VILLAGE OF PALMETTO BAY
Minutes of the Local Planning Agency Meeting of July 9, 2012
Village Hall Chambers
9705 East Hibiscus Street

1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

Mayor Shelley Stanczyk
Vice Mayor Brian W. Pariser
Council Member Patrick Fiore
Council Member Howard Tendrich
Council Member Joan Lindsay

Staff present:
Village Manager Ron E. Williams
Village Attorney Eve A. Boutsis
Village Clerk Meighan J. Alexander
Planning and Zoning Director Darby Delsalle

Mayor Stanczyk called the meeting to order at 7:00 p.m. Mayor Stanczyk led the pledge of allegiance.

At the Mayor's direction, Clerk Alexander read the decorum statement.

2. ORDINANCE FOR SECOND READING (PUBLIC HEARING)

A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL, OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING DIVISION 30-150, ENTITLED "HISTORIC PRESERVATION," OF THE VILLAGE'S LAND DEVELOPMENT CODE, TO BE CONSISTENT WITH SECTION 16A, ENTITLED "HISTORIC PRESERVATION," OF THE MIAMI-DADE CODE OF ORDINANCES, WITH REGARDS TO AUTHORITY, RESPONSIBILITIES AND CRITERIA; PROVIDING FOR A LEGISLATIVE REVIEW CLAUSE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Seconded by Councilwoman Lindsay.

Attorney Boutsis advised that these ordinances will be heard tonight in the Regular Council meeting as they are presented as second reading/public hearing. She noted that she will ask that all documents and comment be incorporated by reference into the Regular Council meeting.

Director Darby noted that staff accommodated the request by Council to return to the previous manner by which board members are appointed. He noted that there were no further changes and he incorporates his previous report into this hearing.

Attorney Boutsis advised that Miami-Dade County has exclusive control over the designations, due to Home Rule Power.

Councilman Tendrich moved to modify the language to state that the Committee should appoint the Chair, rather than the Mayor. Seconded by Councilwoman Lindsay. All voted in favor. The motion carried unanimously (5 to 0.)

Mayor Stanczyk opened the public hearing. Mr. Jack Fell, 7201 SW 144 Street, opposed sunsetting the Committee.

Mayor Stanczyk concurred regarding the sunsetting, noting that the Board has been conducting oral histories; and, the Board has served well.

Attorney Boutsis explained that the sunsetting is proposed as it relates to the Board's designation of properties and perhaps the function of the Board needs to be discussed. Mayor Stanczyk suggested placing the matter on a future Committee of the Whole meeting.

Mayor Stanczyk called the question. A roll call vote was taken, as follows: Vice Mayor Pariser: yes; Councilman Fiore: yes; Councilman Tendrich: yes; Councilwoman Lindsay: yes; and Mayor Stanczyk: yes. The Ordinance passed unanimously and will be heard at the Regular Council meeting.

B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO THE ENACTED ZONING IN PROGRESS RESOLUTION; CREATING A MORATORIUM ON THE ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF USE WITHIN THE RESIDENTIAL ZONING DISTRICTS FOR PROPERTIES OVER AN ACRE IN SIZE FOR THE LESSER OF A FOUR MONTH PERIOD OR UNTIL SUCH TIME THAT AN ORDINANCE IS ADOPTED APPROVING NEW REGULATIONS THERETO; SUCH TEMPORARY MORATORIUM TO APPLY TO ALL PROPERTIES WITHIN THE RESIDENTIAL ZONING DISTRICTS THAT ARE OVER AN ACRE IN SIZE; EXEMPTING HEALTH, SAFETY WELFARE OR MAINTENANCE TYPE PERMITS; PROVIDING WAIVER PROVISION THROUGH HEARING BEFORE THE VILLAGE COUNCIL; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Councilwoman Joan Lindsay)

Councilwoman Lindsay moved this item forward. Seconded by Councilman Tendrich.

Attorney Boutsis noted that a proposed substitution item is provided.

Councilwoman Lindsay moved to accept the substitution. Vice Mayor Pariser seconded this item. All voted in favor.

Attorney Boutsis advised that the substitution lessens the restrictions, rather than increases; therefore, no third reading is required.

Director Delsalle provided staff report, explaining the history of how this matter came forward.

Attorney Boutsis read through the nine exceptions.

Councilwoman Lindsay provided an explanation of the matter. She provided a history of how the Village had adopted the County codes, including the comprehensive development plan and land development. She noted that the number one goal in the Comprehensive Development Master Plan was to provide quality neighborhood protection. She explained that in 2009, when the land development code was finalized, guidelines for non-residential uses within the residential areas were not included. She stated that the goal is to develop specific criteria for nonresidential uses in residential areas. She asserts that the Village is not intending to tell a church, school or fire station that they are not allowed in the Village; rather, she would like clear guidelines to be developed in order for all to understand their responsibilities.

