

VILLAGE OF PALMETTO BAY
Minutes of the Regular Council Meeting of March 7, 2011
Village Hall Chambers
9703 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 7:10 p.m. Mayor Stanczyk asked Mr. Warren Lovely to lead the pledge of allegiance.

2. PROCLAMATIONS, AWARDS, PRESENTATIONS

A. Recognition of Talent Show Sponsor, Philip Ludovici

Mayor Stanczyk thanked all who participated in the Talent Show. She recognized Mr. Philip Ludovici for his generosity in sponsoring the event.

B. Recognition of Arbor Day Sponsors

Mayor Stanczyk recognized the three landscaping firms, Groundkeepers, Santa Barbara Nursery, and Ramada Nursery, for their generous donation of plants and equipment that helped make the first annual tree give-away an outstanding event.

Public Works Director Corrice Patterson thanked the contractors for not only donating trees, but for working at the event, assisting the public. Parks Director Fanny Carmona-Gonzalez also thanked the nurseries for their dedication and service.

3. APPROVAL OF MINUTES

A. Minutes of the February 7, 2011 Regular Council Meeting: Councilman Tendrich moved to approve the Minutes of February 7, 2011. Seconded by Vice Mayor Pariser. All voted in favor. The Minutes were adopted 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 \$20,306.64; PROVIDING AN EFFECTIVE DATE.

Mayor Stanczyk asked Clerk Alexander whether any Councilmember had requested to remove an item from the Consent Agenda. The Clerk responded that no one had. Councilman Tendrich moved to approve the Consent Agenda item. Seconded by Vice Mayor Pariser. All voted in favor. The Resolution was adopted unanimously (5-0.)

5. REQUESTS, PETITIONS AND PUBLIC COMMENTS

The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; Warren Lovely, 15323 SW 74 Place; and Denny Wood, 9855 E. Fern Street.

In response to Mr. Wood's comments, Attorney Boutsis advised that two items mentioned by Mr. Wood are not items that allow appeal; they would require a revision to the Ordinance. She stated that the last item is a variance and would require that an application be filed with the Planning and Zoning Department. Discussion ensued regarding the length of time it would take to have Mr. Wood's items brought before the Council. Mayor Stanczyk directed the Village Attorney to provide the ordinances and high-light the areas of which Mr. Wood is seeking revision.

Public comment concluded with Mr. Chuck Latshaw, 8825 SW 154 Terrace. Brief discussion ensued regarding the intersection of US-1 and SW 152 Street and seeking Miami-Dade County Commissioner Linda Bell's assistance.

6. VILLAGE MANAGER'S REPORT

Manager Williams provided an update with regard to Councilman Tendrich request concerning shed variance. He advised that approximately 80% of the shed owners that requested variance have completed their work. He noted that Earth Week is coming soon and April 15th will be movie night. He provided details concerning the success of the Village's annual picnic (2,800 ears of corn, 3,200 hot dogs, 4,000 drinks, 2,500 water, 2,500 pizza, and 3,000 doughnuts.)

Manager Williams reported that he will be speaking with Miami-Dade County regarding the previously discussed issue of bus benches and bus shelters. He advised that when the Village was first starting, the Village chose not to participate in the County's program; however, part of encouraging transit is to have bus benches and bus shelters so he is re-visiting the matter.

7. **VILLAGE ATTORNEY'S REPORT**

- A. March, 2011 Update: Attorney Boutsis advised that when a new zoning director is hired, she will be moving forward on several items. She provided her written report.

8. **BOARD AND COMMITTEE REPORTS:** Mayor Stanczyk stated that she is looking forward to hearing a report from the Historic Preservation Board in the near future.

9. **RESOLUTIONS**

- A. A RESOLUTION OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO EFFECTIVE PUBLIC NOTICE; URGING THE FLORIDA LEGISLATURE TO MODIFY THE STATUTES TO ALLOW FOR EFFECTIVE PUBLIC NOTICE BY ADVERTISING BY MEANS OTHER THAN NEWSPAPERS; PROVIDING AN EFFECTIVE DATE. [Sponsored by Councilman Howard Tendrich].

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

Councilman Tendrich reported that he is supportive of this matter, as it allows a municipality to consider several options to notify the public, rather than being bound by the print media.

