VILLAGE OF PALMETTO BAY
Minutes of the Regular Council Meeting of November 7, 2011
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 7:05 p.m. Mayor Stanczyk led the pledge of allegiance.

2. PROCLAMATIONS, AWARDS, PRESENTATIONS

3. APPROVAL OF MINUTES

A. Minutes of the September 26, 2011 Final Budget Hearing
B. Minutes of the Regular Council Meeting of October 3, 2011
C. Minutes of the Special Council Meeting of October 24, 2011

Vice Mayor Pariser moved to approve the Minutes. Seconded by Councilman Tendrich. All voted in favor. The Minutes were approved unanimously (5-0.)

Mayor Stanczyk asked for consideration to hear Item 12 A as the next item. Vice Mayor Pariser moved the item forward. Seconded by Councilman Fiore.

ORDINANCE FOR PUBLIC HEARING:

A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, CREATING CHAPTER 17 "GREEN CORRIDOR PACE DISTRICT" OF THE VILLAGE CODE OF ORDINANCES; AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF CUTLER BAY AND THE VILLAGE OF PALMETTO BAY, AND ANY OTHER INTERESTED MUNICIPALITIES; PURSUANT TO 163.01 THE "FLORIDA INTERLOCAL COOPERATION ACT OF 1969", TO ESTABLISH THE GREEN CORRIDOR DISTRICT AS A SEPARATE LEGAL ENTITY; TO FINANCE ENERGY RELATED "QUALIFIED IMPROVEMENTS" THROUGH VOLUNTARY ASSESSMENTS; TO ALLOW IMPROVED PROPERTY TO BE

RETROFITTED WITH ENERGY RELATED QUALIFYING IMPROVEMENTS TO ALLEVIATE THE PROPERTY'S BURDEN FROM ENERGY CONSUMPTION; AND TO CREATE THE DISTRICT AS A MEANS OF IMPLEMENTING AND FINANCING A QUALIFYING IMPROVEMENT PROGRAM FOR ENERGY CONSERVATION AND EFFICIENCY IMPROVEMENTS WITHIN THE DISTRICT; THE VILLAGE IS AUTHORIZING THE ENTRANCE INTO A PARTNERSHIP WITH ONE OR MORE LOCAL GOVERNMENTS FOR THE PURPOSE OF PROVIDING AND FINANCING QUALIFYING IMPROVEMENTS, WHICH PROGRAM MAY BE ADMINISTERED BY A FOR-PROFIT ENTITY OR A NOT-FOR PROFIT ORGANIZATION ON BEHALF OF AND THE DISCRETION OF THE DISTRICT; AUTHORIZING A PROPERTY OWNER WITHIN THE VILLAGE INTERLOCAL TO APPLY TO THE DISTRICT FOR FUNDING TO FINANCE A QUALIFYING IMPROVEMENT AND ENTER INTO A FINANCING AGREEMENT WITH THE DISTRICT; THE COSTS OF THE PROGRAM THAT ARE INCURRED BY THE VILLAGE UNDER THE PROGRAM MAY BE COLLECTED AS A NON-AD VALOREM ASSESSMENT TO BE COLLECTED PURSUANT TO SECTION 197.3632; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Mayor Shelley Stanczyk].

Mayor Stanczyk remarked that the program is a volunteer program and is open to all who qualify. She stated that it will be an economic driver for energy efficiency and improvements. She recognized Mayor Phillip Stoddard of South Miami, Mayor Ed MacDougall of Cutler Bay, Mayor Cindy Lerner of Pinecrest, Former Mayor of Cutler Bay Paul Vrooman, Cutler Bay Town Manager Steve Alexander, and Lobbyist Rich Candia.

Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: Ed Feller, 7960 SW 144 Street; Margaret Burnstein, 8895 SW 182 Terrace; Teresa Chaskin, 9430 SW 181 Street; Rainer Schael, 18171 SW 90 Court; Bill Westrich, 17500 SW 89 Court; Warren Lovely, 15323 SW 74 Place; Peter England, 7620 SW 171 Street; Rex Lehman, 17300 SW 87 Court; Oran Lindquist, 9387 SW 185 Street; Arleen Feller, 7960 SW 144 Street; Tucker Crusan, 17501 SW 92 Avenue; James Thomas, 7450 SW 164 Street; and Elizabeth Santos, 7305 SW 140 Terrace.

Mayor Stanczyk closed the public hearing.

