

VILLAGE OF PALMETTO BAY
Minutes of the Regular Council Meeting of May 2, 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 7:05 p.m. Mayor Stanczyk asked all who have served in the military to lead the pledge of allegiance. Dr. Ed Feller, Mr. Lovely, and Mr. Eric Tullberg came forward and lead the pledge.

2. PROCLAMATIONS, AWARDS, PRESENTATIONS

A. Presentation by Principal Maileen Ferrer of Perrine Elementary
Principal Ferrer gave a report regarding the school, expressing how diligently the students are working on conservation. She stated that she is proud of the efforts of the students at this Fine Arts magnet school.

Mayor Stanczyk thanked Principal Ferrer for her service. She remarked that her children attended Perrine Elementary. Manager Williams noted that his children did also.

B. Proclamation declaring Public Works Week

Mayor Stanczyk thanked Public Works for their diligence. She introduced all of the Public Works staff.

Director Corrice Patterson thanked the Mayor and expressed her pride in her staff. Manager Williams thanked the staff for their dedication.

3. APPROVAL OF MINUTES

A. Minutes of the April 4, 2011 Regular Council Meeting: Councilman Tendrich moved to approve. Seconded by Councilwoman Lindsay. All voted in favor. The Motion carried (5-0.)

4. CONSENT AGENDA

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO DRAIN CLEANING; 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 \$20,000.00; AND PROVIDING FOR AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATTORNEYS' FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR FIGUEREDO & BOUTSIS, P.A. IN THE AMOUNT OF \$32,978.30; PROVIDING AN EFFECTIVE DATE.
- C. 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 FOR STORMWATER MANAGEMENT (CANAL MAINTENANCE); AND PROVIDING FOR AN EFFECTIVE DATE.
- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO ELECTRICAL POWER PLANT AND TRANSMISSION LINE SITINGS; RATIFYING THE EXECUTION OF CORRESPONDENCE DATED APRIL 7, 2011, TO FLORIDA SENATE PRESIDENT REQUESTING AN INTERIM REPORT; PROVIDING AN EFFECTIVE DATE.
- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO FPL; ISSUING THE VILLAGE'S AGENCY REPORT ON FLORIDA POWER AND LIGHT TURKEY POINT UNITS 6 & 7 PROJECT SITING APPLICATION PA03-45A3 AND TRANSMISSION LINE CORRIDOR (EAST PREFERRED CORRIDOR) BETWEEN DAVIS AND MIAMI SUBSTATIONS; REQUIRED TO BE ISSUED BY JUNE 1, 2011; RECOMMENDING DENIAL OF THE APPLICATION AND CONDITIONS RELATING TO SAME; PROVIDING AN EFFECTIVE DATE.

Clerk Alexander reported that Item 4 B was pulled from the Consent Agenda.

Vice Mayor Pariser moved to approve the Consent Agenda items. Seconded by Councilman Tendrich. All voted in favor. The Resolutions were adopted unanimously (5-0.)

5. **REQUESTS, PETITIONS AND PUBLIC COMMENTS:** The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Court; Larry Ribler, 17131 SW 86 Avenue; Mark Amore, 17100 SW 86 Avenue; Elizabeth Amore, 17100 SW 86 Avenue; Peter Wright, 17071 SW 86 Avenue; Shanquira Johnson, 17220 SW 86 Avenue; Robert Buzzelli, 17140 SW 86 Avenue; Beatrice Herman, 17251 SW 86 Avenue; Peter England, 7620 SW 171 Street; Ramon Ferrer, Area Manager for Florida Power and Light; and, Bev Gerald 14271 SW 74 Court.

6. **VILLAGE MANAGER'S REPORT**

Manager Williams asked Commander Greg Truitt, of the Village's Policing Unit, to provide a report addressing an increase in burglaries in the Village.

Commander Truitt provided staff report. He thanked the public for their vigilance. He provided several examples of how residents can keep their property secure. He encouraged all to report suspicious activity.

Vice Mayor Pariser asked if there are particular areas that are being affected more than others. Commander Truitt responded that most of the burglaries are from the canal area near Brandsmart to Old Cutler Road.

Manager Williams asked Acting Director Kirk Hearin to provide information regarding the tennis program at Coral Reef Park. Director Hearin introduced the new vendor, Cathy Nordlund, Friends of Miami Tennis.

Cathy Nordlund and Cindy Johnston came forward and described their program.

Manager Williams noted that there will always be courts available for public use and that there will be early bird training and early bird access.

Ms. Nordland noted that the organization is a non-profit and everything goes back into the community.

Mayor Stanczyk thanked the ladies and welcomed them into the Palmetto Bay community.