Mayor Stanczyk remarked that the goal is to have equity between applicants, the Village, and the residents surrounding a project. She opened the public hearing. The following individuals addressed the Council: Stanley Kowlessar, 8360 SW 148 Drive; Eric Tullberg, 7884 SW 179 Terrace; David Zisman, 14135 Farmer Road; Richard Crusan, 17501 SW 92 Avenue; Louis Carillo, 16901 SW 87 Avenue; James Shepard, 9352 SW 169 Street; Dan Kalbac, 15404 SW 74 Court; John Burkowski, 9250 SW 163 Street; Claudio Perez, 8850 SW 170 Street; Tyler Kalbac, 15404 SW 74 Court; Kevin Parrisher, 16882 SW 82 Avenue; Jose Otano, 16723 SW 78 Place; Rob Moore, 166255 SW 91 Avenue; JB Harris, 8220 SW 180 Street; Jorge Molina, 7701 SW 182 Terrace; Russell Morris, 16555 SW 91 Avenue; Maria Salvador, 17910 SW 78 Avenue; Don Kuntz, 20001 Cutler Court, Cutler Bay; David Singer, 8360 SW 184 Terrace; Trish Moore, 8931 SW 156 Street; Millie Maldonado, 8355 SW 183 Terrace; Charles Birham, (address unclear); Aida Cruzan, 17501 SW 92 Avenue; Rex Lehman, 17300 SW 87 Court; Carol Exposito, 7700 SW 178 Street; Jason Prussing, 9341 SW 178 Street; Felipe Canales, 15885 SW 84 Avenue; Marsha Matson, 9300 SW 180 Street; James Woodard, 17001 SW 90 Avenue; Connie Lyons, 7870 SW 182 Terrace; Warren Lovely 15323 SW 74 Place; Peter Malo, 16501 SW 89 Avenue; Anthony Gorman, 14140 SW 72 Avenue; Diane Jarvinin, 17120 SW 78 Avenue; Vivian Polis, 8780 SW 176 Street; Helen Sandow, 8260 SW 151 Street; Jean Button, 8625 SW 181 Terrace; Betty Pegram, 18121 SW 82 Avenue; Julie LaVoie, 17171 SW 75 Street; Gary Pastorella, 6940 SW 142 Terrace; Brenda Storch, 7885 SW 179 Terrace; Dawn Vasallos, 6770 Royal Palm Drive; Pamela Reid, 7201 SW 144 Street; Diane Lehman, 17300 SW 82 Court; Maria Stout Tate, 8320 SW 152 Street; Janelle Bonnen, 17255 SW 84 Court; Jack Fell, 7201 Mitchell Drive; Suzanne Harris, 8220 SW 180 Street; Bev Gerald, 14271 SW 74 Court; Frances Blake, 16041 SW 81 Avenue; Stewart Guthrie, 6960 SW 144 Street; Mary Mokher, 7725 SW 141 Street; Henry Clifford, 8875 SW 171 Street; Jacqueline Caproon, 8285 SW 164 Terrace; and, Marta Gillet, 15721 SW 83 Avenue.

Mayor Stanczyk advised that she had attended a meeting at Christ Fellowship Church and those who attended were told that they were the focus of the moratorium. She asserted that this is not the case. She noted that the moratorium allows for our Zoning Department to work on an ordinance to complete the land development code. She encouraged the pastor of Christ fellowship to register as a lobbyist. Mayor Stanczyk concluded that she has done all she can to invite participation.

Councilman Tendrich noted that the moratorium expires at "the lesser of a 4 month period" or whenever the ordinance is adopted. He stated that if Councilwoman Lindsay is working on an ordinance with the Village Attorney presently, then a moratorium is unnecessary. Councilman Tendrich asked if more than one Council member attended the meeting at Christ Fellowship and if the meeting was noticed.

Mayor Stanczyk advised him that the meeting was noticed.

Councilwoman Lindsay remarked that she will be working with Attorney Boutsis this summer and does not believe an extension will be necessary.

Vice Mayor Pariser thanked all for coming to the meeting. He stated that there that there will be an opportunity to speak on the ordinance that will be drafted and there will also be public workshops. He noted that there are currently no applications pending and this matter does not apply to Palmer Trinity.

Councilman Fiore opined that there is no need for this moratorium. He read from the Village's code of ordinances that houses of worship are permitted in R-3 districts "as a matter of right". He remarked that the community and neighbors need to be involved.

Councilwoman Lindsay read Policy 1.1.5 that noted adverse impacts to the tranquility of residents in the neighborhood must be minimized to the maximum extent possible and therefore are allowed only on a conditional basis. She stated that past resolutions had many conditions and some of those conditions could be incorporated into an ordinance.

Following brief comment, Mayor Stanczyk called the question. A roll call vote was taken, as follows: Councilman Fiore: no; Councilman Tendrich: no; Councilwoman Lindsay: yes; Mayor Stanczyk: yes; and Vice Mayor Pariser: yes. The Ordinance passed (3-2) and will be heard at the Regular Council meeting.

3. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 9:45 pm.

Prepared and submitted by:

_____

Meighan J. Alexander, CMC
Village Clerk

Approved by the Village Council on this 9th day of July, 2012.

_____

Shelley Stanczyk, Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW. WHILE THE FLORIDA STATUTES DO NOT REQUIRE TAPE RECORDINGS, TO THE EXTENT THAT TAPE RECORDINGS ARE MADE, THE TAPES MAY BE REQUESTED FROM THE VILLAGE CLERK FOR REVIEW AND/OR COPYING. THE VILLAGE OF PALMETTO BAY CAN NOT GUARANTEE QUALITY OF ANY RECORDING.