Mayor MacDougall came forward and provided a report. He noted that this action would result in a corridor of municipalities finding their own direction, creating jobs, and coming together on this effort. He remarked that this is a new venture and whether you believe global warming is natural or man-made, it is occurring at the cost of trillions per year and the cost of energy must be mitigated.

Mayor Stoddard noted that South Miami approached this issue with caution. He stated that he asked numerous questions concerning liability and his City's Manager, Attorney, and Finance Director spent hours asking questions and all were satisfied

that the concept is sound and will not be a liability to the residents and the city. He explained that if he would be installing an energy efficient roof on his home, he would explore all the options for financing.

Mayor Lerner stated that she applauds the process and the residents for being so involved. She remarked that many areas of the state are creating PACE corridors and as a member of the energy environment and natural resources committee of the Florida League she will be going to the national convention later this month to discuss the matter further. She stated that Florida is at least a decade behind in the renewable energy field. She advised that the national league of cities has been working to insure there is support and we are encouraging the federal government. She asked the Council to consider supporting this program, as it provides another option for the homeowners and commercial sector.

Mr. Paul Vrooman, former Mayor of Cutler Bay, 10013 SW 223 Lane, Cutler Bay, remarked that the best mechanism for energy efficiency is to make solar, wind, or other energy efficiency products available. He noted that if most homeowners could afford the products, then more would have the products and this option will allow property owners to have an option for financing.

Mayor Stanczyk opened the public hearing for Ms. Bev Gerald, 14271 SW 74 Court, to address the Council.

Mr. Vrooman stated that there is a problem currently in Washington for homes covered under Fanny Mae and Freddie Mac and this program will be a priority lien over the mortgage, which is causing problems in the federal mortgage industry. He stated that there is currently a lawsuit in California that is prevailing and there is a bill in Congress. He advised that approximately 1/3 of the homes in this country are not backed by Fanny Mae and Freddie Mac loans and all commercial properties are free and clear to participate.

Mayor MacDougall stated that he works in the property casualty fields and while there are not a lot of insurance companies that wish to insure photo voltaic panels, the market is changing and the insurance companies will respond to the market.

Mayor Stanczyk allowed Kent Crook, 11701 SW 30 Avenue, Miami, to speak in support. She closed the public hearing.

Vice Mayor Pariser asked about if the Village is indemnified, what is the status of the ability of Ygreene to pay for an indemnity bond if there are no assets. He added that the district directors are not paid.

Mr. John Wakefield, Ygreene Florida Energy Fund, 400 N Tampa Street, Tampa, stated that he is not aware of any insurance program that exists for property owners to insure their energy savings; however, companies such as Energize do offer re-insurance for commercial contractors who are able to purchase policies so that when improvements are made to a property there is an insurance policy that guarantees energy savings are transferred to the property owner. He stated that this

type of insurance is not available to the residential owner at this time. He explained that Ygreene Florida is a new company and has assets related to the operation and management of the program. He explained that the funds that Ygreene provides are committed lines of credit from Barclay's.

Councilman Tendrich asked if there is a formula for energy savings. Mr. Wakefield stated that it would depend upon the panels purchased and the size of the solar array and there is no rule of thumb.

Mayor Stanczyk stated that the program is about the entire energy savings on your home. Brief discussion ensued.

Mayor MacDougall remarked that the program is a business venture for Ygreene and there is no point for Ygreene to hire shady inspectors.

Mr. Wakefield concurred. He stated that there is a savings to investment ratio when a property owner decides to make the improvement.

Mayor MacDougall noted that there is a $100 million secured revolving line of credit for YGreene.

Councilman Tendrich expressed his concern that Ygreene has no funds. Mr. Wakefield stated that there has been no reason to make the investment yet, as the district is not established.

Mayor MacDougall stated that the program is about saving money and the green movement – a global view should be taken.

Councilman Tendrich asked if it is possible to add a contractor to the Ygreene list, if a resident knew of someone qualified. Mr. Wakefield stated that his company would consider any experienced contractor; and, once your house is approved, the contractor will be allowed to perform the job whether Ygreene-listed or not.

Councilwoman Lindsay asked about the $50 application. Mr. Wakefield noted that there was this fee. Mr. Alexander added that $420 was the fee for the entire application, including the inspection. Councilwoman Lindsay asked who conducts the inspection. Mr. Alexander replied that all inspectors are selected by YGreene, as the inspectors must insure that the savings are realized.

