

VILLAGE OF PALMETTO BAY  
Minutes of the Regular Council Meeting of Monday, October 5, 2009  
Deering Estate Visitor's Center  
16701 SW 72 Avenue

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

Mayor Eugene P. Flinn, Jr.  
Vice Mayor Brian W. Pariser  
Council Member Ed Feller  
Council Member Howard Tendrich  
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 7:20 p.m. Mayor Flinn led the pledge of allegiance.

**2. PROCLAMATIONS, AWARDS, PRESENTATIONS:** None at this time.

**3. APPROVAL OF MINUTES**

- A. Minutes of the August 20, 2009 Local Planning Agency Meeting
- B. Minutes of the August 20, 2009 Special Council Meeting
- C. Minutes of the September 14, 2009 Regular Council Meeting
- D. Minutes of the September 14, 2009 First Budget Hearing
- E. Minutes of the September 23, 2009 Final Budget Hearing
- F. Minutes of the September 23, 2009 Local Planning Agency Meeting
- G. Minutes of the September 23, 2009 Special Council Meeting

Councilman Tendrich moved to approve the Minutes, as submitted. Seconded by Councilman Feller. All voted in favor. The Minutes were approved.

**4. CONSENT AGENDA**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SIDEWALK IMPROVEMENTS; AUTHORIZING ATLANTIC CIVIL, INC. TO CONTINUE PROVIDING SIDEWALK IMPROVEMENTS IN THE PUBLIC RIGHT-OF-WAY WITHIN THE VILLAGE OF PALMETTO BAY; FURTHER AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER IN AN AMOUNT NOT TO EXCEED \$25,000.00; AND PROVIDING FOR AN EFFECTIVE DATE.

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING ENVIROWASTE SERVICES GROUP, INC. TO CONTINUE PROVIDING STORM DRAIN CLEANING SERVICES WITHIN THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER IN AN AMOUNT NOT TO EXCEED \$25,000.00; 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 FBM LAW OFFICES IN THE AMOUNT OF \$26,874.44; PROVIDING AN EFFECTIVE DATE.

Clerk Rader reported that no items had been pulled from the Consent Agenda.

Councilman Tendrich moved to approve the Consent Agenda. Seconded by Councilman Feller. All voted in favor. The Motion carried.

## **5. REQUESTS, PETITIONS AND PUBLIC COMMENTS**

Mayor Flinn advised the public that if they wished to comment during public hearing on an ordinance, they may do so at that time.

The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; Gunther Karger, 14950 SW 86 Avenue; Jim Araiza, 15755 SW 86 Avenue; Keno McGregor, 7441 SW 176 Street; Warren Lovely, 15323 SW 74 Place; Paul Neidhart, 15800 SW 79 Avenue; Michael Kesti, 8161 SW 170 Terrace; Jerry Fallen, 15821 SW 86 Avenue; and Steve Kriesher, 18201 SW 98 Avenue.

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

Manager Williams provided a report. He noted that the Village's building department had extended the hours of service on Wednesdays until 6:30 pm. He stated that while we have encouraged our residents to use the extended hours, there has been little activity and staff may consider discontinuing the extended hours in the future.

Manager Williams report that the Village is considering selling the "Crowd Pleaser", as the renovations of Thalatta make this property surplus.

Clerk Rader provided a calendar update.

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

- A. October Update: Attorney Boutsis noted that several items will be coming to the next Committee of the Whole meeting, including ordinances concerning the land development code.

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

**9. RESOLUTIONS**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO VILLAGEWIDE DRAINAGE IMPROVEMENTS; APPROVING THE SELECTION OF ROCK POWER PAVING, 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 \$499,477.00; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Manager Williams provided staff report. He noted that funding of this project is sourced from the State of Florida through grants and matched through stormwater utility.

Mayor Flinn asked if the project complies with the stormwater master plan. Manager Williams responded affirmatively. Mayor Flinn asked if there was a documented need. Manager Williams replied that there was. Mayor Flinn remarked that the Village has provided significant infrastructure over the years. Manager Williams concurred, adding that the Village will continue to do so if need arises.

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

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, SUPPORTING A STATE BAN ON TEXT MESSAGING WHILE OPERATING A MOTOR VEHICLE, or ALTERNATIVELY SUPPORTING STATE LEGISLATION PERMITTING LOCAL MEASURES TO BAN TEXT MESSAGING WHILE OPERATING A MOTOR VEHICLE; AND PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Mayor Eugene P. Flinn, Jr.)