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Mayor Shelley Stanczyk
Vice Mayor Brian W. Pariser
Council Member Patrick Fiore
Council Member Howard Tendrich
Council Member Joan Lindsay

Staff present:
Village Manager Ron E. Williams
Village Attorney Eve A. Boutsis
Village Clerk Meighan J. Alexander

Mayor Stanczyk called the meeting to order at 9:15 p.m. Mayor Stanczyk led the pledge of allegiance.

2. PROCLAMATIONS, AWARDS, PRESENTATIONS

None at this time.

3. APPROVAL OF MINUTES

A. Minutes of the Special Council Meeting of May 21, 2012
B. Minutes of the Regular Council Meeting of June 4, 2012

Councilman Tendrich moved to accept the Minutes, as presented. Seconded by Vice Mayor Pariser. All voted in favor. The Minutes were approved unanimously.

Mayor Stanczyk asked for a motion to move the moratorium ordinance forward to follow Consent items and then have the Resolution concerning the Charter heard immediately thereafter. Vice Mayor Pariser moved to do so. Seconded by Councilman Tendrich. All voted in favor. The motion carried.

4. CONSENT AGENDA

A. A RESOLUTION OF THE VILLAGE OF PALMETTO BAY, FLORIDA, SUPPORTING THE MIAMI-DADE COUNTY LEAGUE OF CITIES' EFFORTS TO NEGOTIATE A NEW CHARTER COUNTY TRANSIT SYSTEM SURTAX INTERLOCAL AGREEMENT ON BEHALF OF THE MUNICIPALITIES IN MIAMI-DADE COUNTY; APPOINTING A VILLAGE REPRESENTATIVE; PROVIDING FOR AN EFFECTIVE DATE

Clerk Alexander reported that Councilman Fiore had timely pulled Items A and B. Mayor Stanczyk stated that the items would be heard as Items 9 H and I.

Mayor Stanczyk called the question on the remaining Resolution. All voted in favor of the Consent Agenda item. The Resolution passed unanimously (5-0.)

ORDINANCE FOR SECOND READING (moved out of order, as directed by Council – formerly Item 12 A)

A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO THE ENACTED ZONING IN PROGRESS RESOLUTION; CREATING A MORATORIUM ON THE ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF USE WITHIN THE RESIDENTIAL ZONING DISTRICTS FOR PROPERTIES OVER AN ACRE IN SIZE FOR THE LESSER OF A FOUR MONTH PERIOD OR UNTIL SUCH TIME THAT AN ORDINANCE IS ADOPTED APPROVING NEW REGULATIONS THERETO; SUCH TEMPORARY MORATORIUM TO APPLY TO ALL PROPERTIES WITHIN THE RESIDENTIAL ZONING DISTRICTS THAT ARE OVER AN ACRE IN SIZE; EXEMPTING HEALTH, SAFETY WELFARE OR MAINTENANCE TYPE PERMITS; PROVIDING WAIVER PROVISION THROUGH HEARING BEFORE THE VILLAGE COUNCIL; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Councilwoman Joan Lindsay)

Vice Mayor Pariser moved the item forward. Seconded by Councilman Tendrich.

Mayor Stanczyk noted that this item was heard at the Local Planning Agency meeting that was heard this evening.

Attorney Boutsis stated that she would like Council to offer a motion to move the substituted ordinance forward. Vice Mayor Pariser moved the item forward. Seconded by Councilman Tendrich.

Mayor Stanczyk asked for a motion to incorporate into the record the previous staff report, motions, minutes, revisions, and all public comments made at the Local Planning Agency Meeting this evening. Motion by Vice Mayor Pariser. Seconded by Councilman Tendrich. The Motion carried.

Mayor Stanczyk opened the public hearing. No one wished to be heard.

The matter passed (3 to 2) on roll call vote, as follows: Mayor Stanczyk: Yes; Vice Mayor Pariser: Yes; Councilmember Fiore: No; Councilmember Tendrich: No; Councilmember Lindsay: Yes.

RESOLUTIONS REQUIRING PUBLIC HEARING

A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING SECTIONS 2.3, 2.5, 3.3, 4.2, 5.1, 6.2, AND CREATING SECTIONS 10.2 AND 10.3, OF THE VILLAGE OF PALMETTO BAY'S CHARTER; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO ELECTORS OF THE PROPOSED AMENDMENTS TO THE VILLAGE CHARTER; PROVIDING FOR COPIES OF THE CHARTER AMENDMENTS BE AVAILABLE FOR PUBLIC INSPECTION; PROVIDING FOR THE VILLAGE CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS TO PLACE THE CHARTER AMENDMENTS ON THE BALLOT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Seconded by Vice Mayor Pariser.

Mayor Stanczyk asked Chairperson Bev Gerald to come forward. Ms. Gerald introduced the other members of the Charter Revision Commission that were present. She noted that most of the changes were initiated by the residents. Ms. Gerald thanked staff and resident Leanne Tellam, who had drafted the neighborhood protection ordinance. She stated that all the revisions deserve scrutiny by the electorate and should be voted upon by the Council to move them forward to the election.

Attorney Boutsis began by reading each revision:

Neighborhood Protection (Section 10.2): Attorney Boutsis read the question and suggested that the revised language be included.

Non-partisan elections-defined (5.1(B)): Attorney Boutsis read the question.

