

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, FEBRUARY 2, 2009
MEETING OF THE VILLAGE COUNCIL**

DEERING ESTATE VISITOR CENTER
16701 SOUTHWEST 72 AVENUE
PALMETTO BAY, FLORIDA

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

Mayor Flinn called the meeting to order at 7:00 p.m. The following members of the Village Council were present:

Mayor Eugene P. Flinn, Jr.
Vice Mayor Brian W. Pariser
Councilman Ed Feller, MD
Councilman Howard J. Tendrich
Councilwoman Shelley Stanczyk

The following staff members were present:

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

Mayor Flinn led the audience in the pledge of allegiance.

2. PROCLAMATIONS, AWARDS, PRESENTATIONS

Expression of appreciation to St. Richard Catholic Church: Mayor Flinn introduced Father Stephen Hilley and thanked him for partnering with the Village by providing use of his facility for the Village's special events that are held at Coral Reef Park and for the church's community service by allowing the Elections Department to use St. Richard's community hall for the largest precinct.

Councilwoman Stanczyk remarked that while we are interested in being green and decreasing our carbon footprint, it is important to cooperate with others concerning parking. Vice Mayor Pariser, Councilman Feller, and Councilman Tendrich concurred, each expressing their gratitude to the church.

3. APPROVAL OF MINUTES

A. Minutes of the January 12, 2009 Regular Council Meeting

Councilman Tendrich noted a scrivener's error on Page 11 of 15, removing the language "Vice Mayor Tendrich" and inserting the correction "Vice Mayor Pariser." Councilman Tendrich moved to approve as amended. Seconded by Vice Mayor Pariser. All voted in favor.

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 NAGIN GALLOP FIGUEREDO, P.A. IN THE AMOUNT OF \$22,832.70; PROVIDING AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO STATE LEGISLATIVE SERVICES; RATIFYING AND APPROVING AN EXTENSION TO THE CONTRACT WITH RONALD L. BOOK, P.A. AND ROBERT M. LEVY FOR STATE LEGISLATIVE SERVICES IN THE AMOUNT OF \$6,000.00 PER MONTH FOR THE TERM FROM FY 2005-06 THROUGH FY 2008-09; PROVIDING EFFECTIVE DATE.
- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; APPROVING AND AUTHORIZING A REVISED UNIFORM PARK USE AGREEMENT FOR USE BY ALL INTERESTED CLUBS AT ALL VILLAGE PARKS; TO BE EXECUTED BY THE VILLAGE MANAGER WITH EACH INDIVIDUAL CLUB; AND PROVIDING AN EFFECTIVE DATE. [Sponsored by Mayor Eugene P. Flinn, Jr.].

Councilwoman Stanczyk moved to approve the Consent Agenda. Seconded by Councilman Tendrich. All voted in favor. The Resolutions passed unanimously (5-0.)

- 5. REQUESTS, PETITIONS AND PUBLIC COMMENTS:** No one requested to be heard.

6. VILLAGE MANAGER'S REPORT

- A. Budget to Actuals – First Quarter: Manager Williams and Director Chin provided the "Budget to Actuals-First Quarter" report. Director Chin advised that while the Village may have approximately \$1.2 million in surplus at the end of the fiscal year, revenues at the state level are continuing to recede and it remains important to be fiscally cautious.

Councilwoman Stanczyk asked the amount in the Village Hall reserve fund. Director Chin advised that approximately \$2.1 million remains in that fund.

Manager Williams reported that auditors will be conducting their annual review next month and the Village will be moving forward with the transition to the new financial management software. He noted that the library is nearing completion and staff will be coordinating a preview of the facility with each Councilmember.

Mayor Flinn expressed his pleasure with the library.

Councilman Feller added that the library will be a neighborhood library, 5,000 square feet, staffed by Miami-Dade County employees. The Village had input in the design and will work with the new librarian on programming that will be taking place. He stated that it should take approximately six to eight weeks until the library will be staffed, furnished, and ready to open.

Mayor Flinn directed the Manager to arrange for a tour with the new herald reporter.