Councilwoman Lindsay expressed her concern that the residents are fully aware that this program is one that will be more costly.

Mr. Alexander acknowledged that the program may be more costly; however, if the homeowner had a project done that required repairs, it would be costlier to fix and Ygreene will suggest contractors that are approved and experienced. He stated that the village can send out any type of notice they wish to make the residents aware of the options.

Councilman Fiore expressed his support, adding that he has two administrative issues: 1. The residents should have some type of consumer information/pamphlet/brochure provided; and 2. The Council should nominate a resident to the District that has experience in the field, rather than an elected official.

Attorney Boutsis stated that Council could decide this matter; however, it is not an issue for tonight's agreement.

Councilwoman Lindsay opined that the interlocal states that the governing board of the district must be made up of elected officials and cannot be modified.

Mr. Vrooman noted there will be consultants and experts to the governing board; however, because the Council represents and makes decision on behalf of the Village, Palmetto Bay would be best served by having an elected official on the Board.

Councilman Fiore moved to have a "bill of rights", including the "pros and cons" provided to all applicants to the program who will sign acknowledging receipt. Seconded by Councilman Tendrich. All voted in favor. The motion passed unanimously (5-0.)

Following simultaneous voting, the Ordinance passed 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 $24,656.11; 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, FOR THE SERVICES OF JUSTICE RAOUL CANTERO IN PALMER TRINITY V. VILLAGE OF PALMETTO BAY-APPELLATE MATTER; IN THE AMOUNT OF $33,339.50; PROVIDING AN EFFECTIVE DATE.

C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ESTABLISHING A POLICY WITH REGARD TO GUEST REIMBURSEMENT AT OFFICIAL FUNCTIONS; PROVIDING AN EFFECTIVE DATE. (Sponsored by Councilman Howard Tendrich)

D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE BUILDING AND PERMITTING ADVISORY BOARD, EXTENDING THE TERM OF THE BOARD FOR A PERIOD OF THREE MONTHS TO CONCLUDE NO LATER THAN MARCH 6, 2012; PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Shelley Stanczyk)

E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AN EXISTING AGREEMENT WITH WRANGLER CONSTRUCTION FOR SIDEWALK IMPROVEMENTS OF PUBLIC SIDEWALKS WITHIN THE VILLAGE OF PALMETTO BAY; FURTHER AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER IN AN AMOUNT NOT TO EXCEED $50,805.00 TO CONTINUE SIDEWALK IMPROVEMENTS IN FY 2011-12; AND PROVIDING FOR AN EFFECTIVE DATE.

Clerk Alexander advised that Councilman Fiore timely removed Items 4 B and 4 C from the Consent Agenda.

Councilman Fiore moved to approve the remaining consent items. Seconded by Vice Mayor Pariser. All voted in favor. The Resolutions were passed unanimously (5-0.)

5. **REQUESTS, PETITIONS AND PUBLIC COMMENTS**: The following individuals addressed the Council: Marsha Matson, 9300 SW 180 Street; Peter England, 7620 SW 171 Street; Matthew Westritch, 9550 SW 181 Terrace; Tucker Crusan, 17501 SW 92 Avenue; Theresa Jasmine, 9430 SW 181 Street; Bill Westrich, 17500 SW 89 Court; Aida Crusan, 17501 SW 92 Avenue; Rex Lehman, 17300 SW 87 Court; Steve Kreischer, 18201 SW 89 Avenue; and Jerry Templar, 8120 SW 181 Street.

Vice Mayor Pariser asked if there were a purchase price offered for the property on Franjo Road, adjacent to Palmetto Bay Park. Manager Williams advised that there had been several unsolicited offers, starting at approximately $6 million with the last offer being approximately $4.49 million.

6. **VILLAGE MANAGER'S REPORT**

Manager Williams advised the Village is in the process of two procurement actions: legislative services at the state level and the concession stand at Coral Reef Park. He noted that staff is working on the document for tennis services and will be proceeding with this procurement effort in the near future. He noted that the current provider has an extension through the end of December/beginning of January.

Manager Williams noted that he had met with all Council members regarding the possibility of a parking garage and will refine the information and provide more detail in the near future.

Manager Williams thanked staff and the Village Clerk for starting a food drive for the holiday season. Clerk Alexander advised that the charity is Feeding South Florida, formerly known as the Daily Bread Food Bank and donations are accepted until the end of December.