A. 2010 Financial Audit

Manager Williams noted that the Village once again is reporting a positive audit. He introduced Finance Director Desmond Chin and Nicole Manrino from Markum, the Village's independent auditors.

Ms. Manrino reported that the Village received a "clean, unqualified opinion" and noted that for the third year in a row. She noted that there have been no instances of deficiencies and no issues of non-compliance.

Mayor Stanczyk thanked Manager Williams and Director Chin for their diligence.

Mayor Stanczyk moved to accept the report. Seconded by Vice Mayor. All voted in favor.

B. 2011 – Second Quarter – Budget to Actuals

Manager Williams provided the document to the Council.

Director Chin provided report concerning the second quarter figures.

Manager Williams noted that staff will continue holding the line to bring the budget well within the numbers.

7. VILLAGE ATTORNEY'S REPORT

A. May, 2011 Update: Attorney Boutsis stated that she had provided her written update and she will address any questions.

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 RIC-MAN INTERNATIONAL, 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 \$646,783; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Vice Mayor Pariser seconded.

Manager Williams provided staff report and introduced Mr. Gary Ratae of Kimley Horn. Mr. Ratae noted that there is a one-year warranty included as part of the general terms and conditions.

Vice Mayor Pariser clarified that the warranty length was standard in the industry. Mr. Ratae confirmed this.

Vice Mayor Pariser asked Manager Williams to confirm that the \$646,000 expenditure is matched by DEP grant. Manager Williams confirmed this statement, adding that 50% is provided through the Village's stormwater utility funds.

Mayor Stanczyk called the question. All voted in the favor. The Resolution 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 FIGUEREDO & BOUTSIS, P.A. IN THE AMOUNT OF \$32,978.30; PROVIDING AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Vice Mayor Pariser seconded.

Councilman Fiore asked the amount of the bill that was spent on the Palmer Trinity litigation. Attorney Boutsis replied that approximately \$21,500 was for that purpose.

Mayor Stanczyk asked if the Florida League of Cities' counsel will be involved in the case. Attorney Boutsis stated that the Village's insurance will cover Attorney Hochmann's service for the 2008 case.

Following brief discussion, Mayor Stanczyk called the question. All voted in the 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 FPL; ISSUING THE VILLAGE'S AGENCY REPORT ON FLORIDA POWER AND LIGHT TURKEY POINT UNITS 6 & 7 PROJECT SITING APPLICATION PA03-45A3 AND TRANSMISSION LINE CORRIDOR (EAST PREFERRED CORRIDOR) BETWEEN DAVIS AND MIAMI SUBSTATIONS; REQUIRED TO BE ISSUED BY JUNE 1, 2011; RECOMMENDING DENIAL OF THE APPLICATION AND CONDITIONS RELATING TO SAME; PROVIDING AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report. She stated that the process includes a multi-agency review and FPL presented its application concerning the various transmission lines. She noted that she would recommend denial, as there are analysis that need to be performed and conditions that can be considered.

Vice Mayor Pariser stated his concern, as the Resolution refers to the Pinecrest report that has not been provided. He asked if the Village would be required to litigate a denial.

Attorney Boutsis acknowledged that litigation is a possibility with denial.

Mayor Stanczyk noted that the other municipalities have not submitted. She remarked that the Village's new Planning and Zoning Director will be on board in the very near future and should review this information.

Attorney Boutsis stated that the Village could schedule a special council meeting before June 1st.

Councilman Fiore asked if Mr. Ferrer would be permitted the opportunity to speak. Mayor Stanczyk noted that Mr. Ferrer had made a statement.

Councilman Fiore stated that he could not support the resolution as written.

Councilwoman Lindsay stated that she would prefer additional time to review the matter.

Vice Mayor Pariser moved to table the matter to be heard at a special council meeting to be scheduled after May 15 but before June 1st. Seconded by Councilwoman Lindsay. All voted in favor. The motion carried (5-0.)

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, AMENDING CHAPTER 22, ARTICLE II ENTITLED "RESIDENTIAL GARAGE SALES" TO CHANGE THE TITLE TO "GARAGE SALES" AND TO PROVIDE FOR FOUR GARAGE SALES PER YEAR; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk].

Mayor Stanczyk noted that a substitute item was provided.

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

Attorney Boutsis reported that several years ago, the Council decided to regulate the garage sales due to some concern regarding individuals using garage sales as businesses. She advised that Mayor Stanczyk is sponsoring this item to increase the number from two to four per year and removing the term "residential."

Mayor Stanczyk noted that this matter was raised at the Vice Mayor's town hall meeting.

