

VILLAGE OF PALMETTO BAY
Minutes of the Local Planning Agency Meeting of Monday, March 12, 2012
Village Hall Chambers
9705 E. 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 7:05 p.m. Mayor Stanczyk asked the Gladiator Patrol, Boy Scout Troop 457 led the pledge of allegiance. She welcomed the Troop and their Leader, Jack Simmons, and announced that the young men were present to earn their Citizenship in the Community Badges.

2. ORDINANCE FOR SECOND READING (PUBLIC HEARING)

A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING DIVISION 30-160 ENTITLED "ART IN PUBLIC PLACES" TO CLARIFY APPLICATION OF COUNTY CODE SECTION 2-11.15(2), INCREASING FEE FOR GOVERNMENT PROJECTS TO BE CONSISTENT WITH COUNTY CODE FROM 1.25 TO 1.5 PERCENT; AND CLARIFYING PROCEDURAL APPLICATIONS OF THE DIVISION; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Planning & Zoning Director Darby DelSalle reported that nothing has changed from first reading.

Attorney Boutsis remarked that this Ordinance would put the Village into compliance with the County's mandate. She stated that the remaining modifications clarify the ordinance.

Vice Mayor Pariser remarked that the residential impact is only for construction projects over \$750,000. Director DelSalle confirmed this fact.

Mayor Stanczyk opened the public hearing.

Mr. Peter England, 7620 SW 171 Street, addressed the Council.

Mayor Stanczyk clarified that the fee applies to commercial projects, government projects, and residences in excess of \$750,000. Attorney Boutsis advised that the increased fee applies to all.

Mayor Stanczyk closed the public hearing. A roll call vote was taken, as follows: Vice Mayor Pariser: yes; Mayor Stanczyk: yes; Councilman Fiore: no; Councilman Tendrich: yes; and Councilwoman Lindsay: yes. (4 to 1) The matter will be heard that the Regular Council Meeting to immediately follow.

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.7(b) MODIFYING DIVISION 30-30, ENTITLED "DEVELOPMENT APPROVAL PROCEDURES"; TO FURTHER DELINEATE SUBSECTION 30-30.2(p) THE PROCESS FOR REVOCATION, SUSPENSION OR ZONING DENIAL AS IT RELATES TO THE DEVELOPMENT ORDER OR ADMINISTRATIVE DETERMINATION BEING APPEALED AND IMPLEMENTED UNTIL FINAL RESOLUTION OF THE APPELLATE LITIGATION, IN PART OR IN WHOLE; PROVIDING AN EXCEPTION DUE TO LIFE, SAFETY, OR MATERIAL DETERIORATION AS DEFINED UNDER THE FLORIDA BUILDING CODE OR WHERE PROHIBITED BY STATE STATUTE OR COUNTY ORDINANCE; AND ACCORDINGLY UPDATE SECTION 30-30.14; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk].

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

Attorney Boutsis provided staff report. She stated that the Ordinance was originally modeled after the County Code. She noted that the "Development Order" is the resolution in place after a zoning hearing and that Order can be appealed, which may change the result of that resolution.

Vice Mayor Pariser asked if the Ordinance applies to an appeal only by the applicant or does it also apply to an appeal by a third party. Attorney Boutsis stated that it would apply to any appeal, regardless of who files the appeal.

Mayor Stanczyk opened the public hearing.

Mr. Henry Clifford, 8875 SW 171 Street, addressed the Council.

Attorney Boutsis clarified that if an item is being appealed, work ceases until the appeal has concluded.

Mayor Stanczyk closed the public hearing.

Councilman Tendrich asked how often this would occur and who would it affect. Attorney Boutsis stated that the intent was already in place and it currently is only affecting Palmer Trinity and the Charter School, as the denials are on appeal.

Councilman Fiore stated that he believes this ordinance would draw further litigation and does not foster business development. He stated that if the ordinance could result in half-completed projects and there is no leeway. He stated that ADA compliance may be affect by restricting "life safety" issues.

