

VILLAGE OF PALMETTO BAY  
MINUTES OF THE MEETING OF MONDAY, NOVEMBER 3, 2008  
Deering Estate Visitor's Center  
16701 SW 72 Avenue

**I. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE**

Mayor Eugene P. Flinn, Jr.  
Vice Mayor Linda Robinson  
Council Member Ed Feller  
Council Member Paul Neidhart  
Council Member Shelley Stanczyk

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

Mayor Flinn called the meeting to order at 7:05 p.m. and led the pledge of allegiance.

**2. PROCLAMATIONS, AWARDS, PRESENTATIONS**

A. Presentation to South Motors–Summer Camp: Staff announced that the representative could not be present this evening.

B. Special recognition of Vice Mayor Linda Robinson and Councilman Paul Neidhart

Manager Williams recognized County Commissioner Katy Sorenson. Commissioner Sorenson stated that she was present to thank Vice Mayor Robinson and Councilman Neidhart for their service, as they were instrumental in the birth of the Village. She provided them each with a certificate of appreciation.

The Village recognized the efforts of Vice Mayor Robinson and Councilman Neidhart with a key to the Village and a personalized crystal vase for the Vice Mayor and a personalized crystal plaque for the Councilman.

Mayor Flinn thanked them both for their “institutional knowledge.” He stated that he enjoyed working with each of them and while they did not always agree on each vote, they all agreed on the proper direction for the Village.

Councilman Feller expressed his thanks, stating that he hopes there will be a way for the Village to utilize the knowledge of the former council members.

Councilwoman Stanczyk expressed her gratitude and also stated that she looks forward to continuing to work with them both.

Vice Mayor Robinson and Councilman Neidhart expressed their thanks.

A 15-minute recess was taken.

**3. APPROVAL OF MINUTES**

A. Minutes of the October 6, 2008 Regular Council Meeting

Councilman Feller moved to approve. Seconded by Vice Mayor Robinson. 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 AGREEMENTS; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY OFFICE OF ADA COORDINATION FOR THE REIMBURSEMENT OF PARKING FINES; AND PROVIDING FOR AN EFFECTIVE DATE.

B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO TRAFFIC CALMING STUDIES IN THE AREA OF SW 77<sup>TH</sup> AVE TO SW 136<sup>TH</sup> ST ON SW 140<sup>TH</sup> ST, SW 140<sup>TH</sup> DR AND SW 74<sup>TH</sup> CT, AND THE AREA OF SW 145<sup>TH</sup> ST TO SW 136<sup>TH</sup> ST ON SW 78<sup>TH</sup> AV AND SW 78<sup>TH</sup> CT IN THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT WITH MARLIN ENGINEERING, INC. TO PROVIDE TRAFFIC ENGINEERING AND PLANNING SERVICES FOR THESE TWO LOCATIONS AND TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$25,638.89; AND PROVIDING FOR AN EFFECTIVE DATE.

C. 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 NAGIN GALLOP FIGUEREDO, P.A. IN THE AMOUNT OF \$33,537.93; PROVIDING AN EFFECTIVE DATE.

D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN AGREEMENT WITH THE CORRADINO GROUP, INC. FOR THE DEVELOPMENT OF A VILLAGEWIDE BICYCLE/PEDESTRIAN MASTER PLAN AND TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$50,000.00; AND PROVIDING FOR AN EFFECTIVE DATE

E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A

COMMUNITY MOVIE TOUR BOOK AGREEMENT WITH CGI COMMUNICATIONS, INC., TO PROVIDE A WEBSITE VIDEO MARKETING TOOL; PROVIDING AN EFFECTIVE DATE.

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND RECREATION; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO A CONTRACT WITH PLAYMORE RECREATIONAL PRODUCTS AND SERVICES FOR THE PURCHASE, DELIVERY AND INSTALLATION OF PARK AMENITIES AT LUDOVICI PARK; TO PIGGYBACK WITH THE CITY OF JACKSONVILLE, FLORIDA'S CONTRACT NO. SC-0511-06; AUTHORIZING THE VILLAGE MANAGER TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$64,000; AND PROVIDING AN EFFECTIVE DATE.