Councilman Tendrich remarked that two should be sufficient, more would be "excessive." He asked if special exceptions are permitted.

Attorney Boutsis replied that special circumstances are still included: the Manager can waive the policy as need be.

Following discussion, Mayor Stanczyk called the question. The motion carried (4 to 1, Councilman Tendrich being the sole opposition.)

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PRECLUDING CAMPAIGN CONTRIBUTIONS TO VILLAGE COUNCIL CANDIDATES BY VENDORS; PROVIDING FOR A FINANCIAL PENALTY TO ANY VIOLATING VENDOR, AND A DISQUALIFICATION OF THE VENDOR FOR A PERIOD OF TWO YEARS FOLLOWING THE ELECTION FROM DOING BUSINESS WITH THE VILLAGE; CORRECTING ELECTION DATE AS MODIFIED IN THE VILLAGE'S CHARTER PROVIDING THE ELECTION IN NOVEMBER AND NOT SEPTEMBER; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Vice Mayor Brian W. Pariser].

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

Attorney Boutsis provided staff report.

Vice Mayor Pariser stated that he would like to continue the Village's efforts to insure transparency. He stated that the Village has a very strong lobbying ordinance and believes this matter would waive any appearance of impropriety in our elections.

Following discussion, Vice Mayor Pariser moved to remove the last sentence in subsection b – line 40-41. Seconded by Councilwoman Lindsay. All voted in favor.

Discussion ensued regarding non-partisan elections. Attorney Boutsis stated that she would bring language to the second reading and the ordinance would require a third reading.

Clerk Alexander stated that the language on page 2, line 15 should be modified, "A runoff election, if necessary, ~~shall be held on the third Tuesday in November shall be held by the Village as provided by ordinance, which ordinance shall schedule and authorize the runoff date, in compliance with state law.~~ Councilman Tendrich moved to amend. Seconded by Councilwoman Lindsay. All voted in favor.

Vice Mayor Pariser moved to accept the amended ordinance for second reading. Seconded by Councilwoman Lindsay. The matter passed (4-1, Councilman Fiore being the sole opposition.)

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE'S CODE OF ORDINANCES, AMENDING DIVISION 30-90, ENTITLED "SIGN REGULATIONS"; PROVIDING FOR WINDOW SIGNS THAT MAY NOT COVER MORE THAN 25% OF THE WINDOW; 75% OF WINDOW MUST BE TRANSLUCENT/SEE THROUGH; REGULATING TEMPORARY SIGNS UNIFORMLY AS TO SIZE, AND DURATION, INCLUDING POLITICAL SIGNS, REAL ESTATE SIGNS, AND PERSONAL EXPRESSION SIGNS; AND MODIFYING THE NUMBER OF SPECIAL EVENT BANNERS ALLOWED PER YEAR IN COMMERCIAL AND MIXED USE DISTRICTS; AND PROVIDING FOR CLARIFICATION AS TO

CERTAIN PROVISIONS OF SIGNAGE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk as to election signage modifications; Vice Mayor Pariser as to election signage; sponsored by Council Person Tendrich as to special event signage and election signage; and remainder of revisions recommended by staff].

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

Attorney Boutsis provided staff report. She provided information concerning political and temporary signs and how the laws must be drafted to be regulated the same, regardless of content. She noted that a 60-day sign limitation has been found to be unconstitutional.

Following discussion concerning the length of time a sign can remain and the number of signs permitted, Vice Mayor Pariser suggested tabling the matter to the next Committee of the Whole Meeting. Councilman Tendrich concurred and made a motion. Seconded by Vice Mayor Pariser. The motion carried unanimously (5-0.)

12. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

13. OTHER BUSINESS: None at this time.

14. COUNCIL COMMENTS

Councilman Tendrich remarked that the Councilmembers should not be attending this meeting, as the Commission appointed will be presenting their thoughts to Council.

Councilman Tendrich asked the status of the P.A.C.E. matter.

Mayor Stanczyk stated that she met with several cities today and the municipalities are working on an Interlocal Agreement.

Following brief discussion, Mayor Stanczyk advised that an update will be provided in the near future.

Vice Mayor Pariser expressed that he was happy with the transition of the tennis program. Councilman Fiore noted that the courts appear empty. Discussion was held regarding the circumstances that may result in empty courts, such as the recent basketball championship and the weather.

Mayor Stanczyk remarked that she will be assisting the Village by preparing a website called www.palmettobaymeetings.com to broadcast the council meetings.

15. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 10:15 pm.

Prepared and submitted by:


Meghan J. Alexander, CMC
Village Clerk

Adopted by the Village Council on this 6th day of June, 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.