Mayor Stanczyk opined that "life safety" is not the same as ADA compliance. She stated that the intent was clear, this Ordinance will result in the language being clear. She opined that clarifying the intent saves applicant's effort and distress.

Attorney Boutsis clarified that if there is an existing structure on the site and ADA compliance is required, it will be performed.

Mayor Stanczyk provided the example of installation of a pool fence as an example of public safety.

A roll call vote was taken, as follows: Mayor Stanczyk: yes; Councilman Fiore: no; Councilman Tendrich: no; Councilwoman Lindsay: yes; and, Vice Mayor Pariser: yes. (3 to 2) The matter will be heard that the Regular Council Meeting to immediately follow.

3. NEXT MEETING AND ADJOURNMENT

The meeting adjourned at 7:30 p.m.

Prepared and submitted by:

*Meighan J. Alexander, CMC
Village Clerk*

Approved by the Village Council on this ____ day of April, 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

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

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

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter, or hearing impaired to participate in this proceeding should contact the Village Clerk at (305) 259-1234 for assistance no later than four days prior to the meeting.

VILLAGE COUNCIL MEETING AGENDA

Monday, March 12, 2012 - 7:00 P.M

Village Hall Chambers
 9705 E. Hibiscus Street
 (305) 259-1234

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

The Meeting was called to order at 7:35 p.m.

2. PROCLAMATIONS, AWARDS, PRESENTATIONS

3. APPROVAL OF MINUTES

- A. Minutes of the Local Planning Agency Meeting of February 6, 2012
- B. Minutes of the Regular Council Meeting of February 6, 2012

Councilman Tendrich moved to approve the Minutes, as submitted. Seconded by Councilwoman Lindsay. All voted in favor. The Minutes were approved unanimously (5-0.)

4. CONSENT AGENDA

- A. 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 \$33,179.50; PROVIDING AN EFFECTIVE DATE.
- B. 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 \$12,272.27; PROVIDING AN EFFECTIVE DATE.

Clerk Alexander reported that both items were timely pulled by Councilman Fiore.

5. REQUESTS, PETITIONS AND PUBLIC COMMENTS

The following individuals addressed the Council: Steve Kreisher, 18201 SW 98 Avenue; Don Waters, 14610 SW 69 Avenue; Denise Horton, 14900 SW 80 Avenue; Laura Jensen, 15404 SW 79 Place; Charlene Shere, 8425 SW 143 Street; Lorne Barkow, 7900 SW 160 Street; Richard Duncan, 8700 SW 149 Terrace; Henry Clifford, 8875 SW 171 Street; Marsha Matson, 9300 SW 180 Street; Bev Gerald, 14271 SW 74 Court; Warren Lovely, 15323 SW 74 Place; Betty Pegram, 18121 SW 82 Avenue; Anthony Gorman, 14940 SW 72 Avenue; and, Jerry Templar, 8120 SW 182 Street.

Following public comments, Mayor Stanczyk asked the number of anonymous code compliance complaints received by the Village. Attorney Boutsis stated that it is common practice for individuals to leave voice mails or send anonymous letters.

Mayor Stanczyk asked if SW 144 Street is being considered for traffic calming. Manager Williams advised that there was a proposal for traffic calming; however, the Council chose not to approve his recommendation. He stated that he did not recall that the traffic calming proposal suggested changing the speed limit.

Based upon suggestion by Mr. Clifford, Councilwoman Lindsay moved to allow public hearing on each item. Seconded by Vice Mayor Pariser. All voted in favor (5-0.)

6. VILLAGE MANAGER'S REPORT

Manager Williams invited all to Slam Fest, the girls' softball tournament being held Friday, Saturday, and Sunday in Palmetto Bay. He further reported that the documents regarding the feasibility studies had been distributed to the Council and staff will be providing information regarding the Village's tennis facility.

Mayor Stanczyk asked if Manager Williams will provide information regarding the number of requests and anonymous requests concerning code compliance matters. Manager Williams advised that staff will provide the information.

Clerk Alexander provided an update of the calendar. Mayor Stanczyk asked if a Committee of the Whole meeting was scheduled. Councilman Tendrich remarked that there may not be a need for a meeting. Clerk Alexander confirmed that all could be available for a March 21st Committee of the Whole meeting.