Clerk Rader advised that Mayor Flinn requested Items A, C, and D be pulled from the Consent Agenda. She noted that Councilwoman Stanczyk had also requested that Item C be pulled.

Councilman Neidhart moved to approve items B, E, and F. Seconded by Councilwoman Stanczyk. All voted in favor. The Resolutions were approved unanimously (5-0).

## 5. REQUESTS, PETITIONS AND PUBLIC COMMENTS

- A. Mr. Eric Tullberg, 7884 SW 179 Terrace, suggested that the Village provide Mr. Corradino with the Old Cutler Bike Path Committee Report.

Mayor Flinn noted that he will be suggesting the Village appoint an Advisory Committee.

Manager Williams requested that Council consider moving the proposed Ordinance concerning "Boat Speeds" to the next item, as individuals are present to speak on the item. Vice Mayor Robinson moved to hear the item next. Seconded by Councilman Feller. All voted in favor. The Motion carried.

- A. AN ORDINANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING CHAPTER 20 ENTITLED "PARKS AND RECREATION"; CREATING SECTIONS 20-88 RELATING TO "BOAT SPEEDS" TO DESIGNATE ALL VILLAGE CANALS AS IDLE SPEED/NO WAKE ZONES ~~AND PORTIONS OF BISCAYNE BAY~~ AS SLOW SPEED/MINIMUM WAKE ZONES; CREATING PENALTIES; PROVIDING FOR CIVIL CITATION FINES; ENFORCEMENT PROCEDURES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. [Sponsored by Vice Mayor Linda Robinson].

Vice Mayor Robinson moved the item forward. Seconded by Councilman Feller.

Attorney Boutsis advised that she had been asked to research the matter concerning jurisdiction and enforcement procedures. She noted that this process is in compliance with the State law (staff removed the Biscayne Bay notation due to jurisdictional concerns). She explained the paragraphs concerning penalties.

Vice Mayor Robinson noted that in 2004, the Council discussed erosion and safety issues in the Village canals and she had felt it was important to resolve this matter. She thanked State Representative Julio Robaina, the South Florida Water Management District, Miami-Dade Police Department, Fish & Wildlife Commission, and the Village Public Works' Department for their assistance and input.

Representative Robaina thanked Vice Mayor Robinson and Councilman Neidhart for their public service. He further thanked Vice Mayor Robinson for her interest in this issue, and thanked the neighbors who had been diligent in getting this matter before the public. He expressed his support of the proposed ordinance and stated that he intends to bring this matter before the County and also urge neighboring municipalities to act similarly.

Mayor Flinn asked for clarification concerning enforcement.

Representative Robaina stated that it would be a combination of efforts from the Florida Fish & Wildlife and Miami-Dade Police.

Mayor Flinn asked the type of ticket that would be written.

Attorney Boutsis replied that it would be a civil citation, enforced through the special master system.

Mayor Flinn asked if the Village would have to defend the issue at each special master case.

Attorney Boutsis replied yes, possibly.

Mayor Flinn asked if the Village would pay for court costs.

Attorney Boutsis replied affirmatively, the special master's time.

Mayor Flinn asked how the Village would enforce the law with regard to non-Village residents.

Attorney Boutsis stated that there are mechanisms to do this, such as liens.

Mayor Flinn noted that a police officer has to respond to a call, witness the boat's illegal activity, stop the boat, and then write a ticket. He asked why the State would not mandate and enforce this law.

Representative Robaina advised that the State will enforce the law; however, due to budget constraints, the State agencies are short-staffed. He stated that the State is not relinquishing its responsibility, but local law enforcement assistance is needed.

Discussion ensued. Mayor Flinn allowed public comment. The following individuals expressed their support: Rona Kritzer, 7290 SW 141 Terrace; and Rhona Chabot, 14145 SW 72 Court.

Councilwoman Stanczyk expressed her concern for the bank erosion. She asked how South Florida Water Management District would be addressing that matter.

Mr. Ed Hernandez, Regional Director for SFWMD, was recognized. He stated that the district encourages the public to enjoy the waterways in a responsible manner that does not damage property.

Mayor Flinn asked what agency has "rule-making" authority with regard to the canals.

Mr. Hernandez stated that Florida Fish & Wildlife does. He stated that this problem is a multi-governmental/multi-district matter.