Mayor Stanczyk asked if this was the same matter raised by the League of Cities. Councilman Tendrich responded that it was.

Mayor Stanczyk remarked that it appears to impact the smaller cities. Councilman Tendrich agreed, adding that advertising in newspapers can be extremely costly and due to the internet, only approximately 20% of the public subscribes to the Miami Herald.

Vice Mayor Pariser noted that the Statute concerning newspaper advertisement is an old statute and technology has changed and the issue concerns the definition of an interpretation of public notice.

Attorney Boutsis noted that Chapter 163 defines the types of notices that must be advertised in the newspaper. Councilwoman Lindsay noted that the Village budgets \$17,500 for legal advertising.

Mayor Stanczyk called the question. All voted in favor. The Resolution was adopted unanimously (5-0.) Councilman Tendrich moved for the item to be included as part of the Village's legislative agenda. Seconded by Vice Mayor Pariser. All voted in favor.

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO VILLAGEWIDE LOCALIZED DRAINAGE IMPROVEMENTS PHASE IV; APPROVING THE SELECTION OF QUALITY PAVING CORP., 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 \$313,168; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Manager Williams provided staff report. He noted that the recommended contractor provided the lowest responsible and responsive bid. He noted that funding would be achieved through 50% from the Florida Department of Environmental Protection and 50% from Stormwater Utility; and, the Village would not be required to expend general fund dollars.

Councilman Fiore asked staff to consider the area of 84 Avenue. Manager Williams stated that the area is being investigated, but is not included in this particular project.

Vice Mayor Pariser asked how the funding was identified. Director Patterson noted that the funds were surplus due to a previous project being performed under budget. She noted that the remaining dollars are from a grant that must be used by the end of the year.

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, RELATING TO CANAL EROSION; REQUESTING THE STATE TO FUND AND UNDERTAKE THE RESTORATION AND PERMANENT HARDENING OF CANALS WITHIN THE VILLAGE OF PALMETTO BAY; PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Shelley Stanczyk)

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

Manager Williams noted that he is pleased that the Council is continuing its efforts to aggressively seek funding for canal bank restoration.

Mayor Stanczyk remarked that more needs to be done.

Councilwoman Lindsay advised that she had discussed the matter with Ed Hernandez of South Florida Water Management District (SFWMD) and was provided with a list of 22 properties within Pinecrest, Palmetto Bay and unincorporated areas. She noted that nine of the properties are within Palmetto Bay. She asserted that as residents pay approximately \$1.2 million to SFWMD in tax revenue each year, this amount could be used as leverage when the Council visits Tallahassee in April. Vice Mayor Pariser, Councilman Fiore, and Councilman Tendrich concurred.

Councilwoman Lindsay remarked that based upon her conversation with Mr. Hernandez, a 120 foot restoration costs approximately \$120,000 (approximately \$1,000 to \$5,000 per linear foot.)

Mayor Stanczyk called the question. All voted in favor. The Resolution was adopted unanimously (5-0.) Councilwoman Lindsay moved for the item to be included as part of the Village's legislative agenda. Seconded by Councilman Tendrich. All voted in favor.

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE ART IN PUBLIC PLACES PROGRAM, APPOINTING MEMBERS TO FILL VACANCIES ON THE VILLAGE OF PALMETTO BAY ARTS ADVISORY BOARD; AND, PROVIDING AN EFFECTIVE DATE.

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

Clerk Alexander provided staff report.

Vice Mayor Pariser noted that he was impressed with his Ms. Maggio's qualifications.

Councilman Fiore stated that he would like to defer his appointment.

Mayor Stanczyk suggested that the applications be provided to all Council.

Vice Mayor Pariser asked the Village Attorney to continue to address the ordinance.

Following brief discussion, Councilman Tendrich moved to defer consideration of the appointees for District 1, 2, and Mayor Stanczyk. Seconded by Councilwoman Lindsay. All voted in favor.

Vice Mayor Pariser nominated Mary Elizabeth Maggio. Councilwoman Lindsay nominated Dana Pezoldt. Councilwoman Lindsay moved to accept the nominations. Seconded by Vice Mayor Pariser. All voted in favor. The Resolution was approved unanimously (5-0.)

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE HISTORIC PRESERVATION ADVISORY BOARD, APPOINTING THREE (3) MEMBERS TO THE VILLAGE OF PALMETTO BAY HISTORIC PRESERVATION ADVISORY BOARD; AND, PROVIDING AN EFFECTIVE DATE.