Clerk Rader provided the following calendar update: the Zoning hearing for February has been cancelled, February 9, Council Committee of the Whole meeting, 6 pm, 900 Perrine Avenue; February 12, Historic Preservation Advisory Board, 9 am, Village Hall; February 12, Bicycle-Pedestrian Master Plan Development Advisory Committee, 6 pm, Village Hall; February 19, Art in Public Places Advisory Board, 6:30 pm, Village Hall; March 2, Council Meeting, 7 pm, 16701 SW 72 Avenue; March 7, Annual Celebration Picnic, Coral Reef Park; and March 9, Zoning, 7 pm, 16701 SW 72 Avenue.

Mayor Flinn encouraged all to attend the picnic, adding that the Village is still seeking sponsors and volunteers.

Manager Williams noted that he and the Public Information Officer Bill Kress attended the Palmetto Bay Business Association Board meeting and invited the business community to participate in the picnic.

7. VILLAGE ATTORNEY'S REPORT: February Update

Attorney Boutsis provided her written report. She added that on December 1st, the Village's amendment to the water plan was passed on first reading and she and Arleen attended the recent South Florida Regional Planning Council meeting. She noted that the amendment was approved with two minor changes and will now go to the Department of Community Affairs for final comment.

Mayor Flinn requested that an attorney-client meeting be held after February 17, but prior to February 25, to discuss litigation issue.

After discussion, the Council decided to schedule an attorney-client session for February 23, 2009, at 6 pm at Village Hall to receive legal guidance concerning all litigation matters.

8. BOARD AND COMMITTEE REPORTS: None.

9. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE CREATION OF A TREE ADVISORY BOARD IN ACCORDANCE WITH

ORDINANCE 09-02; APPOINTING THE MEMBERS OF THE TREE ADVISORY BOARD; PROVIDING AN EFFECTIVE DATE.

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

Manager Williams provided staff report.

The Mayor and Council suggested the following individuals:

Mayor Flinn – John DuBois

Councilman Feller – Bill O’Leary

Councilwoman Stanczyk – Henry Clifford

Councilman Tendrich – Rick Cohen

Councilman Pariser requested deferral of this matter until the next meeting.

Following discussion, Councilwoman Stanczyk moved to table this matter and conduct a special council meeting for this purpose prior to the Committee of the Whole meeting scheduled for February 9, 2009. Seconded by Councilman Tendrich. All voted in favor. The Motion carried unanimously (5-0.) Mayor Flinn suggested that the names provided be held until that meeting and the determination of staggered terms would also be made then.

10. RESOLUTIONS REQUIRING PUBLIC HEARING: None.

11. ORDINANCES FOR FIRST READING

A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE’S CODE OF ORDINANCES, CHAPTER 30 ENTITLED “ZONING,” AMENDING CERTAIN PROVISIONS OF DIVISION 90, ENTITLED “SIGN REGULATIONS;” PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Mayor Flinn noted that this matter concerned a slight amendment to define a real estate sign by square inches, rather than by a shape. He opined that it will be more inclusive for all realtors.

All voted in favor on first reading. The matter will be scheduled for second reading/public hearing on March 2, 2009.

B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC SAFETY; CREATING THE DANGEROUS INTERSECTION SAFETY ACT; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT INFRACTIONS, AND FOR RELATED

PROCEDURES AND PROVISIONS; CREATING ENFORCEMENT MECHANISMS; ADMINISTRATIVE CHARGES; COLLECTION OF FINES, PENALTIES; TO FACILITATE USE OF CODE ENFORCEMENT MECHANISM FOR DANGEROUS INTERSECTION SAFETY; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Councilman Feller moved this matter forward. As the matter did not receive a second, the item was not heard.

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE POSSIBLE PURCHASE OF A VILLAGE HALL SITE; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A FINANCE AGREEMENT WITH SUNTRUST BANK; PROVIDING FOR A \$2,500,000 TAX EXEMPT LOAN UNDER A 10 YEAR AMORTIZATION TERM, AT RATES NOT TO EXCEED 5.75 PERCENT - FIXED INTEREST; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Manager Williams provided staff report. He advised that this matter requires two readings. He noted that several proposals were received and the rate included in the ordinance is the highest received in order to insure that staff would not have to return for further approval, as banks are unwilling to lock in fixed rates during these challenging economic times. Manager Williams noted that the Village has in excess of \$2 million for the purchase and will need additional funds for the purchase and build-out.

Following discussion, all voted in favor of first reading. The matter will be scheduled for second reading/public hearing on March 2, 2009.