Enforcement of Non-partisan provision of charter by state attorney (Section 5.1(B)): Attorney Boutsis read the language. She noted that the title on the ballot is limited to 15 words, 75 words for the question itself.

Changing Term Limits (2.3(E)): Attorney Boutsis read the suggested question.

Interaction with Administration – Village Council to Contact Staff Directly Without Penalty (Section 4.2(B)(1) and (2): Attorney Boutsis read the question.

Department Head Selection to be affirmed by Village Council – Section 3.3(1): Attorney Boutsis read the suggested question.

Two-year prohibition on Village employment after leaving office – Section 4.2(c): Attorney Boutsis read the suggested question.

Requiring Candidates to Run Independently (Section 2.3(D)): Attorney Boutsis read the suggested question.

Filing of Vacancies by remaining Council with or without a quorum – Section 2.5(C)(7): Attorney Boutsis read the suggested question.

Annexation – Section 10.3: Attorney Boutsis read the suggested question.

Composition of Charter Revision Commission – Section 6.2(b): Attorney Boutsis read the suggested question.

Technical and Stylistic Amendments: Attorney Boutsis read the suggested question, noting that there were scrivener's errors.

Attorney Boutsis opined that the Village Council is the final decision maker with regard to whether the revisions be placed on the ballot.

Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; Chet England, 15300 SW 80 Avenue; David Zisman, 14135 Farmer Road; Stewart Guthrie, 6960 SW 144 Street; Carol Exposito, 7700 SW 178 Street; Richard Crusan, 17501 SW 92 Avenue; Aida Crusan, 17501 SW 92 Avenue; Charles Berman, 7830 SW 164 Street; Luis Carillo, 16901 SW 87 Court; Kevin Pederson, 16822 SW 86 Avenue; Marsha Matson, 9300 SW 180 Street; Steve Kreisher, 18201 SW 98 Avenue; Tim Schaffer, 7600 SW 164 Street; Sammy Flores, 18102 SW 87 Place; Warren Lovely, 15323 SW 174 Place; Gary Pastorella, 6940 SW 142 Terrace; Betty Pegram, 10121 SW 82 Avenue; Jack Fell, 7201 Mitchell Drive; Stanley Kowlessar, 8360 SW 140 Drive; Henry Clifford, 8875 SW 171 Street; and, Peter England, 7620 SW 171 Street.

Attorney Boutsis opined concerning neighborhood protection, stating that item should be an ordinance, rather than the Charter. She noted that her full opinion concerning several items is provided in her staff memorandum. She explained that she research 30 cities' charters and did not find the language. Attorney Boutsis noted that Item 5 could damage the structure of a Council-Manager form of government, as the interaction between Council and Department Heads in problematic. She further explained her ruling concerning the Council's ability to consider each item.

Concerning the Neighborhood Protection item, Vice Mayor Pariser moved to include the substitute language. Seconded by Councilwoman Lindsay.

Councilman Tendrich stated that the Council should not approve an item, if the meaning is not clear.

Mayor Stanczyk stated that the Charter is a "broad brush" and the ordinance drafted would address the item.

Attorney Boutsis stated that there are two schools of thought concerning charters: some believe it all should be self-contained; others say it should be broad.

Councilman Fiore stated that the Village has protections in place for the neighborhoods and he is concerned that the Village Attorney opined that a Bert J. Harris claim and REILUPA claim is possible. He also asserted that a 4/5 affirmative votes takes away from the democratic process.

Mayor Stanczyk remarked that a 4/5 vote is in place in several areas, such as parks master plan approval. She stated that mandating a buffer does not remove access to religious services or hamper the institution, so REILUPA is not an issue and is not the Village's intent.

Attorney Boutsis stated that the matter is complicated.

Vice Mayor Pariser noted that the item states, "nothing herein should be construed or applied to abrogate the vested rights of a property owner".

Following brief comment, Vice Mayor Pariser moved to approve Question 1. Seconded by Councilwoman Lindsay. The motion carried (3 to 2, Councilman Fiore and Councilman Tendrich opposed.)

2. Non Partisan Elections Defined – Vice Mayor Pariser moved to approve Question 2. Seconded by Councilwoman Lindsay. The Motion carried unanimously (5-0.)

3. Enforcement of Nonpartisan Provision of charter by state attorney: Mayor Stanczyk suggested changing the title to "Nonpartisan Elections – Enforcement". Councilwoman Lindsay moved to change the title as suggested. Seconded by Vice Mayor Pariser. The motion carried unanimously (5-0.)

4. Changing Term Limits – Mayor Stanczyk suggested the title "Term Limits." Councilman Tendrich moved to keep the title as is and approve the question. Seconded by Vice Mayor Pariser.

Councilman Tendrich stated that two terms is sufficient.

Councilman Fiore stated that this question should be eliminated, as there should be no term extension for current Council.

Councilman Tendrich moved to remove the question. Seconded by Councilman Fiore.

Councilwoman Lindsay stated that while she does not believe individuals will vote for it; however, she feels that it is her responsibility to move it forward. Vice Mayor Pariser concurred.

Mayor Stanczyk called the question. The motion failed (2 to 3, Councilwoman Lindsay, Vice Mayor Pariser, and Mayor Stanczyk voting against.)