Mayor Flinn asked how the agency will address restoring or firming up the canal to prevent further erosion.

Mr. Hernandez stated that his agency has been identifying those areas in severe disrepair.

Mayor Flinn noted that the Village is being promised assistance, with no funding being offered. He stated that there should be a guarantee that the Village will receive funding for canal erosion if the Village agrees to pull an officer off the street to patrol the canal.

Councilman Neidhart asked if SFWMD could close the ramp located at Macy's in the Falls, as he understands that the large boats are being put in the water at that location.

Mr. Hernandez stated that it would have to be determined whether it is private property at that location.

Representative Robaina stated that the matter is complex and he remains committed to fixing the banks. He stated that through enforcement, the boaters will spread the word and will act accordingly.

Mayor Flinn asked when bank restoration would begin within the village limits.

Mr. Hernandez stated that the agency will move as quickly as possible, noting that there is a great deal of erosion throughout the County and the State.

The following residents expressed their support: Norman Kassoff, 15405 SW 77 Court.

Mayor Flinn asked Mr. Kassoff whether motor boat traffic decreased when the Coral Reef Park ramp was closed. Mr. Kassoff stated that boat traffic did not decrease.

Public support continued: Christine Kunetta, 7841 SW 148 Terrace; Eric Tullberg, 7884 SW 179 Terrace; and George Pustai, 9152 SW 182 Street.

Following discussion, Commander Gregory Truitt, Palmetto Bay Policing Unit, advised that the Village would reach out to the public, including sports fishermen clubs, then enforce and work toward prevention. He stated that the police would probably videotape the violators, note the FL numbers, and use the FL number to identify the owner. He stated that the ticket can be for "reckless boating".

Mayor Flinn suggested that the Village enter into an Interlocal agreement and have an officer located in the Falls neighborhood enforce at the Macy's ramp.

Vice Mayor Robinson asked if a citizen takes a picture of the speeding boat, can it be used as evidence. Attorney Boutsis stated that she would look into the matter.

Mayor Flinn expressed his displeasure at this matter being placed on first reading, as two new Council members will be sworn in just prior to second reading.

Councilman Feller thanked Representative Robaina and the South Florida Water Management District for their assistance. He stated that he would like to have a workshop on this issue, particularly concerning the enforcement of the matter.

Councilwoman Stanczyk concurred. She stated that she would also like Mr. Hernandez to provide a report regarding whether a state legislative agenda will contain funding/law/appropriation issue regarding the canal restoration.

Following discussion, Vice Mayor Robinson moved to substitute the new version of the proposed ordinance (removing Biscayne Bay jurisdiction). Seconded by Councilman Feller. All voted in favor. The motion carried (5-0).

Councilman Feller called the question. The matter passed on first reading unanimously (5-0).

## **6. VILLAGE MANAGER'S REPORT**

Manager Williams reported that he has been advised that the County-owned property located on 160<sup>th</sup> Street and 89<sup>th</sup> Avenue is available for purchase. He noted that the County offered \$650,000; however, the Village had declined that price. He

remarked that possibly the property could be considered for a pocket park and he will discuss it with Council in the weeks to come.

Mayor Flinn remarked that residents need to be aware that something may happen to it, although the property could remain vacant. He stated that he would like to see this matter work-shopped; however, we should not buy the property to "land bank" it.

Manager Williams advised that with regard to the 2008 legislative session, there are two items for inclusion: support for legislation concerning addressing the issue of dating violence legislation and a request for \$100,000 for Palmetto Bay Park through FRDAP for pavilions/shaded at Palmetto Bay Park.

Councilman Feller suggested the matter be discussed at the Committee of the Whole in November.

Clerk Rader advised that the Committee of the Whole was scheduled for November 19<sup>th</sup>. Councilman Feller directed that two more seats be included at that meeting for the Councilmembers-elect. Clerk Rader announced the upcoming meetings, including the December 1<sup>st</sup> swearing-in ceremony.

Commander Truitt provided a holiday safety report. He noted that there has been a decrease in vehicle burglaries. He asked citizens to be aware of their surroundings. He noted that the "Grinch Busters" patrol will begin the Monday prior to Thanksgiving.