Manager Williams concluded his report by advising that he had been appointed to the Florida League of Cities committee on financial growth.

Clerk Alexander provided the calendar update: November 14 – Zoning Hearing, December 5 – Regular Council, and December 12 – Zoning Hearing. She asked the Council whether they believe a Committee of the Whole meeting would be required. Mayor Stanczyk suggested that the Council conduct the workshop. The Council decided they could be available on November 28th at 7 pm. Manager Williams reminded the Council that the items on that meeting will not make the Agenda deadline for December.

7. VILLAGE ATTORNEY'S REPORT

A. November, 2011 Update: Attorney Boutsis advised that her written report was provided and she would be available to answer any questions.

8. BOARD AND COMMITTEE REPORTS

A. Tree Advisory Board: Mr. Henry Clifford, 8875 SW 171 Street, was present, representing the Board. He stated that the Board would like the Village's Ordinance amended to declare arbor day when the weather is warmer. He provided a report concerning the Board's past efforts and their current efforts, including asking for a representative of the Parks Department to be present at their meetings, as many of the Village's canopy is located within the parks. He noted that the Board has a goal to create a "tree mitigation fund."

Vice Mayor Pariser asked if enforcement of the tree ordinance is handled by the Department of Environmental Resources Management (DERM). Mr. Clifford responded that DERM is responsible for enforcement. He continued that the Village could "capture the money" that DERM received and use the funds for a Village tree mitigation fund.

9. RESOLUTIONS

A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, SUPPORTING THE MIAMI-DADE COUNTY LEAGUE OF CITIES, INC., AND URGING THE PUBLIC SERVICE COMMISSION TO DENY APPROVAL OF ANY FURTHER "EARLY COST RECOVERY" AND URGING THE FLORIDA LEGISLATURE TO REPEAL THE "EARLY COST RECOVERY" STATUTE RELATING TO ELECTRIC UTILITY CHARGES FOR SITING, DESIGN, LICENSING, AND CONSTRUCTION OF NUCLEAR PLANTS; PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Mayor Shelley Stanczyk)

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

Mayor Stanczyk explained the item. She stated that Florida Power & Light (FPL) collected approximately $268 million for two nuclear reactors, but has not spent the funds on building or planning for the reactors, rather the funds have been spent on the lobbying efforts of FPL. She asked the Council to support the repeal of the approval of this statute.

Attorney Boutsis advised that the Statute was 336.93.

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

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, FOR THE SERVICES OF JUSTICE RAOUL CANTERO IN PALMER TRINITY V. VILLAGE OF PALMETTO BAY-APPELLATE MATTER; IN THE AMOUNT OF $33,339.50; PROVIDING AN EFFECTIVE DATE.

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

Councilman Fiore stated that $42,000 has been spent previously and while Justice Cantero is a well-respected former supreme court justice, the expenditure was to be for review of the file.

Attorney Boutsis opined that the "bill speaks for itself" and is related to the appeal.

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

C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ESTABLISHING A POLICY WITH REGARD TO GUEST REIMBURSEMENT AT OFFICIAL FUNCTIONS; PROVIDING AN EFFECTIVE DATE. (Sponsored by Councilman Howard Tendrich)

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

Councilman Tendrich stated that he believes that while it is acceptable for the Village to pay for a member of the Council to attend an event, the Council person should pay for their own spouse or guest. He noted that he included an exception wherein if the Council person is being honored, then the Village would pay for the guest, also. He acknowledged that the amounts spent are not significant; however, he was interested in finding savings where possible.

Mayor Stanczyk stated that all are trying to be conservative and be careful. She noted that the Council has not violated any type of policy and recognizes its fiscal responsibility and fiscal prudency. She remarked that she is not aware of anyone taking advantage of their position or being irresponsible.

Councilman Tendrich stated that he has no other intent but to be prudent, not accusatory.

Councilman Fiore remarked that he had pulled the item from Consent, as he believes that spouses should be included.

Councilman Tendrich asked how a Council person who was single would be considered.

Vice Mayor Pariser acknowledged that the resolution is well-intentioned; however, he stated that the amount of funds for someone to attend an event is minimal and often a spouse or guest attends because of an extra ticket at a table where the table was purchased.

Councilwoman Lindsay concurred that the resolution was well-intentioned. She noted; however, that she does not feel comfortable driving unaccompanied at night and often asks her spouse to attend with the ticket offered by the Village. She stated that she believes it is a positive reflection on the Village to have Village representatives attend events.