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 ZONING; PROVIDING FOR AN 18 MONTH AMNESTY PROGRAM FOR CERTAIN UNPERMITTED RESIDENTIAL SHEDS; PROVIDING FOR A PERMITTING PROCESS, ADMINISTRATIVE ZONING REVIEW AND APPROVAL OF SHEDS WITHIN SIDE OR REAR SETBACKS OF RESIDENTIAL PROPERTIES WITH NOTICE IN NEWSPAPER OF GENERAL CIRCULATION AND MAILED NOTICE TO AGGRIEVED PERSONS AS TO APPEAL RIGHTS OF MATERIALLY AFFECTED PERSONS; PROVIDED THAT THE SHED IS LESS THAN 150 SQUARE FEET IN OVERALL SIZE, PROVIDED THE SHED IS SET BACK A MINIMUM OF THREE (3) FEET FROM ANY POINT ON THE STRUCTURE FROM THE EXISTING SIDE AND REAR PROPERTY LINES, OR AS

REQUIRED BY THE FLORIDA BUILDING CODE; PROVIDED THAT A BUILDING PERMIT IS OBTAINED; PROVIDING THAT SHEDS NOT MEETING REQUIREMENTS FOR AN ADMINISTRATIVE SHED VARIANCE OR SEEK A NON-USE VARIANCE HEARING PURSUANT TO SECTION 33-311 OF THE MIAMI-DADE COUNTY CODE, AS ADOPTED BY THE VILLAGE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Member Shelley Stanczyk].

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

Attorney Boutsis provided staff report and explained the amendments.

Councilwoman Stanczyk stated that some individuals had received warnings from code compliance. She explained that warnings can be issued and lack of compliance noticed under several circumstances, such as when an inspection is requested, a neighbor doesn't like your shed, you sell your home and have an unopened permit, or you ask for a permit for something unrelated. She stated that this ordinance is meant to be of assistance.

Vice Mayor Pariser concurred, adding that he was surprised that many residents did not understand how the ordinance is intended.

Building & Permitting Director Ed Silva concurred. He stated that the Florida Building Code requires that every structure receive a permit and sheds can become projectiles during a hurricane. He stated that the Village can not overlook lack of compliance when it is brought to the Village's attention.

Vice Mayor Pariser thanked Mr. Silva and Manager Williams, adding that he believes the proposed ordinance offers a "workable solution."

Mayor Flinn opened the public hearing. The following individuals addressed the Council: Eric Lindholm, 16162 SW 87 Court; Jim Price, 17505 SW 90 Avenue; George Pustai, 9152 SW 162 Street; and, Susan Price, 17505 SW 90 Avenue.

Attorney Boutsis advised that when a property is under foreclosure, the bank is responsible and will be provided the same 18 month period beginning tonight.

All voted in favor of the proposed Ordinance. The Ordinance was adopted unanimously (5-0.)

- B. 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 SLOW SPEED MINIMUM WAKE ZONES; CREATING PENALTIES; ENFORCEMENT PROCEDURES; PROVIDING FOR A TWO YEAR SUNSET PERIOD AFTER

INSTALLATION OF THE SLOW SPEED MINIMUM WAKE ZONE SIGNS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Councilman Feller moved this item forward. As the matter did not receive a second, the item was not heard.

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING ORDINANCE NO. 07-26 RELATING TO PARKS AND RECREATION; MODIFYING FEES FOR ORGANIZED USERS, LEAGUES, SCHOOLS, AND PRIVATE GROUPS FOR THE USE OF PARK FIELDS, PICNIC AREAS, PAVILION/GAZEBO, RECREATION BUILDING, AND OPEN FIELD SPACE; IN ACCORDANCE WITH 08-09 ADOPTED BUDGET; AUTHORIZING THE VILLAGE MANAGER, IN ACCORDANCE WITH SECTION 4.3(A)(5) OF THE VILLAGE CHARTER, TO MODIFY, UPDATE OR AMEND THE FEE SCHEDULE HEREINAFTER VIA RESOLUTION; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Manager Williams provided staff report.

Attorney Boutsis advised that a substitute ordinance was provided to reflect the language contained in the user agreement stating that the park user agreement must be executed prior to use of the park. She added that skate park fees had been amended.

Councilman Tendrich moved to consider the substitute Ordinance. Seconded by Councilwoman Stanczyk. All voted in favor.

