

**VILLAGE OF PALMETTO BAY
MINUTES OF THE MONDAY, JANUARY 8, 2007
MEETING OF THE VILLAGE COUNCIL**

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

I. 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 Linda Robinson
Councilman Ed Feller, MD
Councilman Paul Neidhart
Councilwoman Shelley Stanczyk

The following staff members were present:

Village Manager Charles D. Scurr
Village Attorney Eve A. Boutsis
Village Clerk Meighan J. Rader

Mayor Flinn asked the members of Scout Troop 840 to lead the pledge of allegiance. Scout Michael Cooper lead the Troop and the audience.

Councilman Feller moved to accept the revised Agenda. Seconded by Councilwoman Stanczyk. All voted in favor.

II. 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 \$14,320.55; PROVIDING AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, APPROVING THE PURCHASE OF A TRANSIT CIRCULATOR; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER TO PURCHASE A MINI BUS WITH ACCESSORIES FROM ATLANTIC BUS SALES, IN THE AMOUNT UP TO \$65,000; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PERMANENT TRAFFIC CALMING DEVICES IN THE AREA OF SW 144TH STREET FROM US-1 TO SW 67TH AVENUE IN THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO CONTRACT WITH MARLIN ENGINEERING, INC. TO PROVIDE DESIGN AND CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR THIS AREA AND TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$118,000 ON A PROJECT THAT WILL SUBSTANTIALLY IMPROVE THE FLOW OF TRAFFIC WITHIN THE VILLAGE OF PALMETTO BAY; AND PROVIDING FOR AN EFFECTIVE DATE.
- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, EXPRESSING ITS SUPPORT FOR AND DESIRE TO PARTICIPATE IN A REGIONAL ALLIANCE WITH THE TOWN OF CUTLER BAY AND MIAMI-DADE COUNTY IN ORDER TO MARKET LOCAL CHARETTE STUDY AREAS; PROVIDING AN EFFECTIVE DATE. {SPONSORED BY MAYOR EUGENE P. FLINN, JR.}
- E. 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 ACCEPT THE SUPPORT SERVICES FROM FRIENDS FOREVER RESCUE, INC.; AND PROVIDING FOR AN EFFECTIVE DATE. {SPONSORED BY COUNCILMAN PAUL NEIDHART}
- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; APPROVING THE ENHANCEMENT TO THE BAND PAVILLION AT CORAL REEF PARK AND RELEASING AN ADDITIONAL \$20,455.68 TO PIAZZA, INC. FOR THE PURCHASE CONSTRUCTION AND INSTALLATION OF THE UPGRADED STRUCTURE AND SUPPORTING ELEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE. {SPONSORED BY COUNCILMEMBER PAUL NEIDHART}
- G. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PROCUREMENT; ISSUING VILLAGE POLICY AS TO CONSTRUCTION CONTRACTS; PROVIDING POLICY OF DAILY PENALTIES FOR FAILURE TO COMPLY WITH CONSTRUCTION SCHEDULES; AND PROVIDING FOR BONUSES FOR EARLY COMPLETION OF CONSTRUCTION; PROVIDING AN EFFECTIVE DATE.

Councilman Feller moved to approve the Consent Agenda. Seconded by Councilman Neidhart. All voted in favor. The motion carried. The Resolutions were adopted.

Vice Mayor Robinson moved to hear the item listed as Item X.C. as the next item. Seconded by Councilwoman Stanczyk. All voted in favor.

III. ORDINANCES FOR FIRST READING AND EMERGENCY ORDINANCES

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO DISCLOSURE OF PAYMENTS OR MATERIAL CONSIDERATION PAID OR REQUESTED BY PERSONS IN EXCHANGE FOR SUPPORT OR NON-OPPOSITION ON MATTERS UNDER CONSIDERATION BY THE VILLAGE COUNCIL; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. {SPONSORED BY MAYOR EUGENE P. FLINN, JR.}

Vice Mayor Robinson moved the matter forward. Seconded by Councilwoman Stanczyk.

Mayor Flinn introduced Mayor Paul Vrooman of Cutler Bay and thanked him for his assistance with this matter.

Mayor Vrooman expressed his appreciation to the Council for allowing him to provide his input to this Ordinance. He stated that with his past experience as a member of the County's Community Council, certain individuals would seek payment from developers and others in order to garner support or opposition for zoning items. These individuals would accept payment and then bring other individuals to support or oppose matters. He opined that if a person presents himself at a zoning hearing, that person should be addressing the Council to express their opinion, not simply due to payment received. He stated that the proposed ordinance does not outlaw individuals from being hired, rather it add clarity as the individual must state that they were hired.

Attorney Boutsis concurred. She thanked Mayor Vrooman and his Town's attorneys for their assistance.