Councilwoman Lindsay moved to simplify the title to "Term Limits". Seconded by Vice Mayor Pariser. Councilman Tendrich stated that the issue is to change term limits.

Mayor Stanczyk called the question. The motion failed (2 to 3, Councilman Tendrich, Councilman Fiore, and Vice Mayor Pariser opposed.)

Vice Mayor Pariser moved to approve the item. Seconded by Councilwoman Lindsay. The motion carried (3 to 2, Councilman Fiore and Councilman Tendrich opposed.)

Question 5. "Interaction with Administration". Councilwoman Lindsay moved to approve. Seconded by Vice Mayor Pariser. Following brief discussion, Mayor Stanczyk called the question. The motion carried (3 to 2, Councilman Fiore and Councilman Tendrich opposed.)

Question 6. Mayor Stanczyk suggested modification to the title to read, "Department Head Selection." No one made a motion.

Vice Mayor Pariser moved the matter forward. Seconded by Councilwoman Lindsay.

Councilman Fiore expressed his opposition. Councilwoman Lindsay reiterated that this was a suggestion by a resident.

Councilman Tendrich stated that it is contrary to a council/manager form of government.

Mayor Stanczyk called the question. The motion carried (3 to 2, Councilman Fiore and Councilman Tendrich opposed.)

Question 7. Two year prohibition. Vice Mayor Pariser moved to approve the item. Seconded by Councilwoman Lindsay. The motion carried (3 to 2, Councilman Fiore and Councilman Tendrich opposed.)

Question 8. Requiring candidates to run independently. Vice Mayor Pariser moved to approve the item. Seconded by Councilwoman Lindsay. The motion carried unanimously (5-0.)

Question 9. Filing of Vacancies by remaining Council with or without a quorum. Vice Mayor Pariser moved to approve the item. Seconded by Councilwoman Lindsay. The motion carried unanimously (5-0.)

Question 10. Annexation. Councilwoman Lindsay moved to change the title to "Annexation Process." Seconded by Vice Mayor Pariser. All voted in favor (5 to 0.)

Councilwoman Lindsay moved to approve the item, as amended. Seconded by Vice Mayor Pariser. All voted in favor. The Motion carried unanimously (5-0.)

Question 11. Composition of Charter Revision Commission. Vice Mayor Pariser moved the item forward. Seconded by Councilwoman Lindsay. Councilman Tendrich stated that the composition should include an attorney knowledgeable in the field of municipal law. Following brief comment, Mayor Stanczyk called the question. The motion carried (4 to 1, Councilman Tendrich being the sole opposition.)

Attorney Boutsis asked for a motion to move the proposed Resolution as amended. Councilwoman Lindsay so moved. Seconded by Vice Mayor Pariser. The Resolution passed (3 to 2, Councilman Fiore and Councilman Tendrich opposed.)

Attorney Boutsis announced an Attorney Client Session for *Village of Palmetto Bay v. Palmer Trinity Private School*, Third District Court of Appeal Appellate Court Case No.: No. 3D12-190; Lower Tribunal No. 10-259. Councilman Tendrich moved to discuss the matter in an open meeting, rather than shade session. Second by Councilman Fiore. The motion failed (2 to 3, Vice Mayor Pariser, Mayor Stanczyk and Councilwoman Lindsay opposed.)

Vice Mayor Pariser moved to extend the meeting after midnight. Seconded by Councilman Fiore. All voted in favor.

5. **REQUESTS, PETITIONS AND PUBLIC COMMENTS**: The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; Peter England, 7620 SW 171 Street; and, Craig Branson, 8350 SW 182 Terrace.

6. **VILLAGE MANAGER'S REPORT:** Manager Williams offered a report. Clerk Alexander updated the calendar.

7. **VILLAGE ATTORNEY'S REPORT**

A. July, 2012 Update: Attorney Boutsis noted that her report was provided in writing.

8. **BOARD AND COMMITTEE REPORTS**: None at this time.

9. **RESOLUTIONS**

A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AD VALOREM TAXES; ESTABLISHING THE PROPOSED MAXIMUM MILLAGE RATE AND SETTING THE DATES, TIMES AND LOCATION FOR THE FIRST AND SECOND BUDGET HEARINGS FOR FY 2012-2013; FURTHER

DIRECTING THE VILLAGE CLERK TO FILE SAID RESOLUTION WITH THE MIAMI-DADE COUNTY PROPERTY APPRAISER; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Pariser moved this item forward. Seconded by Councilwoman Lindsay.

Manager Williams noted that the Village received its valuation and the amount is up approximately 2.38%. He stated that staff is recommending keeping the millage rate the same at 2.447.

Director Chin explained the TRIM Statute and the purpose of the proposed Resolution before the Council. He suggested the dates of September 10 and 24th for the Budget hearings.

Councilman Fiore suggested staff consider a tax cut for the residents.

Mayor Stanczyk called the question. All voted in favor. The Resolution passed unanimously (5-0.)

B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ADVISORY BOARDS; CREATING RULES AND REGULATIONS FOR ALL ADVISORY BOARDS; PROVIDING AN EFFECTIVE DATE. (Sponsored by Councilman Howard Tendrich.)

Councilman Tendrich moved this item forward. Seconded by Councilman Fiore.

Attorney Boutsis explained that three versions attached: the original, the second with minor modifications, and third with revisions by the Mayor.