Mayor Stanczyk called the question. The Resolution failed (4 to 1, Councilman Tendrich being the sole supporter.)

10. RESOLUTIONS REQUIRING PUBLIC HEARING

A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY AS THE LOCAL PLANNING AGENCY, RELATING TO AN UPDATE OF THE CAPITAL IMPROVEMENTS ELEMENT (CIE) AND PROJECTS OF THE VILLAGE'S COMPREHENSIVE PLAN; PROVIDING FOR TRANSMITTAL OF THE CIE PLAN AMENDMENTS TO OTHER UNITS OF LOCAL GOVERNMENT AND TO OTHER REVIEW AGENCIES AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Manager Williams advised that this document was a collaborative effort between the three departments.

Director Darby DelSalle of the Planning & Zoning Division provided staff report. He advised that there are several projects scheduled over a five fiscal year period and the CIP and CIE are the result of the budget process. He noted that the CIP has identified all funding sources for 2011-2012 and takes a global perspective;

while the CIE shows the projects as related to the Comprehensive Master Plan. The CIE is a component of the comprehensive plan that identifies the projects.

Manager Williams advised that this is an annual process that includes some projects that are
multi-year. He noted that each of these items will return to the Council for final authorization.

Councilwoman Lindsay remarked that during the most recent rain event, a number of people had serious flooding events. She asked if staff was able to identify whether the drainage projects in this plan encompass the properties or if the plan must be revisited to see if the properties should be included. Manager Williams advised that the stormwater master plan specifically addresses those properties that are then matched with funding and with priority. He noted that Public Works Director Patterson is working with the plan to revise it once again.

Councilman Fiore asked if the intersection of 152 Street and 77 Avenue is included. Manager Williams advised that the intersection is included as part of the Village's efforts with the County.

Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; and Henry Clifford, 8875 SW 171 Street.

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

B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE ADOPTION OF CAPITAL IMPROVEMENTS PROGRAM (CIP) FOR THE VILLAGE OF PALMETTO BAY; AND PROVIDING AN EFFECTIVE DATE.

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

Attorney Boutsis advised that staff report was provided in the previous item.

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

Councilman Tendrich noted that he objects to the Thalatta project being listed as is. He stated that staff asked for $500,000 and the majority of the Council provided $1 million, which staff then planned around. He stated that he objects to the project, as he does not feel the glass structure is necessary nor will it be profitable. He offered corrections as to the interpretation of fees provided by the Deering Estate. He suggested returning the project back to $500,000 that was originally requested by staff for improvements to the main house.

As the Mayor's request, Parks Director Carmona-Gonzalez advised that a recent wedding was "rained out", and the renter had to provide for a second tent. Mayor Stanczyk remarked that she did not wish to review the adopted budget at this time.

Councilman Tendrich moved to reduce the amount projected to Thalatta to $500,000. Seconded by Councilman Fiore.

Councilwoman Lindsay reminded the Council that while the project is included in the budget, each expenditure returns to the Council.

Mayor Stanczyk concurred, stating that she stands by her previous decision with regard to supporting Thalatta Park.

Councilman Tendrich stated that he remains concerned about the traffic situation at Thalatta Park. Mayor Stanczyk stated that the situation should be addressed. Councilwoman Lindsay remarked that traffic at that location is not part of the capital improvement plan.

Mayor Stanczyk called the question. The motion failed (3 to 2, Councilmen Tendrich and Fiore being the supporters.)

Councilwoman Lindsay asked Director DelSalle whether he had corrected the east/west confusion. He indicated he did.

Mayor Stanczyk called the question on the proposed Resolution. All voted in favor. The Resolution was 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 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; A VIOLATION OF THE CONE OF SILENCE AND BID PROTEST PROCESS WOULD AUTOMATICALLY RESULT IN A FIVE 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; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report. She stated that the purpose was to cover a "loop hole" between the manager's recommendation and the council decision. She explained that the revision would prohibit bidders from circumventing the bid protest process. She noted that violation of the cone of silence would result in a five year prohibition from bidding.

Councilman Tendrich expressed his support.

Vice Mayor Pariser asked if the County Code was similar. Attorney Boutsis advised that many local governments have similar processes that reach the same goal. She noted that the County requires that the violation be prosecuted by the State Attorney.