## **7. VILLAGE ATTORNEY'S REPORT**

- A. November Update: Attorney Boutsis provided a written report.

Mayor Flinn asked the status of the street vacation with pedestrian easement that was presented to Deering earlier in the year.

Attorney Boutsis noted that Deering had not accepted the agreement as of this date. She advised that she would return to the next meeting with the status.

## **8. BOARD AND COMMITTEE REPORTS**

- A. Art in Public Places Advisory Board Annual Report

Manager Williams advised that the Board's Annual Report was provided to Council.

Vice Mayor Robinson moved to accept the report. Seconded by Councilman Feller. All voted in favor. The Motion carried (5-0).

## **9. RESOLUTIONS**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO DRAINAGE IMPROVEMENTS IN THE AREA OF SW 92ND CT FROM SW 178TH ST TO SW 176TH ST AND SW 178TH ST FROM 93RD AV TO SW 92ND AV, SW 180TH ST AND SW 94TH AV, AND SW 141ST TER FROM SW 80TH AV UP TO AND INCLUDING SW 78TH CT.; APPROVING THE SELECTION OF JVA ENGINEERING CONTRACTOR, INC., TO PROVIDE CONSTRUCTION SERVICES FOR DRAINAGE IMPROVEMENTS; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER AND APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$232,570.10; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Neidhart moved this item forward. Seconded by Councilwoman Stanczyk.

Mayor Flinn asked if the item is properly funded and conforms to law.

Manager Williams replied affirmatively.

All voted in favor of the Resolution. The Resolution was approved (5-0).

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO A DRAINAGE IMPROVEMENT PROJECT AT SUB-BASIN #7 WITHIN THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO CONTRACT WITH KIMLEY HORN & ASSOCIATES, INC. TO PROVIDE DESIGN, PERMITTING, BIDDING AND CONSTRUCTION SUPPORT; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER AND APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$128,000.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Feller moved this item forward. Seconded by Councilman Neidhart.

Mayor Flinn asked if the Village performed proper due diligence and was the contract legally sufficient.

Attorney Boutsis replied in the affirmative.

Mayor Flinn asked if the matter was necessary, consistent, and properly budgeted.

Manager Williams responded affirmatively.

All voted in favor of the Resolution. The Resolution was approved (5-0).

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; AUTHORIZING THE

EXECUTION OF A FIRST ADDENDUM/CHANGE ORDER TO THE CAP GOVERNMENT, INC. FOR BUILDING & PERMITTING SERVICES AGREEMENT EXECUTED MAY 27, 2007; PROVIDING FOR A NEGOTIATED AGREEMENT TO DECREASE THE PROFIT SHARING PERCENTAGES UNDER THE ORIGINAL CONTRACT; AND PROVIDING AN EFFECTIVE DATE.

Vice Mayor Robinson moved this item forward. Seconded by Councilman Neidhart.

Following brief discussion, Manager Williams noted that this item should be tabled until consideration of Ordinance 12. A. Vice Mayor Robinson moved to table. Seconded by Councilman Neidhart. All voted in favor of tabling the matter (5-0).

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, APPROVING THE SELECTION OF PORTLAND SERVICES, LLC FOR THE THALATTA PARK REMODELING AND RENOVATIONS TO THE CARRIAGE HOUSE PROJECT PURSUANT TO INVITATION TO BID NO. 2008-PR-003; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A CONTRACT WITH THE SAID CONTRACTOR FOR THE AMOUNT OF \$522,260; AND PROVIDING AN EFFECTIVE DATE.

Councilman Neidhart moved this item forward. Seconded by Councilman Feller.

Manager Williams provided staff report. He noted that the project is fully funded.

Mayor Flinn asked the total amount of funds allocated to this project.

Manager Williams replied that \$635,000 was allocated.

Mayor Flinn asked if the difference would be used for the home.

Manager Williams replied that grant dollars are specific to the carriage house.

Following discussion, Vice Mayor Robinson asked the timeline to completion.

Building Official Ed Silva replied 238 days.

Councilwoman Stanczyk asked if progress had been made regarding an agreement with the County for parking across the canal.