The matter was approved unanimously on first reading by voice vote. Mayor Flinn again thanked Mayor Vrooman for his diligence.

IV. PROCLAMATIONS, AWARDS, PRESENTATIONS

- A. Presentation by SoBay Festival of the Arts Committee – Scott Silver: Mr. Silver provided information concerning the event. He stated that the organization is seeking assistance for shuttle service for the "Screen on the Green" event and the Valentine's concert.

Mayor Flinn thanked the Deering Estate Foundation and the Palmetto Bay Village Center for their partnership in this event. Councilman Neidhart commended them for the event and expressed his support.

Mr. Scurr advised that the matter will be scheduled for discussion at the next Committee of the Whole meeting.

- B. Presentation by Robert Pozo of PR Racing regarding the Holiday 5K/15K Run
Mr. Pozo thanked Councilman Feller for starting the recent holiday run. He thanked the Village of Palmetto Bay, the Police Department, specifically Officer Dawn Colon and the Village's Community Services Department for their assistance. He presented the Council with a plaque.
- C. Certificate of Commendation for Palmetto Bay Policing Unit: Mr. Scurr provided a report, noting that the Village has experienced a significant reduction in crime. Captain Scott Dennis introduced Sergeant Joseph Petras of the Uniform Patrol, Sergeant Danilo Martinez of the General Investigations and Unit and Lieutenant Emmanuel Guerrier. He thanked his staff for their efforts, expressed his appreciation to his predecessor, Captain Michael Mouring and thanked Mr. Scurr and the Council for their support.

Mayor Flinn expressed his hope that more people will take advantage of the services that the police offer and that the downward trend in crime will continue.

V. APPROVAL OF MINUTES

- A. Minutes of the Regular Council Meeting of December 4, 2006

Vice Mayor Robinson noted a scrivener's error on Page 7, the maker of the motion was "Vice Mayor Robinson".

Councilman Feller moved to approved. Seconded by Vice Mayor Robinson. All voted in favor. The Minutes of December 4, 2006 were approved.

VI. VILLAGE MANAGER'S REPORT

- A. Mr. Scurr provided his report. He thanked all who attended the State of the Village address in December. He advised that Councilman Feller, Vice Mayor Robinson, Mayor Flinn and he will be traveling to the Special Legislative Session in Tallahassee and will be diligently seeking significant reforms to the windstorm insurance situation. Mr. Scurr reported that he will be attending the next County INLUC meeting and is anxiously awaiting resolution of the mitigation issue.

Mr. Scurr stated that he remains in communication with Work Force concerning Village Hall and will bring forth a new joint development proposal at the next Committee of the Whole meeting. He announced that construction of the tennis courts at Coral Reef Park has begun. Mr. Scurr advised that staff is working with the County to complete the on-demand traffic signal on SW 82 Avenue. He also noted that the coral rock wall on SW 152 Street has had one portion repaired and the other is forthcoming. He thanked Commissioner Sorenson for her assistance with those repairs.

Mr. Scurr advised that a Request for Qualifications for the Building and Permitting contract is being finalized and reminded Council of the cone of silence provisions. He also noted that the SinFin application will be presented again at the next zoning hearing (January 22) and noted that the application remains governing by the Jennings Law. He advised that the next Council meeting shall be on February 5th and a Committee of the Whole meeting is scheduled for January 24th.

VII. VILLAGE ATTORNEY'S REPORT

- A. Request for authorization to file injunctive relief action against Bolger property, 17205 SW 77 Avenue: Attorney Boutsis advised that staff has been working with the property owner for several months concerning this property that has several outstanding code violations.

Mr. Scurr reminded the Council that a clean up was done on the property over a year ago; however, the property has returned to its current state of neglect.

Attorney Boutsis advised that the gentleman who owned by house had passed away and as of this date, probate has not been filed. She stated that "no trespassing" signs have been posted on the property and staff would like permission to seek an injunction from the Court in order to clean up the property, as it is currently unsafe for the community.

Councilman Feller asked for clarification regarding the "no trespassing" signs.

Attorney Boutsis replied that with those signs, the code enforcement officer cannot enter the property; rather, a violation can only be written if the problem is in clear view. She advised that there remains a fourth amendment right to privacy, and the Village would have to receive a court order to enter the property. She stated that currently staff is also not certain who placed the signs; there may be heirs to the estate.

Mayor Flinn stated that several neighbors have asked the Village to resolve this serious matter. He asked if there was any other option.

Attorney Boutsis opined that seeking an injunction is the most appropriate process.

Vice Mayor Robinson asked if anyone had been to the door of the home.

Attorney Boutsis stated that before the "no trespassing" signs were erected, staff did visit the house.