7. VILLAGE ATTORNEY'S REPORT

A. March, 2012 Update: Attorney Boutsis provided her written report.

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, SUPPORTING THE ECONOMIC DEVELOPMENT COUNCIL OF SOUTH MIAMI-DADE'S GOAL TO CREATE A LONG TERM STRATEGIC PLAN TO PROVIDE BUSINESS ASSISTANCE, BUSINESS TRAINING, AND ECONOMIC DEVELOPMENT FOR SOUTH MIAMI-DADE; PROVIDING AN EFFECTIVE DATE. (Sponsored by Councilman Howard Tendrich)

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

Councilman Tendrich reported that, recently, the Village of Pinecrest and the Town of Cutler Bay passed similar resolutions. He explained that the EDC has been working diligently to become the Village's version of the Beacon Council and the Village's County Commissioner is trying to get funds passed over to EDC to help develop the business corridor. He stated that the EDC is currently having a 10-week business course and is working with the Palmetto Bay Village Center to give graduates a reduced rental fee for office space. Councilman Tendrich concluded by stating that the EDC is a good organization; he attends many of the meetings that are well-attended due to the interesting speakers.

Vice Mayor Pariser concurred that the EDC is a worthwhile organization. He stated that he would like to review the strategic plan prior to voting to supporting the plan.

Councilman Tendrich stated that there is no monetary support being considered at this time, rather, the resolution would be to support their effort to formulate a plan for the South-Dade area.

Councilwoman Lindsay noted that the Village supports the Beacon Council and Chamber South, and had supported EDC's golf tournament in the past. She concurred with Vice Mayor Pariser that the Village should not support a plan without knowing its contents.

Councilman Fiore remarked that the members of the EDC volunteer their time to help people get jobs and the Village should support this effort.

Mayor Stanczyk stated that she, too, would like to see the plan. She remarked that Mr. James Thomas had presented a verbal presentation at a recent meeting. She recognized Peter England.

Mr. England provided information concerning EDC's recent accomplishments and goals.

Councilwoman Lindsay remarked that wording of the resolution is ambiguous and the EDC should return with a draft plan for the Village to consider.

Brief discussion ensued. The Resolution failed to pass (2 – 3, Mayor Stanczyk, Vice Mayor Pariser, and Councilwoman Lindsay being opposed.)

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO FRIENDS OF THALATTA COMMITTEE PROVIDING FOR MEMBERSHIP; PROVIDING FOR MISSION; PROVIDING FOR SECRETARY, MEETINGS AND REPORTS; PROVIDING FOR AN ACCOUNT FOR FUNDS AND PROCEDURES RELATING TO DONATIONS; PROVIDING FOR AN EFFECTIVE DATE.

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

Mayor Stanczyk stated that Thalatta Park is a historic component of the Village and will need support. She noted that many communities across the country have this type of structure in place to assist with funding.

Attorney Boutsis advised that there would be one representative from the Village Council on the Board, which would initially be the Mayor for the first two year period, then rotate to other Council members, a member of the Historic Preservation Board, and the remainder from the public.

Mayor Stanczyk remarked that careful consideration was given to this policy.

Councilman Tendrich stated that the Palmetto Bay Foundation is a 501(C)(3) that is already in existence and feels that the Village's Special Event Coordinator can perform the functions of this Board. He remarked that Mayor Stanczyk serves as liaison to many of the Boards that operate within the Village currently. He expressed concern regarding a nine member committee and stated that the scope of the Committee would be best accomplished by the Council. Councilman Tendrich continued that the Village has employees who are well-versed and have been successful throughout grant applications and the staff could be directed to focus on grants to benefit Thalatta.

Mayor Stanczyk stated that she wished to insure that there was a proper financial structure in place.

Attorney Boutsis advised that when the Village created its nonprofit, it was created as there were opportunities that the Village could not apply for; however, the government has changed the rules and now the Village can apply for the same grants that the nonprofit can.

Discussion ensued.