Manager Williams stated that while substantial progress has been made with the Deering Estate for parking, the agreement is not final yet. He noted that difficulties remain with regard to improvements that must be made to that parking lot, such as the surface and lighting. He stated that staff is hopeful that parking on site and parking at the library will be sufficient.

Mayor Flinn stated that he would support a resolution asking for the county to give a status report concerning the park improvements, perhaps a joint effort to obtain additional funding for phase two of the county parking area, including canoe launch and parking.

Councilwoman Stanczyk called the question. All voted in favor. The Resolution was approved (5-0).

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, APPROVING THE SELECTION OF PORTLAND SERVICES, LLC FOR THE CONSTRUCTION OF THE CORAL REEF PARK RESTROOM AND CONCESSION BUILDING PURSUANT TO INVITATION TO BID NO. 2008-PR-002; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A CONTRACT WITH THE SAID CONTRACTOR FOR THE AMOUNT OF \$982,000; AND PROVIDING AN EFFECTIVE DATE.

Manager Williams requested the item be withdrawn. The Council concurred.

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AGREEMENTS; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY OFFICE OF ADA COORDINATION FOR THE REIMBURSEMENT OF PARKING FINES; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Feller moved this item forward. Seconded by Vice Mayor Robinson.

Manager Williams provided staff report.

Councilman Feller asked if the Village would receive a percentage of county-wide ADA parking fines.

Manager Williams responded that the Village would only receive percentage of Palmetto Bay ADA parking fines.

Mayor Flinn asked if the Village would be able to accrue and then utilize.

Manager Williams replied that the Village would have to accrue, as this year's collections were \$350.

Councilwoman Stanczyk called the question. All voted in favor. The Resolution was approved (5-0).

- G. 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 NAGIN

GALLOP FIGUEREDO, P.A. IN THE AMOUNT OF \$33,537.93; PROVIDING AN EFFECTIVE DATE.

Councilman Neidhart moved this item forward. Seconded by Councilman Feller.

Mayor Flinn stated that the Council needs to establish a policy as to the use of the Village Attorney's office time. He suggested that the Council could discuss concepts at a Committee meeting and then come to an understanding of how the attorney would respond to the Council member's directions.

Councilman Neidhart called the question. All voted in favor. The Resolution was approved (5-0).

- H. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN AGREEMENT WITH THE CORRADINO GROUP, INC. FOR THE DEVELOPMENT OF A VILLAGEWIDE BICYCLE/PEDESTRIAN MASTER PLAN AND TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$50,000.00; AND PROVIDING FOR AN EFFECTIVE DATE

Councilman Feller moved this item forward. Seconded by Councilwoman Stanczyk.

Mayor Flinn remarked that this item should be conducted with resident input. He suggested an advisory committee be established including County representatives.

Mr. Eric Tullberg suggested a representative from the County's MPO office.

Following discussion, Mayor Flinn directed staff to draft a resolution to convene an advisory committee to include the former members of the Old Cutler Bike Path Committee, David Henderson, a representative of CIIT, and a representative from County Commission District 8's office.

Councilman Neidhart suggested incorporation all transportation, including the golf carts.

Councilwoman Stanczyk moved to approve the resolution, including that the consultant would utilize an advisory committee, as stated. Seconded by Councilman Neidhart. All voted in favor. The Resolution was approved.

**10. RESOLUTIONS REQUIRING PUBLIC HEARING**

**11. ORDINANCES FOR FIRST READING**

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SPECIAL EVENTS; AMENDING CHAPTER 22, CREATING ARTICLE III, ENTITLED

Village of Palmetto Bay

Minutes of the Council Meeting of November 3, 2008

Page 11 of 15

SPECIAL EVENTS TO INCLUDE A SPECIAL EVENT PERMIT PROCESS; ALLOWING THE VILLAGE COUNCIL TO ESTABLISH FEES AND THE COST ASSOCIATED WITH SAME; REQUIRING COMPLIANCE WITH LAWS; REQUIRING INSURANCE AND PERMITTING; AND PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY, ORDINANCES IN CONFLICT, AND AN EFFECTIVE DATE.

Councilman Neidhart moved this item forward. Seconded by Councilman Feller.