Councilman Tendrich stated that the language "to avoid scheduling conflicts" is common sense. Mayor Stanczyk remarked that she wished to avoid problems.

Councilman Tendrich stated that the "Sunshine Law" language is superfluous and already in Section 1.

Mayor Stanczyk stated that the rebuttal language was difficult and she could not find the language in any rule or regulation. Councilman Tendrich remarked that there should be an opportunity for someone to return comments.

Vice Mayor Pariser stated that a Board will have difficulty finishing a meeting if everyone is debated.

Following brief discussion, Councilman Tendrich moved to approve the Mayor's version, with adding under Section 9(e) to include in-laws and parents. Seconded by Vice Mayor Pariser. All voted in favor. The Resolution passed unanimously (5-0.)

Vice Mayor Pariser moved to extend the meeting past 1 am. Seconded by Councilman Fiore. All voted in favor.

C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE BOARDS AND AGENCIES; CREATING THE SPECIAL EVENTS ADVISORY COMMITTEE; AND, PROVIDING AN EFFECTIVE DATE.

Councilwoman Lindsay moved this matter forward. Seconded by Councilman Tendrich.

Mayor noted a small change, Section 4.

Councilman Tendrich moved the substituted item. Seconded by Councilwoman Lindsay. Mayor Stanczyk called the question. All voted in favor. The Resolution passed unanimously (5-0.)

D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND RECREATION AND RFP-2012-PR-004; APPROVING THE VILLAGE MANAGER'S RECOMMENDATION OF GROUNDKEEPERS, INC. AS THE MOST RESPONSIVE PROPOSER IN PROVIDING LANDSCAPE/GROUNDS MAINTENANCE SERVICES AT VILLAGE PARKS; AND FURTHER AUTHORIZING THE MANAGER TO INITIATE NEGOTIATIONS FOR FORMULATION OF GOVERNING CONTRACT; WITH SUBSEQUENT RECOMMENDATION FOR AWARD CONTINGENT UPON TERMS AND CONDITIONS AGREEABLE BY BOTH PARTIES AND AUTHORIZATION OF SAID NEGOTIATIONS BY THE VILLAGE COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Tendrich moved the matter forward. Seconded by Vice Mayor Pariser.

Manager Williams noted that this matter is for annual grounds keeping services for the Parks department. He explained that a protest was received, but then withdrawn.

Mayor Stanczyk called the question. All voted in favor. The Resolution passed unanimously (5-0.)

E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND RECREATION AND RFP-2012-PR-003; APPROVING THE VILLAGE MANAGER'S RECOMMENDATION OF PLATINUM GROUP SECURITY AS THE MOST RESPONSIVE PROPOSER IN PROVIDING SECURITY GUARD SERVICES AT VILLAGE PARKS; AND FURTHER AUTHORIZING THE MANAGER TO INITIATE NEGOTIATIONS FOR FORMULATION OF GOVERNING CONTRACT; WITH SUBSEQUENT RECOMMENDATION FOR AWARD CONTINGENT UPON TERMS AND

CONDITIONS AGREEABLE BY BOTH PARTIES AND AUTHORIZATION OF SAID NEGOTIATIONS BY THE VILLAGE COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilwoman Lindsay moved this item forward. Seconded by Councilman Tendrich.

Manager Williams provided staff report, noting there will be no direct expense to the Village; rather, a company will be in place.

Mayor Stanczyk called the question. All voted in favor. The Resolution passed unanimously (5-0.)

F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO.FL000003; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH CO-PERMITTEES NAMED IN NPDES PERMIT NO.FLS000003 AND MIAMI-DADE COUNTY PROVIDING FOR PERFORMANCE OF PROFESSIONAL SERVICES BY MIAMI-DADE COUNTY, PROVIDING FOR IDENTIFICATION AND CONTROL OF POLLUTANT DISCHARGES IN SHARED MUNICIPAL SEPARATE STORM SEWER SYSTEMS; AND TO NEGOTIATE AND EXECUTE CHANGES TO THE SELECTION OF ACTIVITY PARTICIPATION BY CO-PERMITTEES AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Seconded by Vice Mayor Pariser.

Manager Williams noted that this is an annual item regarding a contract with SFWMD and DERM. He stated that the contract keeps track of pollutants and there is a per capita cost for each city based on outfalls into the canal system. He noted that the Village cost has reduced $9K to $6.2K.

Mayor Stanczyk called the question. All voted in favor. The Resolution passed unanimously (5-0.)

G. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO STREET NAME SIGNS; AUTHORIZING MAGESCO, INC. TO PROVIDE INTERNALLY ILLUMINATED STREET NAME SIGNS (IISNS) RETROFIT SERVICES WITHIN THE VILLAGE OF PALMETTO BAY; FURTHER AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER IN AN AMOUNT NOT TO EXCEED $47,660.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Seconded by Vice Mayor Pariser.

Manager Williams stated that municipalities can now add their own color to the overhead signs and the new signs within the Village can now be blue as opposed to green. He noted that the project is funded through excess funds in the Village's signage program.

Mayor Stanczyk called the question. All voted in favor. The Resolution passed unanimously (5-0.)

H. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATTORNEYS' FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR FIGUEREDO & BOUTSIS, P.A. IN THE AMOUNT OF $20,971.20; PROVIDING AN EFFECTIVE DATE.