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

Clerk Alexander provided staff report.

Councilman Tendrich nominated Paul Neidhart, noting that Mr. Neidhart has been very active working with this committee.

Clerk Alexander explained that one of the members can be appointed due to their "civic activism." Councilman Fiore seconded the nomination.

Councilwoman Lindsay suggested that Council consider waiting to appoint this position since there is only one of this type of activist position. Mayor Stanczyk concurred. Councilman Tendrich agreed and stated that he would withdraw his nomination.

Vice Mayor Pariser moved to table all the appointments for this committee. Seconded by Councilman Tendrich. All voted in favor. The Motion passed unanimously (5-0.)

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE TREE ADVISORY BOARD, APPOINTING THREE (3) MEMBERS TO THE VILLAGE OF PALMETTO BAY TREE ADVISORY BOARD; AND, PROVIDING AN EFFECTIVE DATE.

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

Clerk Alexander provided staff report.

Councilman Tendrich nominated Rick Cohen.

Councilman Fiore stated he would defer his appointment.

Vice Mayor Pariser nominated Bryan Fraind.

Councilwoman Lindsay moved to appoint Rick Cohen, Bryan Fraind, and defer the appointment from District 1. Seconded by Councilman Fiore. All voted in favor. The Resolution passed (5-0.)

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO STATE LEGISLATIVE AGENDA; REQUESTING THE LEGISLATURE TO MODIFY SECTION 1002.33 RELATING TO CHARTER SCHOOLS TO REQUIRE CHARTER SCHOOLS TO COMPLY WITH THE PHYSICAL REQUIREMENTS FOR CONSTRUCTION AS ARE REQUIRED FOR PUBLIC SCHOOLS, TO REQUIRE ALL ATHLETIC FIELDS REQUIRED OF PUBLIC SCHOOLS; TO COMPLY WITH THE STATE CONSTITUTIONAL MANDATE ON CLASS SIZE; TO REQUIRE THE CHARTER SCHOOLS TO PROVIDE TRANSPORTATION TO STUDENTS; TO REQUIRE AN INDEPENDENT AUDIT OF ALL CHARTER SCHOOL PARTICIPANTS – INCLUDING THE FOR PROFIT AND THE NON-PROFIT ARMS OF INDIVIDUAL CHARTER SCHOOLS; AND TO MODIFY SUBSECTION (18)(C) RELATING TO PROVIDING CHARTER SCHOOLS SPACE IN EXISTING LIBRARY, COMMUNITY ROOMS, PERFORMING ARTS, THEATER AUDITORIUMS, CINEMA, AND OR CHURCH FACILITIES UNDER PREEXISTING ZONING AND LAND USE – WHILE ONLY REQUIRING MINIMUM COMPLIANCE WITH THE FLORIDA BUILDING CODE AND FIRE DEPARTMENT REGULATIONS; PROVIDING AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk].

Mayor Stanczyk requested the Council consider placing this add-on item on the agenda and consider including as part of the legislative packet.

Vice Mayor Pariser moved to include the item on the Agenda. Seconded by Councilwoman Lindsay.

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

Mayor Stanczyk opined that it is crucial to provide equal standards for Charter Schools, as standards are mandated for public schools. The charter schools are often located in places that are not sufficient for the number of children.

Councilwoman Lindsay stated that according to the Department of Education, only one in six charter schools are doing better than public schools. She stated that the resolution should include prorating the dollars so that the public schools are not negatively impacted.

Mayor Stanczyk stated that there may be a discrepancy in funds until the recount adjusts the funding and the Schools are re-assessed.

Councilwoman Lindsay stated that until the February count the schools are still losing dollars. She moved to include require accountability for funding of student enrollment on a monthly basis. Seconded by Councilman Tendrich. All voted in favor. The matter passed unanimously (5-0.)

Vice Mayor Pariser moved for the item to be included as part of the Village's legislative agenda. Seconded by Councilman Tendrich. All voted in favor.

Councilman Tendrich stated that he would like to modify the resolution to require that charter schools provide transportation to students. Mayor Stanczyk concurred, stating that no charter school is required to provide any type of transit.