Mayor Stanczyk asked if other cities have a five year ban. Attorney Boutsis advised that she believed only Palmetto Bay would have this ban.

Manager Williams remarked that the County requirement is more stringent – a criminal offense.

Mayor Stanczyk asked Attorney Boutsis to provide the restrictions that other cities have in place.

Councilwoman Lindsay asked who is the arbiter of the process. Attorney Boutsis noted that the first step is to the manager and if you are not satisfied with his decision at bid protest, then a potential vendor appears before the Council in a quasi-judicial process.

Councilwoman Lindsay stated that she believed the tennis procurement process was not fair, which led to this revision of the Ordinance. Attorney Boutsis replied that the bid protest procedure was not followed in the previous circumstance. She noted that the bidder could have followed the process with a legitimate protest. Manager Williams added that the potential vendor contacted some Council members, not all.

Vice Mayor Pariser asked for further clarification. Manager Williams noted that a protest bond is required. Vice Mayor Pariser remarked that it is important to not allow a bidder to circumvent the process and the Council should discuss the matter in the sunshine, rather than being lobbied by a losing bidder who may or may not be correct. He remarked that five years is a long time and perhaps three is more appropriate.

Councilman Fiore asked if the past event with the tennis contract was the first time that this occurred. Attorney Boutsis replied that it was. Manager Williams concurred.

Vice Mayor Pariser moved to reduce the years of prohibition to two. Seconded by Councilman Tendrich. All in favor.

Councilwoman Lindsay moved to table the matter to the next Committee of the Whole meeting. Seconded by Councilman Fiore. All voted in favor. The motion carried (5-0.)

B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO NAMING, RE-NAMING AND CO-DESIGNATION OF VILLAGE ROADS, STREETS, AND PUBLIC WAYS; REPEALING SECTIONS 21-52- THROUGH 54, AND MODIFYING SECTION 21-55; PRECLUDING FURTHER NAMING, RE-NAMING OR CODESIGNATING OF PUBLIC STREETS, ROADS, OR PUBLIC WAYS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Howard Tendrich].

Councilman Tendrich moved the item forward. The matter failed for lack of second.

The Council took a brief recess.

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 PUBLIC COMMENTS; CREATING ARTICLE VIII OF CHAPTER 2, ENTITLED "BOARDS AND COMMITTEES, GENERALLY"; REQUIRING ALL SCHEDULED BOARD AND COMMITTEE MEETING TO PROVIDE FOR PUBLIC COMMENT PERIOD AT THE END OF EACH MEETING; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Mayor Stanczyk opened the public hearing. Mr. Chris Salisbury, 17321 SW 87 Court, spoke in support. Mayor Stanczyk closed the public hearing.

Mayor Stanczyk noted that she should be listed as the sponsor of this item.

Vice Mayor Pariser asked if the Council had decided to have the order of when the public speaks to be left up to the Chair's discretion. Attorney Boutsis advised that the order of the Agenda at meetings is always left to the discretion of the Chair.

Mayor Stanczyk called the question. All voted in favor. The Ordinance was adopted unanimously (5-0.)

B. AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; AMENDING DIVISION 30-50.17(B) ENTITLED THE "B-2, BUSINESS DISTRICT"; RELATING TO THE USES PERMITTED WITHIN THE B-2 DISTRICT; MODIFYING THE LIST OF

USES TO INCLUDE GUN SHOPS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis advised that the State law requires this designation and that no unreasonable conditions can be placed upon this ordinance.

Mayor Stanczyk opened the public hearing. Eric Tullberg, 7884 SW 179 Terrace, spoke in support.

Mayor Stanczyk called the question. All voted in favor. The Ordinance was adopted unanimously (5-0.)

13. OTHER BUSINESS: None at this time.

14. COUNCIL COMMENTS:

Councilman Fiore remarked that he would like Council to revert to the process of individual roll call on second readings of ordinances.

Councilman Tendrich asked if Thalatta Park could be opened on Saturdays as well as Sundays. Manager Williams stated that additional staff would be required.

Vice Mayor Pariser suggested volunteers could assist at Thalatta Park. He announced the November 11, 11 am flag raising ceremony at Palmetto Bay Park. He encouraged all to attend.

15. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 11:15 pm.

Prepared and submitted by:

_____

Meighan J. Alexander, CMC
Village Clerk

Approved by the Village Council on this ____ day of December, 2011.

_____

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.