Mayor Flinn stated his objection to this item being presented, as new council members should have the opportunity to vote on the item. He suggested this item should go to workshop.

Manager Williams reported that several departments participate in each of the applications/requests for special events. He stated that this ordinance would establish a process. He advised that fees are not included in this ordinance at this point; rather, the ordinance would create the process.

Councilwoman Stanczyk stated that she believed there was a process in place and asked if the ordinance would regulate when the process is to be initiated by a resident or group.

Manager Williams replied affirmatively, adding that recent the Village was involved in an event that the sponsor didn't meet basic ADA requirements and the Village has a responsibility to insure uniformity, address liability issues, and traffic control.

Councilman Feller expressed his support, stating that the ordinance codifies the process and is positive to staff and to the person applying.

Mayor Flinn stated that this matter should have been discussed first at a town hall meeting.

Vice Mayor Robinson moved to table the matter and bring it to workshop. Following discussion, Councilman Feller seconded the motion to table. It was decided that the issue would be address at the next Committee of the Whole meeting. All voted in favor. The matter was tabled (5-0).

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SOLID WASTE; CREATING CHAPTER 13; PROVIDING FOR ISSUING NON-EXCLUSIVE FRANCHISES FOR COMMERCIAL SOLID WASTE COLLECTION; PROVIDING DEFINITIONS AND FRANCHISE NOT TO CONSTITUTE A PROPERTY RIGHT; RESERVING TO THE VILLAGE THE POWER TO REVOKE FRANCHISES; PROVIDING FOR TRANSFERABILITY OF FRANCHISES; PROVIDING FOR FIVE YEAR FRANCHISES; LIMITATIONS ON CONTRACTS; THE PROVIDING OF LICENSING FEES FOR TEMPORARY ROLL-OFF CONTAINERS AND COMMERCIAL SOLID WASTE; APPLICATION PROCEDURES; REPORTING REQUIREMENTS,

INSURANCE, SERVICE STANDARDS, PROVIDING FOR CODE ENFORCEMENT PROCEDURES, APPEAL OF VILLAGE MANAGER DECISION TO DENY FRANCHISE TO BE HEARD BY VILLAGE COUNCIL; SCHEDULES AND ROUTES, TERMINATION; ENFORCEMENT AND ADMINISTRATIVE FINES; PROVIDING FOR ORDINANCES IN CONFLICT; CODIFICATION; SEVERABILITY; AND AN EFFECTIVE DATE.

Councilman Neidhart moved this matter forward. Seconded by Councilman Feller.

Manager Williams provided staff report. He noted that this ordinance would codify a franchise fee agreement wherein the village receives the authority to license private haulers to perform commercial garbage collections in our city, in addition to establishing rules and regulations for private haulers. He noted that all commercial haulers pay these fees to the County.

Councilman Feller asked if the fee would be in addition to the County's 15%.

Manager Williams stated that it would.

Councilman Feller remarked that while the Village is primarily residential, he is not in favor of increasing taxation on businesses. He opined that any fee on a hauler will result in an increase for the business. He stated that while he is in favor of being able to establish and enforce Village rules, he would like the fee to be equal to the cost of this process.

Mayor Flinn expressed his opposition. He asked staff to determine whether the waste hauler is charging the same to all County businesses in spite of the charge.

Councilman Feller moved to table the item. Mayor Flinn stated that he would like to see whether waste haulers have acted in good faith and are charging Palmetto Bay businesses less than other cities that imposed this fee. Seconded by Councilwoman Stanczyk. All voted in favor of tabling the matter (5-0).

## **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 BUILDING PERMIT FEES; ADOPTING THE 2008-2009 PERMIT FEE SCHEDULES FOR BUILDING, ZONING AND PUBLIC WORKS PERMITS IN ACCORDANCE WITH SECTION 4.3(A)(5) OF THE VILLAGE CHARTER; AUTHORIZING THE VILLAGE COUNCIL TO MODIFY, UPDATE OR AMEND THE FEE SCHEDULE HEREINAFTER VIA RESOLUTION, AS PROVIDED PURSUANT TO SECTION 4.3(A)(5); PROVIDING FOR ORDINANCES IN CONFLICT; CODIFICATION; SEVERABILITY; AND AN EFFECTIVE DATE.