Vice Mayor Pariser remarked that this Committee would be an advisory committee only, with the Council making all final decisions.

Attorney Boutsis offered the following modifications: Page 4, line 39 – strike the committee to meet once a month, leave quarterly or more; Section 5, line 12 – construction of capital improvements; and changing the number of members so that each Council person would have two appointments. Following discussion, Vice Mayor Pariser moved to amend. Seconded by Councilwoman Lindsay.

Mayor Stanczyk called the question. The motion to modify the resolution passed (3-2, Councilmen Fiore and Tendrich opposed.)

Mayor Stanczyk called the question on the amended resolution. The Resolution passed (3-2, Councilmen Fiore and Tendrich opposed.)

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS & RECREATION; ACCEPTING THE RECOMMENDATION OF THE VILLAGE MANAGER IN APPROVING THE CONTRACT WITH SILVA MANAGEMENT OF MIAMI, INC., DBA JUNIOR'S CATERING OF MIAMI, TO PROVIDE CONCESSION SERVICES AT VILLAGE PARKS PURSUANT TO BID NO. 2011-PR-005; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE GOVERNING AGREEMENT PURSUANT TO RECOMMENDED AWARD; AND PROVIDING FOR AN EFFECTIVE DATE.

Clerk Alexander noted that a substituted item was provided on the dais.

Councilwoman Lindsay moved the substituted item forward. Seconded by Councilman Tendrich.

Manager Williams provided staff report.

Attorney Boutsis added that the Council is being asked to approve the contract in substantial form.

Following discussion, Manager Williams explained that the Parks and Recreation Director would have leeway to modify the contract, as appropriate.

Mayor Stanczyk called the question. The Resolution passed unanimously (5-0.)

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; SUPPORTING THE MIAMI-DADE COUNTY PROPOSED ORDINANCE (FILE NO: 120044); URGING THE MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS TO APPROVE AND SUPPORT THIS IMPORTANT LEGISLATION; PROVIDING AN EFFECTIVE DATE. [Sponsored by Councilman Howard Tendrich]

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

Mayor Stanczyk thanked Councilman Tendrich for bringing this item to the Council's attention. Councilman Tendrich reported that Commissioner Suarez is attempting to pass this item at the Board of County Commissioners and he is supportive.

Mayor Stanczyk expressed her support, as well, adding that she recalled that Councilman Tendrich has raised this item as part of the Village's legislative agenda.

Following brief comment, Mayor Stanczyk called the question. All voted in favor of the proposed Resolution (5-0.)

- E. 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 \$33,179.50; PROVIDING AN EFFECTIVE DATE.

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

Councilman Fiore asked Attorney Boutsis for the amount of funding spent on the Palmer Trinity litigation. She provided the amount.

Mayor Stanczyk called the question. All voted in favor of the proposed Resolution (5-0.)

- F. 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 \$12,272.27; PROVIDING AN EFFECTIVE DATE.

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

Councilman Fiore noted that the amount of the White & Case invoice added to Attorney Boutsis would be approximately \$14,274. He asked the Village Manager if a budget amendment would be needed if the cost of the Palmer Trinity litigation were to exceed \$1 million.

Manager Williams relied that any line item exceeded the Council's budgeted authorization would return to Council for approval.

Councilwoman Lindsay advised that the Village is involved in litigation with the Shores corporation concerning the Charter School. She noted that it is important

to protect the residents' property rights and unfortunately litigation may be a necessary consequence.

Mayor Stanczyk pointed out that the Village is the defendant in the lawsuits.

Mayor Stanczyk called the question. All voted in favor of the proposed Resolution (5-0.)

10. RESOLUTIONS REQUIRING PUBLIC HEARING

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PALMETTO BAY PARK; RELATING TO PARKS MASTER PLAN; AUTHORIZING REVISIONS TO THE PARKS MASTER PLAN - PALMETTO BAY PARK TO INCLUDE TWO OUTDOOR BEACH VOLLEYBALL COURTS AND OUTDOOR FITNESS STATIONS; AND PROVIDING AN EFFECTIVE DATE.