The Council expressed their desire to co-sponsor this matter with Mayor Flinn.

Mayor Flinn expressed his support of this resolution, adding that he believes in safety issues and previously asked the legislature to consider banning the use of cell phones in school zones.

Councilwoman Stanczyk concurred.

Councilman Feller noted that whoever is drafting the bill in Tallahassee should address the issue of which police department is responsible for which area.

Mayor Flinn remarked that he would like a state law and if the state does not pass this legislation, the communities should be allowed to have their own law.

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

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE MANAGER; EXTENDING THE EMPLOYMENT AGREEMENT OF RON E. WILLIAMS; PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Eugene P. Flinn, Jr.

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

Mayor Flinn noted that the Council is expected to evaluate Manager Williams during the budget period and it is appropriate to review his performance. He further noted that this contract does not provide a salary raise.

Attorney Boutsis noted that a revised version was drafted last Friday at 11 am and while she is tasked with the responsibility of drafting contract, she was unable to receive a consensus direction, due to Sunshine matters. She concurred that each year an evaluation should be given. She stated that while no pay increase is included, a provision concerning PTO hours, cell phone, and car allowance. She noted that with regard to severance, she noted that every contract she had reviewed included a six month plus one for each year of service and a provision regarding to new council.

Mayor Flinn congratulated Manager Williams for his outstanding performance. He noted that the six month period of double severance immediately following an election is appropriate as it allows the manager time to work with a new council and prevents the position from becoming a political position that may allow a new council to open the position up to cronyism. He stated that this provision does not cost the Village anything unless people are elected with the specific idea of change for the sake of change. Mayor Flinn remarked that nine months of severance is in the middle of the range compared to other local city managers. He noted that the care allowance was reduced to \$750. He expressed that he is in favor of the five year period, as it allows for continuity.

Councilman Tendrich expressed his approval of Manager Williams. He stated that he was in favor of the revised car allowance amount.

Vice Mayor Pariser remarked that Manager Williams was a "consummate professional", with outstanding contacts and a very good reputation with others. He noted that Manager Williams is one of the lowest paid managers in the area, but brings a wealth of experience.

Councilman Feller concurred. He stated that while due to the economy, an adjustment in salary is not possible, we want to make it attractive for him to stay. He remarked that the extension of the contract indicates that the Council wants him to stay. Councilman Feller stated that he agrees with the Mayor in that this position should not be related to the time of an election, nor should anyone coming in be able to terminate the manager when they come in

Councilwoman Stanczyk remarked that the Council has a responsibility to insure the continuity of this employee, who was the third employee hired in the Village. She noted that not only is he committed to being the manager, he is a resident. She concluded that she has met other elected officials who have commented about the treasure we have in Manager Williams.

Attorney Boutsis asked for a motion to substitute the revised agreement. Councilman Feller so moved. Seconded by Councilman Tendrich. All voted in favor.

Vice Mayor Pariser moved that the second sentence be removed from Section 1.3, as he is not in favor of automatic renewal clauses. Seconded by Councilman Feller. Following brief discussion, the motion carried (4-1, Mayor Flinn being opposed.)

Vice Mayor Pariser moved to eliminate Section 11.1. The motion fails for lack of second.

Councilman Feller moved to accept as amended. Seconded by Councilman Tendrich. All voted in favor (5-0.)

Manager Williams thanked the Council for their confidence and thanked the staff for their assistance. He stated that he will continue to work hard every day.

**10. RESOLUTIONS REQUIRING PUBLIC HEARING:** None at this time.

**11. ORDINANCES FOR FIRST READING**

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING ORDINANCE NUMBER 09-12; AMENDING THE VILLAGE'S BUDGET FOR THE 2008-2009 FISCAL YEAR; AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THIS ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Manager Williams provided staff report. He noted that the Village paid the mitigation requirement from funds that held in reserve until such time as the matter

was settled. He noted that the adjustment moves these dollars held into reserve to account for the pay-out.