Councilwoman Stanczyk moved to amend Line 8, page 3, to state, "as well as the signed user agreement will be required prior to initial use of the park." Seconded by Councilman Tendrich.

Vice Mayor Pariser moved to amend the section concerning skate park user fees to strike "consecutive calendar days" and include the word "sessions." Seconded by Councilman Feller.

Mayor Flinn remarked that he hopes to remove all of these fees when mitigation is abolished.

All voted in favor of the foregoing amendments.

Mayor Flinn opened the public hearing.

Mr. Keith Reilly, 2009 president of Howard Perrine Baseball and Softball Khoury League, 130 Solano Prado, Coral Gables, FL, was recognized and gave his opinion.

No one else wished to be heard; therefore, Mayor Flinn closed public hearing.

Mayor Flinn noted that if an organization plays half their 20 games in Pinecrest and half in Palmetto Bay, they pay the same fee. He stated that there should be a modification in the future to consider a team's fee when play is split between fields. He stated that he is proud of the village for its strict compliance with the Shannon Melendi law, as child safety is crucial.

Following brief discussion, all voted in favor of the proposed Ordinance, as amended. The Ordinance was adopted unanimously (5-0.)

- D. AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING AND THE FRANJO TRIANGLE & U.S. 1 ISLAND ZONING AMENDING SECTION _____ ENTITLED PARKING TO MODIFY THE PROVISIONS ALLOWING FOR ADJACENT ON-STREET PARKING SPACES TO BE COUNTED AS REQUIRED PARKING; MODIFYING THE CONDITIONS ALLOWING FOR ON-STREET PARKING SPACES TO BE CREDITED TO OTHER NEARBY PROPERTIES; AND PROVIDING FOR AN ANNUAL FEE TO BE ASSESSED FOR COUNTING ON-STREET PARKING; CREATING A PARKING FUND; PROVIDING FOR SEVERABILITY, ORDINANCES IN CONFLICT, AND PROVIDING AN EFFECTIVE DATE. [Sponsored by Council Person Shelley Stanczyk].

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

Attorney Boutsis provided a substitute ordinance, explaining the revisions. All voted in favor of considering the substitute ordinance.

Mayor Flinn opened the public hearing. Eric Lindholm, 16162 SW 87 Court, addressed the Council.

Councilman Tendrich stated that the Village should not allow off-site, off-street parking.

Councilwoman Stanczyk stated that this will assist in providing parking.

Mayor Flinn concurred. He stated that this ordinance strengthens the current law and requires variance hearings regardless. He added that there are currently no plans to build a parking garage.

Following brief discussion, all voted in favor of the proposed substituted Ordinance. The Ordinance was adopted unanimously (5-0.)

- E. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO TRAFFIC;

AMENDING ORDINANCE NO. 08-14 THAT CREATED CHAPTER 14 ENTITLED TRAFFIC; RELATING TO GOLF CART USAGE ON CERTAIN VILLAGE RESIDENTIAL STREETS; TO PROVIDE FOR AFFIDAVIT OF COMPLIANCE RATHER THAN DEALER CERTIFICATION AND INSPECTION; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Following discussion, Attorney Boutsis advised that on page 4, the language should be amended to state that the affidavit would be executed "under penalty of perjury." Vice Mayor Pariser moved to amend the ordinance. Seconded by Councilman Feller.

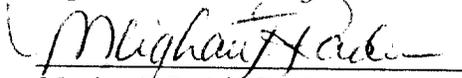
Mayor Flinn opened the public hearing. No one wished to be heard.

All voted in favor. The ordinance was adopted unanimously (5-0.)

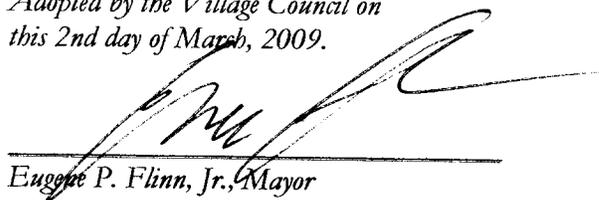
13. **OTHER BUSINESS:** None at this time.
14. **COUNCIL COMMENTS:** None at this time.
15. **NEXT MEETING AND ADJOURNMENT**

The Meeting was officially adjourned at 8:50 pm.

Prepared and submitted by:


Meighan J. Rader, CMC
Village Clerk

*Adopted by the Village Council on
this 2nd day of March, 2009.*


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.