concern would trigger an Army Corps of Engineers inspection and requirement that the dock or seawall property owners have engineers certify as to soundness of the specific structure to withstand wakes; and,

**WHEREAS**, Army Corps of Engineers have required the dock or seawall structure to be removed and required that the condition brought back to natural state; and,

**WHEREAS**, the FAC also provides that a local ordinances may be crafted that comply with certain criteria including:

- (1) for no wake zone the area has to be within 500 feet of any boat ramp, hoist, marine railway or other launching or landing facility for use by general boating public

1 on waterways more than 300 feet wide and within 300 feet of any public boat ramp,  
2 etc., of waterway less than 300 feet wide;

3 (2) within 500 feet of fuel pumps, of waterway over 300 feet; or within 300 feet  
4 of waterway less than 300 feet wide;

5 (3) inside or within 300 feet of locked structure; and

6 (4) an area where boating accident reports, uniform boating citations, vessel  
7 traffic studies, or other creditable data demonstrate a high risk of collision or where  
8 any significant vessel wake would be likely to endanger life, limb, vessel traffic safety  
9 or maritime property; and,

10  
11 **WHEREAS**, the representatives of the South Florida Water Management District  
12 (SFWMD) discussed the significant erosion that has occurred to its easements and the canal banks  
13 of the various C100 canals within the Village of Palmetto Bay and the urgent need to stop speeding  
14 boats, creating greater impact to eroding softened banks; and

15  
16 **WHEREAS**, the Village desires to work with the state in order to protect the health, safety  
17 and welfare of its residents, those using the canals; desires to protect access to public ramps or  
18 access ways; desires to protect life, limb, vessel traffic safety and maritime property; and further  
19 desires to protect the canals from further erosion; and,

20  
21 **WHEREAS**, the Village petitions the State of Florida to fund and permanently restore the  
22 eroded canals of the Village due to years of hurricane and water run off damage, recreational vessel  
23 use; and normal erosion; and

24  
25 **WHEREAS**, the Mayor and Village Council also seeks for the State of Florida to enforce  
26 the Florida Administrative Code and Chapter 327, Florida Statutes, as it relates to funding the  
27 staffing of the Florida Fish and Wildlife Conservation Commission, so that the officers can patrol  
28 the canals of the Village and Miami-Dade County, as they were mandated to do; and,

29  
30 **WHEREAS**, the Mayor and Village Council desire to approve this resolution and to  
31 forward this resolution to the Florida House and Senate, and to Governor Charlie Christ for action.

32  
33 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**  
34 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**

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36 Section 1. The above whereas clauses are incorporated by reference into this resolution.

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38 Section 2. This resolution shall take effect immediately upon approval.

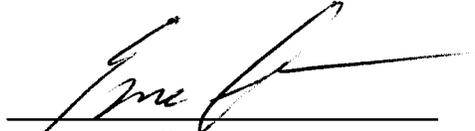
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40 Section 3. The Village Clerk is directed to provide a copy of this resolution to the  
41 Florida House, Florida Senate, to Governor Charlie Crist, to the Directors and Legal Counsels for  
42 Florida Fish and Wildlife Conservation and South Florida Water Management District.

43 PASSED and ADOPTED this 1<sup>st</sup> day of December, 2008.

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Attest:

  
Merghan Rader  
Village Clerk

  
Eugene P. Flinn, Jr.  
Mayor

APPROVED AS TO FORM:

  
Eve A. Boutsis, Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Edward Feller	<u>YES</u>
Council Member Howard Tendrich	<u>YES</u>
Council Member Shelley Stanczyk	<u>YES</u>
Vice-Mayor Brian W. Pariser	<u>YES</u>
Mayor Eugene P. Flinn, Jr.	<u>YES</u>