Attorney Boutsis suggested modifying the resolution to include transportation be "consistent with public schools." Councilman Tendrich moved to include the language. Seconded by Councilwoman Lindsay. All voted in favor.

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

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, CREATING CHAPTER 7 RELATING TO BURGLAR ALARMS; UPDATING AND AMENDING THE CODE FOR CLARIFICATION PURPOSES TO REFLECT A CALENDAR YEAR REGISTRATION PERIOD, A DEFINITION OF PROPERTY OWNER, CLARIFICATION THAT THE VILLAGE'S FINANCE DEPARTMENT SHALL MAINTAIN RECORDS AND IMPLEMENT THE ORDINANCE, AND TO CLARIFY THE FEE SCHEDULE; AND PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report.

Councilman Tendrich asked for clarification concerning the fines. Manager Williams explained that there is no fine for a false alarm; however, a home owner would incur a renewal fee of \$25 if there were false alarm – free annual renewal if there are no false alarms during the year. Attorney Boutsis noted that if the homeowner cancels the false alarm, it does not count toward them.

Vice Mayor Pariser asked if the realtors are familiar with this ordinance. Attorney Boutsis stated that the forms from alarm companies require you to sign stating that you will come to the village for registration.

Mayor Stanczyk asked Commander Gregory Truitt to explain the program. Commander Truitt advised that when the program was implemented, the policing unit's number one call was audible alarm calls.

Vice Mayor Pariser asked for the entire ordinance to be provided for second reading.

Councilwoman Lindsay thanked staff for the simple renewal process that is currently online.

Mayor Stanczyk called the question. All voted in favor. The Ordinance passed 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 ADOPTION OF AMENDMENTS TO THE COMPREHENSIVE PLAN FOR THE VILLAGE OF PALMETTO BAY, FLORIDA, SAID AMENDMENTS TO INCLUDE AN UPDATE OF THE CAPITAL IMPROVEMENTS ELEMENT (CIE) AND PROJECTS; AND TO PROVIDE FOR A PROCESS TO ALLOW THE ANNUAL UPDATE OF THE CIE BY WAY OF PUBLIC HEARING RESOLUTION; PROVIDING FOR TRANSMITTAL OF THE CIE PLAN AMENDMENTS TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS, TO OTHER UNITS OF LOCAL GOVERNMENT AND TO OTHER REVIEW AGENCIES AS REQUIRED BY LAW; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Manager Williams provided staff report.

Vice Mayor Pariser asked if there were any changes. Manager Williams stated that there was not.

Mayor Stanczyk opened the public hearing. Mr. Eric Tullberg, 7884 SW 179 Terrace, addressed the Council. He stated that he would like to meet with staff to consider improving the five-year plan. The public hearing was closed.

The matter passed unanimously on roll call vote, as follows: Mayor Stanczyk: Yes; Vice Mayor Pariser: Yes; Councilman Fiore: Yes; Councilman Tendrich: Yes; and Councilwoman Lindsay: Yes.

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ELECTIONS; ESTABLISHING THE RUN-OFF ELECTION DATE FOR THE ELECTION OF NOVEMBER, 2012, IN ACCORDANCE WITH SECTION 5.1(C) OF THE VILLAGE CHARTER; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Clerk Alexander provided staff report.

The public hearing was opened. No one wished to speak.

Following brief discussion, Councilman Tendrich moved to approve November 20, 2011, as the run-off date. Seconded by Vice Mayor Pariser.

The matter passed unanimously on roll call vote, as follows: Mayor Stanczyk: Yes; Vice Mayor Pariser: Yes; Councilman Fiore: Yes; Councilman Tendrich: Yes; and Councilwoman Lindsay: Yes.

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

14. **COUNCIL COMMENTS**

Vice Mayor Pariser thanked Julian Perez for his service to the Village. He thanked all for the picnic, stating that the public loved it, and it was well done.

Mayor Stanczyk thanked staff for their hard work at the picnic. She stated that the picnic reinforces friendships and reminds people why we incorporated.

Manager Williams thanked that community for their participation.

Mayor Stanczyk specifically mentioned that Krispy Kreme was very helpful with the picnic and with bringing 40 new jobs to Palmetto Bay.

Councilwoman Lindsay remarked that one of the best comments she heard at the picnic was from a Pinecrest resident who wished they had moved to Palmetto Bay because of the fun they were having.