Vice Mayor Pariser moved this item forward. Seconded by Councilman Tendrich.

Councilman Fiore confirmed that this was the Village Attorney's invoice.

Mayor Stanczyk called the question. All voted in favor. The Resolution passed unanimously (5-0.)

I. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATTORNEYS' FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR WHITE & CASE IN THE AMOUNT OF $19,284.68; PROVIDING AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Seconded by Vice Mayor Pariser.

Councilman Fiore expressed his displeasure at the attorney's fees spent in the Palmer Trinity matter.

Mayor Stanczyk called the question. All voted in favor. The Resolution passed unanimously (5-0.)

11. ORDINANCES FOR FIRST READING

A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE LIST OF PERMITTED USES FOR THE LIMITED BUSINESS DISTRICT (B-1) TO PROVIDE FOR CHILD CARE FACILITIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Howard Tendrich].

Councilman Tendrich moved this item forward. Seconded by Councilwoman Lindsay.

Attorney Boutsis provided staff report.

Director Delsalle advised that the matter appears to be consistent with the criteria defined in Section 30.30-7.

Mayor Stanczyk opened the matter for public hearing. The following individuals addressed the Council: John Breder, 9300 SW 181 Terrace; and Tucker Gibbs, representing Falls Preschool.

Attorney Gibbs, in response to the Vice Mayor's question, noted that the age of the children is up through kindergarten (birth to four.)

Mayor Stanczyk called the question. All voted in favor. The Ordinance passed on first reading unanimously (5-0.)

Staff was directed to place the matter on the next Committee of the Whole meeting agenda.

B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.18, RELATING TO THE PROVISION PRECLUDING OUTDOOR STORAGE WITHIN THE FT&I DISTRICT; PERMITTING OUTDOOR STORAGE TANKS UNDER SPECIFIC CONDITIONS FOR THOSE BUSINESSES WHICH PROVIDE FOR ANCILLARY SALE OF PROPANE AND CHLORINE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

Councilman Tendrich moved this matter forward. Seconded by Vice Mayor Pariser.

Director Delsalle advised that in May of 2005, the FT&I District did not permit the outdoor storage of tanks. He added that passage of the Ordinance would be consistent with criteria in the code.

Mr. John Breder, 9300 SW 181 Terrace, was recognized by the Council. He explained that he manages a shopping center on Eureka Drive where a pool company was and then found that there was a rule against the chlorine tank.

Councilwoman Lindsay noted that the ordinance currently says "propane and chlorine". She asked if he were just interested in chlorine tanks. Mr. Breder suggested eliminating the last sentence, as there are propane tanks throughout the FT&I district.

Councilwoman Lindsay stated that she is not adverse to the pool store and chlorine, but concerned with propane as if it will be distributed, a large tank would be filling other tanks.

Attorney Boutsis stated that staff could eliminate the propane provision at second reading and not have to return for a third reading.

Following discussion, Vice Mayor Pariser asked why it was specifically prohibited. Attorney Boutsis replied that it was an aesthetic issue.

Mr. Breder suggested that the answer could be to have the language include screening from view.

Attorney Boutsis suggested moving the matter on first reading and returning it to a Committee of the Whole discussion prior to second reading.

Vice Mayor Pariser moved to approve on first reading and scheduling the matter for discussion at the next Committee of the Whole Meeting. Seconded by Councilman Tendrich. All voted in favor.

C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO REQUESTS, PETITIONS AND PUBLIC COMMENTS; PROVIDING FOR A ONE MINUTE REBUTTAL FOR PUBLIC COMMENT SPEAKERS WHOSE COMMENTS ARE ADDRESSED BY THE VILLAGE COUNCIL; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Howard Tendrich].

Councilman Tendrich moved this matter forward. Seconded by Councilwoman Lindsay.

Attorney Boutsis noted that similar language was discussed in the Boards Rules Resolution. She suggested on Page 3 of 4 – "one minute rebuttal", inserting "made during public comment".

Councilman Tendrich stated that he believes all need to be more considerate of each other.

Mayor Stanczyk called the question. The matter failed (2 to 3, Councilman Tendrich and Councilman Fiore being in favor.)

12. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL, OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING DIVISION 30-150, ENTITLED "HISTORIC PRESERVATION," OF THE VILLAGE'S LAND DEVELOPMENT CODE, TO BE CONSISTENT WITH SECTION 16A, ENTITLED "HISTORIC PRESERVATION," OF THE MIAMI-DADE CODE OF ORDINANCES, WITH REGARDS TO AUTHORITY, RESPONSIBILITIES AND CRITERIA; PROVIDING FOR A LEGISLATIVE

REVIEW CLAUSE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Councilman Tendrich moved this matter forward. Seconded by Councilwoman Lindsay.

Councilman Tendrich moved to incorporate all documents, discussion, and comments from the Local Planning Agency meeting into this proceeding. Seconded by Vice Mayor Pariser. All in favor.

A roll call vote was taken, as follows: Councilwoman Lindsay: yes; Mayor Stanczyk: yes; Vice Mayor Pariser: yes; Councilman Fiore: yes; and Councilman Tendrich: yes.

13. OTHER BUSINESS: None at this time.

14. COUNCIL COMMENTS: None at this time.

15. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 1:05 pm.