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

Manager Williams provided staff report. Attorney Boutsis noted that a 4/5 vote is required for a substantial modification to a parks master plan.

Following brief comment, Mayor Stanczyk opened the public hearing. The following individuals came forward: Ms. Marsha Matson, 9300 SW 180 Street; Sheila Frazer, 9305 SW 181 Street; and Chuck Latshaw, 8825 SW 154 Terrace, addressed the Council.

Following expressed concerns, Councilwoman Lindsay asked if there were an alternative location for the beach volleyball Courts. Manager Williams replied that staff had not considered an alternative. She suggested that staff work to find an area agreeable to the residents.

Vice Mayor Pariser acknowledged that the neighbors' concerns are valid.

Councilman Tendrich suggested that behind the park building may not be in the best location due to drainage.

Councilman Tendrich moved to defer the matter to the date certain of April 2nd. Seconded by Vice Mayor Pariser. The motion carried unanimously (5-0.)

11. ORDINANCES FOR FIRST READING

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO 30-30.7(b), OF THE VILLAGE'S CODE, RELATING TO REVISING 30-30.3(C) AND 30-30.11 RELATING TO NOTICE PROVISIONS; TO PROVIDE ADDITIONAL CLARIFICATION AS TO MAILED NOTICE TO NEIGHBORS; REPEAL OF

CONFLICTING PROVISIONS FOUND AT SECTION 30-1, 30-2, 30-3, AND 30.1 AND 30.2; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Joan Lindsay].

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

Attorney Boutsis provided staff report.

Mayor Stanczyk remarked that notice was always required, except with substantial compliance matters. Attorney Boutsis responded affirmatively, adding that clarification was needed.

Mayor Stanczyk asked whether the Village would be advertising in Herald or Daily Business Review. Attorney Boutsis replied that staff advertises in the Daily Business Review as it costs substantially less. She noted that for most of the ordinances, staff cannot use Neighbors Section, as general circulation is required.

Councilwoman Lindsay expressed her reasons behind the proposed Ordinance. She stressed that the Village is inclusive and transparent; thus, it is important to keep all informed.

Vice Mayor Pariser asked if the definition of substantial compliance was included. Attorney Boutsis explained that four pages of definitions are included in Division 30-30, but that the definitions are not changing.

Councilwoman Lindsay stated that notice was always required for substantial compliance; the Ordinance simply defines the notice requirement.

Councilman Fiore expressed that residents would have to pay more in fees. He stated that he understands Councilwoman Lindsay's concerns, but the resident will be responsible for the additional charge.

Councilwoman Lindsay stated that her goal is to insure those affected will have an opportunity to know what is going on and have the opportunity to speak.

Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: Henry Clifford, 8875 SW 171 Street; Bev Gerald, 14271 SW 74 Court; Steve Kreisher, 18201 SW 98 Avenue; and Paula Palm, 8895 SW 152 Street. The public hearing was closed.

Following comment, Councilwoman Lindsay moved to include the term "without regard to municipal boundary" to insure neighboring cities are also informed, using the appropriate radius. Seconded by Vice Mayor Pariser. All voted in favor of the amendment (5-0.)

Following discussion, Vice Mayor Pariser moved to change the radius from ½ acre to 1 acre and adjust the chart accordingly. Seconded by Councilwoman Lindsay. All voted in favor of the amendment (5-0.)

Councilman Tendrich asked how the radius is measured.

Director DelSalle noted that the measurement is made from the perimeter of the property.

Mayor Stanczyk called the question. The Ordinance passed on first reading (4-1, Councilman Fiore opposed.)

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.7(b) MODIFYING DIVISION 30-30, ENTITLED "DEVELOPMENT APPROVAL PROCEDURES"; TO AMEND SECTION 30-60.6 ENTITLED "VARIANCES" TO MODIFY THE STRICT HARDSHIP STANDARD TO THE GENERAL STANDARD PROVIDED BY MIAMI-DADE COUNTY; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

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

Councilman Fiore stated that he believes this Ordinance will allow for all members of the public to be treated equally.