Mayor Flinn called the question. All voted in favor of approving the Ordinance on first reading (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 CHAPTER 30, DIVISION 100, ENVIRONMENTAL REGULATIONS, RELATING TO SECTION 6 ENTITLED "FLOOD PLAIN MANAGEMENT"; AMENDING SAME TO COMPLY WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) UPDATES REQUIRED OF ALL CITIES, COUNTIES ACROSS THE COUNTRY RELATING TO FLOOD PLAIN MANAGEMENT; SAID UPDATES WERE CREATED BY FEMA IN 2009 AND ARE MANDATED TO BE INCLUDED IN THE VILLAGE'S ORDINANCE 30-100.6, RELATING TO SAME; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Director Julian Perez, Director of Planning & Zoning, provided staff report. He noted that on August 5<sup>th</sup>, a letter was received from FEMA requesting the Village to update its Flood Plain Mgmt Ordinance to be consistent with the federal mandate.

Manager Williams noted that this action is part of the national flood insurance program.

Following brief discussion, Mayor Flinn opened the public hearing. No one wished to be heard.

Mayor Flinn called the question. The Ordinance was adopted unanimously (5-0.)

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING CHAPTER 15 ENTITLED WATER CONSERVATION AND EMERGENCY WATER RESTRICTION ENFORCEMENT; AMENDING THE VIOLATION/CITATION FEE SCHEDULE FOR WATER VIOLATIONS, REDUCING THE VIOLATION FEE SCHEDULE FOR FIRST, SECOND AND THIRD OFFENSES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Vice-Mayor Brian W. Pariser and Council Person Howard Tendrich].

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

Director Perez noted that the revisions offered at the Committee of the Whole meeting were included.

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

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

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING AS THE LAND PLANNING AGENCY, RELATING TO ZONING; EXTENDING THE EXISTING MORATORIUM BY THREE MONTHS ON THE ISSUANCE OF BUILDING PERMITS FOR DEVELOPMENTS OF MORE THAN FIVE CONTIGUOUS ACRES SO THAT THE VILLAGE CAN ADOPT THE FINAL PORTIONS OF THE VILLAGE'S LAND DEVELOPMENT CODE, INCLUDING BUT NOT LIMITED TO ZONING PROCEDURES, TELECOMMUNICATIONS AND GREEN/LEED DESIGN CRITERIA; SUCH TEMPORARY MORATORIUM TO APPLY TO ALL PROPERTIES OVER FIVE ACRES IN CONTIGUOUS SIZE LOCATED WITHIN THE VILLAGE OF PALMETTO BAY; EXEMPTING PUBLIC FACILITIES DEVELOPED FOR THE PUBLIC HEALTH, SAFETY, AND WELFARE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Brought forward from Local Planning Agency Meeting of October 5, 2009)

Councilwoman Stanczyk moved this matter forward. Seconded by Vice Mayor Pariser.

Mayor Flinn noted that the Council had met Land Development Agency.

Councilman Feller moved to incorporate the record, staff report, and all public comments made during the Local Planning Agency Meeting of October 5, 2009, into this proceeding. Seconded by Vice Mayor Pariser. All voted in favor.

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

Mayor Flinn called the question. All voted in favor. The Ordinance was adopted unanimously.

### **13. OTHER BUSINESS**

Councilman Tendrich stated that while the Council is considering its employees, the Council should also consider the Clerk's salary and benefits. He suggested increasing car allowance to \$3,000 annually.

Councilman Feller asked that the matter be discussed further at a Committee of the Whole meeting and brought forward in November. Mayor Flinn concurred, adding that the issue is important and should not be neglected.

#### 14. COUNCIL COMMENTS

Councilman Tendrich remarked that the Wine at Harvest Moon festival held at Deering was a great success. He thanked all who attended.

Councilwoman Stanczyk announced that a Town Hall meeting is scheduled for October 28, 2009, at 7 p.m. wherein the public can become more educated concerning the H1N1 virus.

Vice Mayor Pariser noted that he, Councilwoman Stanczyk, and Mayor Flinn attended that anniversary celebration of Holy Rosary Catholic Church and there was a remarkable turnout.

Councilman Feller reminded all to attend the State of the Village event. He also reiterated how pleased he is with Manager Williams' performance and believes he is the best manager in Miami-Dade County.

#### 15. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 8:55 pm.

*Prepared and submitted by:*

  
Meighan J. Rader, CMC  
Village Clerk

*Adopted by the Village Council on  
this 2<sup>nd</sup> day of November, 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.