Prepared and submitted by:

_____

Meighan J. Alexander, CMC
Village Clerk

Approved by the Village Council on this ___ day of September, 2012.

_____

Shelley Stanczyk, Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW. WHILE THE FLORIDA STATUTES DO NOT REQUIRE TAPE RECORDINGS, TO THE EXTENT THAT TAPE RECORDINGS ARE MADE, THE TAPES MAY BE REQUESTED FROM THE VILLAGE CLERK FOR REVIEW AND/OR COPYING. THE VILLAGE OF PALMETTO BAY CAN NOT GUARANTEE QUALITY OF ANY RECORDING.

VILLAGE OF PALMETTO BAY
Minutes of the Special Council Meeting of July 23, 2012
Village Hall Chambers
9705 East Hibiscus Street

1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

Mayor Shelley Stanczyk
Vice Mayor Brian W. Pariser
Council Member Patrick Fiore
Council Member Howard Tendrich
Council Member Joan Lindsay

Staff present:
Village Manager Ron E. Williams
Village Attorney Eve A. Boutsis
Village Clerk Meighan J. Alexander

Mayor Stanczyk called the meeting to order at 6:30 p.m. Mayor Stanczyk led the pledge of allegiance. She welcomed Mayor Phillip Stoddard of South Miami and Mayor Cindy Lerner of Pinecrest.

2. RESOLUTION

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING THE INTERLOCAL AGREEMENT RELATING TO THE GREEN CORRIDOR - PACE DISTRICT; TO UPDATE THE INTERLOCAL TO REFLECT THE MODIFICATION OF STATE LAW UNDER HOUSE BILL 7117, TO ENSURE THAT THE DISTRICT CAN EXECUTE FINANCING AGREEMENTS AND LEVY THE NON AD VALOREM SPECIAL ASSESSMENTS; TO REQUIRE A SUPERMAJORITY VOTE TO EXPAND THE BOARD AND TO PROVIDE FOR RESIDENT PARTICIPANTS ON THE BOARD; PROVIDING FOR THE NOMINATION OF A PACE DISTRICT MEMBER BY THE VILLAGE OF PALMETTO BAY; PROVIDING FOR AN EFFECTIVE DATE.

Councilwoman Lindsay moved this item forward. Seconded by Councilman Fiore.

Councilman Tendrich asked if the Village Council would allow for a public hearing.

Attorney Boutsis provided staff report, offering a history of the agreement being considered. She noted that the governing ordinance provided that amendments could be made via resolution. She explained that during the approval process that established the green district, several cities were concerned regarding levying special assessments. Attorney Boutsis noted that the Cutler Bay lobbyist successfully had the law amended (House Bill 7117), so the District could act, rather than municipalities. She noted that with the

modification to the agreement, other matters were raised. She referred to Attorney Friedman's memorandum, noting that the District would sign the financing agreement and levy assessments, instead of cities. Attorney Boutsis also explained that the Board appointments and how the Board could be expanded were clarified. She noted that cities would not be responsible for liabilities of the District and would not waive sovereign immunity. She advised that the third party administrator (currently YGreene) indemnifies the District – clarified in the agreement.

Vice Mayor Pariser noted that there is a four-year term for whoever is appointed. He asked if that appointee would serve at the pleasure of the Council. Attorney Boutsis advised that the Vice Mayor could modify section 3 of the Resolution to state this. Vice Mayor Pariser moved to include the language, "the appointee shall serve at the will of the Council and may be rescinded at any time." Seconded by Councilman Tendrich. Following brief discussion. All voted in favor. The motion passed unanimously (5-0.)

Mayor Stoddard stated that the appropriate place for that revision is within the Resolution.

Mayor Stanczyk opened the public hearing. Ed Feller, 7960 SW 144 Street, addressed the Council and provided a rough draft of the document that he believes should be given to the public.

Mayor Stanczyk noted that staff is in the process of process of drafting a brochure.

Mayor Stoddard reported that certain items concerned him and Mayor Lerner had negotiated several. He advised that the City of Miami's charter didn't allow elected officials to serve on the board, so the language "and/or elected or appointed" was included. He noted that he initiated the language for expansion of the board to be done by 2/3 majority vote, as he believes the control of the District should remain as it was conceived.

Mayor Lerner concurred with Mayor Stoddard. She noted that some federal legislation remains to be modified, such as those rules concerning Freddie Mac and Fanny Mae. She thanked Dr. Feller for working on providing information to residents.

Attorney Boutsis noted that the Council should appoint its representative to the Board.

Following brief discussion, Vice Mayor Pariser nominated Mayor Stanczyk. Councilwoman Lindsay seconded. All voted in favor. Mayor Stanczyk was named as representative to the Board unanimously (5-0.)

Councilman Tendrich asked if the Council needed to vote on the disclaimer form. Attorney Boutsis advised that there was a vote in November of last year that required staff to prepare a "pro and con" list for residents.

Vice Mayor Pariser moved to approve as amended. Seconded by Councilman Tendrich. All voted in favor. The Resolution passed unanimously (5-0.)

3. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 7:35 pm.

Prepared and submitted by:

_____

Meighan J. Alexander, CMC
Village Clerk

Approved by the Village Council on this ____ day of September, 2012.

_____

Shelley Stanczyk, Mayor

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