Mayor Stanczyk remarked that while she understands the purpose, when an item was denied, it based upon the compliance ordinance – a clear standard. She stated that this ordinance removes all limitations of the code.

Councilman Tendrich stated that he, too, felt that all other requirements should not be removed.

Vice Mayor Pariser stated that he recalled when the standard for hardship came up and that the conventional wisdom was a hardship standard to the land should prevail. He stated that it is a matter of consistency.

Mayor Stanczyk opened the public hearing. The following individuals were heard: Steve Kreisher, 18201 SW 98 Avenue; Bev Gerald, 14271 SW 74 Court; and Jerry Templar.

Mayor Stanczyk closed the public hearing.

Following brief discussion, Mayor Stanczyk called the question. The matter failed (1 to 4, Councilman Fiore being the sole supporter.)

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.7(b) RELATING TO CHAPTER 30, DIVISION 100, ENVIRONMENTAL REGULATIONS, REPEALING THE EXISTING PROVISIONS OF 30-100.6 TO REPLACE SAME WITH THE MODEL FLOODPLAIN ORDINANCE REQUIRED BY THE STATE LEGISLATURE; PROVIDING FOR RESPONSIBILITIES OF THE BUILDING OFFICIAL AS FLOODPLAIN COORDINATOR, WHICH MODIFICATIONS ARE MANDATED BY THE STATE TO BE INCLUDED IN THE VILLAGE'S ORDINANCE 30-100.6, RELATING TO SAME; ADOPTING A NEW SECTION 30-100.6; ALSO REPEALING CHAPTER 18 RELATING TO SAME; ADOPTING FLOOD HAZARD MAPS, DESIGNATING A FLOODPLAIN ADMINISTRATOR, ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; ADOPTING LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis advised that modifications were required due to FEMA regulations and State-mandated requirements.

Building Official Ed Silva advised that Florida Department of Environmental Protection provided a model ordinance, and the Village is trying to insure there is no conflict – no double standards included. Attorney Boutsis stated that the Village also corrected a codification error.

Vice Mayor Pariser asked if there was discretion, as he was concerned about the negative impact to residents.

Mr. Silva acknowledged that there will be some requirements that will impact residents. He advised that FEMA is creating a new zone – taking into account hydrostatic force on structures along the coast. Additionally, the commercial side will be required to have free boards that may have to place above base level now.

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

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

- D. AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; AMENDING DIVISION 30-100.2 ENTITLED "RESERVED" TO BE RE-TITLED "LANDSCAPING MITIGATION

PROGRAM"; CREATING A PROCESS FOR AN APPLICANT TO COMPLY WITH THE VILLAGE'S ENHANCED TREE AND SHRUB REQUIREMENTS, BY PROVIDING FUNDING TO THE LANDSCAPE MITIGATION FUND FOR TREES AND SHRUBS TO BE PLANTED IN THE PUBLIC AREAS, INCLUDING PARKS AND RIGHTS-OF-WAY; PROVIDING AN ALTERNATIVE TO SEEKING A VARIANCE FROM THE REQUIREMENTS; PROVIDING FOR A SEGREGATED FUND; INTENT; AUTHORITY; REQUIREMENTS; PROCEDURES; ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Director DelSalle provided staff report. Attorney Boutsis added that Miami-Dade County has home rule power and there is a minimum to be met by the property owner regardless.

Councilwoman Lindsay remarked that fees may change throughout the years. Director DelSalle advised that staff followed a competitive bid instrument for calculating the fees.

Mayor Stanczyk asked if Manager Williams had been advised of a restriction against installing some type of canopy that would signal that you were in Palmetto Bay.

Manager Williams stated that the Florida Department of Transportation (FDOT) has right-of-way authority along US-1 and they are not aware of any setback prohibition or conflict with FDOT.

Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: Henry Clifford, 8875 SW 171 Street, and Steve Kreisher, 18201 SW 98 Avenue.

Director DelSalle advised that before someone can be eligible under this Ordinance, they must install denser planting and have demonstrated that they tried to come into compliance.