Councilman Neidhart moved this item forward. Seconded by Councilman Feller.

Manager Williams provided a report. He noted that the ordinance was modified to include a flat fee of \$80 for certain "small" jobs. He stated that the re-inspection fee for all trades was adjusted to \$70. He advised that staff provided a permit fee comparison and found that Palmetto Bay was higher than the County in one instance and lower than other cities. He reported that the Certificate of Completion fee was adjusted downward.

Attorney Boutsis remarked that the ordinance is a companion to the proposed resolution concerning CAP.

Mayor Flinn remarked that an audit performed by an outside agency of various files might be helpful in order to be able to tell us what permits were required, did we under or over permit, and are permits being issued efficiently.

Manager Williams stated that there are companies that could perform an external audit of the building department.

Building Official Silva advised that the South Florida Building Code details what is required and quarterly reports regarding the turn-around is performed. He stated that over-sight is always welcomed.

Mayor Flinn opened the public hearing.

The following individuals addressed the Council: Brian Pariser, 15300 SW 78 Court; and Steve Kreisher, 18201 SW 98 Avenue; and John Pettit, 15395 SW 89 Court.

Mayor Flinn closed the public hearing.

The question was called. A roll call vote was taken on the proposed Ordinance, as follows: Mayor Flinn: No; Vice Mayor Robinson: Yes; Councilman Feller: Yes; Councilman Neidhart: Yes; Councilwoman Stanczyk: No. The Ordinance was adopted (3-2).

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; AUTHORIZING THE EXECUTION OF A FIRST ADDENDUM/CHANGE ORDER TO THE CAP GOVERNMENT, INC. FOR BUILDING & PERMITTING SERVICES AGREEMENT EXECUTED MAY 27, 2007; PROVIDING FOR A NEGOTIATED AGREEMENT TO DECREASE THE PROFIT SHARING PERCENTAGES UNDER THE ORIGINAL CONTRACT; AND PROVIDING AN EFFECTIVE DATE.

Councilman Feller moved to un-able the Resolution and hear the matter. Councilman Neidhart seconded. The Motion carried (4-1, Mayor Flinn opposing).

Councilman Feller called the question. The Resolution was approved (3-2, Mayor Flinn and Councilwoman Stanczyk opposing.)

13. **OTHER BUSINESS:** None.

14. **COUNCIL COMMENTS**

Councilman Feller thanked everyone involved in the Farmer's Market. He expressed his appreciation to Director Arleen Weintraub, her staff, and Councilwoman Stanczyk.

Mayor Flinn suggested discussion concerning a proposed amnesty ordinance regarding sheds in Palmetto Bay. Councilwoman Stanczyk noted that she and Attorney Boutsis have begun work on this document. Mayor Flinn suggested that any similar issues be included in this ordinance, such as correction of frontage/side issues.

Mayor Flinn thanked the police staff for their help with the Pumpkin Patrol. He concurred with Councilman Feller regarding the Farmer's Market. He also thanked staff for their participation in the recent ULI Conference. Mayor Flinn noted that he attended the grand opening of Cooper's Restaurant. He concluded by expressing his thanks again to Vice Mayor Robinson and Councilman Neidhart.

Vice Mayor Robinson thanked all, expressing that it was a "gratifying" experience and she greatly enjoyed working with the Council and Village staff.

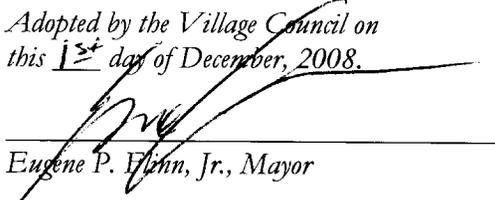
Councilman Neidhart thanked all for the last six "great" years. He thanked staff for their diligence and thanked his fellow Council members.

15. **NEXT MEETING AND ADJOURNMENT:** The meeting adjourned at 11:00 p.m.

*Prepared and submitted by:*

  
\_\_\_\_\_  
Meighan J. Rader, CMC  
Village Clerk

*Adopted by the Village Council on  
this 1<sup>st</sup> day of December, 2008.*

  
\_\_\_\_\_  
Eugene P. Flinn, Jr., 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.