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

- E. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY AMENDING ORDINANCE 07-04, RELATING TO FEE SCHEDULES FOR PLANNING AND ZONING APPLICATIONS; CREATING A FEE SCHEDULE FOR THE LANDSCAPE MITIGATION PROGRAM; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

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

Director DeSalle incorporated his comments from the previous item.

As the Council did not have follow-up questions, Mayor Stanczyk opened the public hearing. No one wished to comment. She closed the public hearing.

Councilwoman Lindsay suggested included an annual maintenance fee for the additional landscape for which the Village will be responsible.

Vice Mayor Pariser noted that there is a 10% administrative fee for management of the program. Manager Williams stated that the Village would remain responsible for planting on our property.

Councilwoman Lindsay remarked that if the tree were planted on the applicant's property, they would be responsible. She asserted that under this program, the Village would the responsibility of maintaining it as well.

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

- F. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LOBBYING AND CONE OF SILENCE; DIRECTING MUNICIPAL CODE CORPORATION TO REPEAL SECTIONS 6-19 THROUGH 6-21 AS A PRIOR ENACTED VERSION OF THE LOBBYING CODE ALSO ENACTED AT CHAPTER 2; AND UPDATING THE CODE OF ORDINANCES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report. She noted that Attorney Miriam Ramos of Miami-Dade County Commission on Ethics had reviewed the proposed Ordinance and concurs with the language.

Mayor Stanczyk opened the public hearing. No one came forward. The public hearing was closed.

Vice Mayor Pariser noted that the presentation by Miami-Dade Commission on Ethics was helpful.

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

- G. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PROCUREMENT; AMENDING THE VILLAGE'S PROCUREMENT CODE TO CLARIFY THE CONE OF SILENCE REQUIREMENTS AND BID

PROTEST PROCEDURES; PRECLUDING A PROTESTING BIDDER FROM ADHERING TO THE BID PROTEST PROCEDURES BY CIRCUMVENTING THE BID PROTEST PROCESS AND TO ENSURE TRANSPARENCY AND PRECLUDE UNREGISTERED IMPROPER LOBBYING; A VIOLATION OF THE CONE OF SILENCE AND BID PROTEST PROCESS WOULD AUTOMATICALLY RESULT IN A TWO (2) YEAR BAR OF THE PROTESTOR FROM BEING AWARDED A CONTRACT WITH THE VILLAGE; REVISING THE REQUIREMENTS OF SECTION 2-175(o) AS IT RELATES TO BID PROTEST PROCEDURES AND APPEALS TO THE VILLAGE COUNCIL; AND AMENDING SECTION 2-138 RELATING TO THE VILLAGE'S CONE OF SILENCE REQUIREMENTS; DELETION OF PROCESS FOR VILLAGE REVIEW AND ENSURING REVIEW OF VIOLATIONS OF CONE OF SILENCE BY THE MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report.

Vice Mayor Pariser asserted that the proposed Ordinance incorporates the most transparency possible. He stated that there should not be lobbying until the Council hears the matter.

Councilwoman Lindsay expressed her concern that the Council is unable to speak to staff during the cone of silence.

Attorney Boutsis advised that Council can ask question of facts of staff; however, no one can lobby the Council. She advised that the Village's ordinance is more stringent where once the county manager issues his recommendation at the county level, the vendors can speak to county commissioners. She explained that in order to avoid this matter in Village, the manager will issue his recommendation on the date it is issued; then, a lobbyist could talk to staff, but not to the Council.

Vice Mayor Pariser clarified that the Council cannot speak to the Manager during the Cone of Silence. Attorney Boutsis advised that questions can be asked, but no member of Council is permitted to speak to a lobbyist.

Mayor Stanczyk opened the public hearing. Mr. Jerry Templar addressed the Council. Mayor Stanczyk closed the public hearing.

Attorney Boutsis advised that there has always been a cone of silence and there has always been no interference language included. She noted that the cone of silence is to avoid undue influence.

Mayor Stanczyk called the question. The Ordinance passed on first reading (3-2, Councilman Fiore and Councilwoman Lindsay opposed.)

12. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING DIVISION 30-160 ENTITLED "ART IN PUBLIC PLACES" TO CLARIFY APPLICATION OF COUNTY CODE SECTION 2-11.15(2), INCREASING FEE FOR GOVERNMENT PROJECTS TO BE CONSISTENT WITH COUNTY CODE FROM 1.25 TO 1.5 PERCENT; AND CLARIFYING PROCEDURAL APPLICATIONS OF THE DIVISION; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis noted that staff is incorporating the record, staff report, and all public comments made at the Local Planning Agency Meeting this evening into this proceeding.

Mayor Stanczyk opened the public hearing. No one came forward. She closed the public hearing.

Mayor Stanczyk called the question. The Ordinance was adopted (4-1, Councilman Fiore being opposed.)

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.7(b) MODIFYING DIVISION 30-30, ENTITLED "DEVELOPMENT APPROVAL PROCEDURES"; TO FURTHER DELINEATE SUBSECTION 30-30.2(p) THE PROCESS FOR REVOCATION, SUSPENSION OR ZONING DENIAL AS IT RELATES TO THE DEVELOPMENT ORDER OR ADMINISTRATIVE DETERMINATION BEING APPEALED AND IMPLEMENTED UNTIL FINAL RESOLUTION OF THE APPELLATE LITIGATION, IN PART OR IN WHOLE; PROVIDING AN EXCEPTION DUE TO LIFE, SAFETY, OR MATERIAL DETERIORATION AS DEFINED UNDER THE FLORIDA BUILDING CODE OR WHERE PROHIBITED BY STATE STATUTE OR COUNTY ORDINANCE; AND ACCORDINGLY UPDATE SECTION 30-30.14; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk].

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

Attorney Boutsis noted that staff is incorporating the record, staff report, and all public comments made at the Local Planning Agency Meeting this evening into this proceeding.

Mayor Stanczyk opened the public hearing. No one came forward. She closed the public hearing.

Mayor Stanczyk called the question. The Ordinance was adopted (3-2, Councilmen Fiore and Tendrich being opposed.)

13. **OTHER BUSINESS:** None at this time.

14. **COUNCIL COMMENTS**

Mayor Stanczyk remarked that with regard to the EDC and their goal for a strategic plan, lack of an explanation may be the difficulty. She asked Councilman Tendrich to invite them to the next Committee of the Whole Meeting.

Councilman Tendrich stated that he was happy that people are pleased with the current arrangements with regard to the tennis program at Coral Reef Park. He stated that as only one application had been received with regard to the Education Compact Advisory Committee, the application needs to be revised to be made simpler. He asked how the Village would move the ideas of the Building & Permitting Advisory Committee forward.

Mayor Stanczyk asked him to arrange to meet with Rainer Schael to discuss the Board's report.

Councilman Tendrich advised that the County recently passed a law about giving gifts, due to the information concerning the Lipton Tennis Tournament. He stated that he will again raise the issue at the next Committee of the Whole meeting.

Councilwoman Lindsay thanked the residents who came out tonight to address the council with regard to the tennis program. She stated that she is pleased that the tennis community is happy with the Council's decision.

Councilman Fiore stated that if the program is working, it should remain as is. He remarked that bringing up previous election campaigns is not productive.

Councilwoman Lindsay stated that she will continue to promote what the constituents asked her to work on – transparency and quality of life.

Mayor Stanczyk stated that during an election, a platform is stated and one would hope an elected official would support their platform.

Vice Mayor Pariser thanked the tennis community. He congratulated Manager Williams and the Park staff for the picnic.

Manager Williams thanked Director Fanny Carmona-Gonzalez and her staff for the great event.

Vice Mayor Pariser read a note from County Commissioner Linda Bell, thanking the Council for attending Dade Days. He remarked that building relationships is crucial and important.

Mayor Stanczyk thanked all for the picnic.

Councilman Tendrich noted that he served 450 hot dogs.

15. NEXT MEETING AND ADJOURNMENT

The meeting was adjourned at 11:40 p.m.

Prepared and submitted by:

*Meighan J. Alexander, CMC
Village Clerk*

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

Shelley Stanczyk, Mayor

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