Councilwoman Stanczyk asked if there is electricity in the structure.

Attorney Boutsis stated that there is electricity that remains in the decedent's name.

Brief discussion ensued. Councilman Feller moved to allow the Village Attorney to file injunctive relief on the property. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried (5-0).

VIII. BOARD AND COMMITTEE REPORTS: None at this time.

IX. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO GRANTS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT WITH THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT ACCEPTING A GRANT IN THE AMOUNT OF \$375,000 FOR THE PURPOSE OF MAKING STORMWATER IMPROVEMENTS WITHIN THE VILLAGE OF PALMETTO BAY; AND PROVIDING AN EFFECTIVE DATE.

Councilman Neidhart moved the matter forward. Seconded by Vice Mayor Robinson.

Public Works Director Ron Williams provided staff report. He advised that the amount of the grant was increased to \$375,000.

Mayor Flinn thanked Director Williams for pursuing this matter in Tallahassee.

All voted in favor of approval. The Motion carried (5-0).

- B. A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, IN SUPPORT OF MITIGATION ADJUSTMENT POLICY REVIEW TASK FORCE REPORT ADOPTED ON JUNE 26, 2006 AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO WORK WITH THE COUNTY TO IMPLEMENT THE REPORT; AND PROVIDING FOR AN EFFECTIVE DATE. {SPONSORED BY MAYOR EUGENE P. FLINN, JR.}

Vice Mayor Robinson moved the matter forward. Seconded by Councilman Neidhart.

Mr. Scurr provided staff report. He advised that the Mayor Village and the Village Council have been vigorously pursuing the mitigation issue and has been asking the County to voluntarily eliminate mitigation. He stated that the purpose of this resolution is to have a written record that our position is clear.

All voted in favor of approval. The Motion carried (5-0).

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO BOARDS AND AGENCIES; APPOINTING ADDITIONAL/REPLACEMENT MEMBERS TO THE SPECIAL EVENTS COMMITTEE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Mr. Scurr provided staff report. He noted that the Special Events Committee remains an industrious group of dedicated residents. He asked Council to replace three members who have moved away. He explained that there remains no limit to auxiliary members who graciously volunteer their assistance.

Clerk Rader advised that three individuals: Robert Pozo, Tracey Kealy and Victor Vincent were recommended for appointment.

All voted in favor of appointing the aforementioned individuals and approving the Resolution. The Motion carried (5-0).

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE SOUTH MIAMI-DADE WATERSHED STUDY AND PLAN; URGING THE COUNTY COMMISSION TO EITHER REJECT THE PLAN OR TO MODIFY PORTIONS OF THE PLAN INCONSISTENT WITH THE CONCERNS STATED HEREIN AND TO CLEARLY STATE THAT THERE SHALL BE NO IMPOSITION OF HIGH DENSITY ZONING IN CURRENT SINGLE FAMILY AREAS; SEEKING SUPPORT FROM ALL AFFECTED COMMUNITIES; PROVIDING AN EFFECTIVE DATE

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

Mayor Flinn provided a report. He stated that the Village had completed its charrette and remains interested in smart growth; however, he is opposed to

the watershed plan imposing zoning by right and imposing high density in the Village's residential areas.

Councilman Neidhart concurred, adding that he believes that the worthwhile purpose of the Watershed Study grew into a plan that is not appropriate.

Councilman Feller stated that the tenor of discussion should not be where the Village should locate people, but rather what is the amount of growth that the natural resources can sustain.

Councilwoman Stanczyk concurred. She remarked that the County's reaction to density keeps changing and County's staff makes statements that are inconsistent with Commissioner Sorenson's desire to work together.

Vice Mayor Robinson thanked Mayor Flinn for taking the lead in this matter.

All voted in favor of approval. The Motion carried (5-0).

X. RESOLUTIONS REQUIRING PUBLIC HEARING: None at this time.

XI. ORDINANCES FOR FIRST READING AND EMERGENCY ORDINANCES

A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING CHAPTER 30 OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR NOTICE PROCEDURES FOR QUASI-JUDICIAL MATTERS; PROVIDING FOR ADVERTISED PUBLICATION, MAILED NOTICE AND POSTING NOTICE OF PUBLIC HEARINGS ON APPLICABLE ZONING APPLICATIONS; SPECIFICALLY REPEALING SECTION 33-310 OF THE MIAMI-DADE COUNTY CODE ENTITLED "NOTICE AND HEARING PREREQUISITE TO ACTION BY THE VILLAGE COUNCIL" AS THE VILLAGE IS ADOPTING ITS OWN NOTICE PROCEDURES FOR QUASI-JUDICIAL PROCEEDINGS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis advised that the proposed ordinance establishes provisions for the Village to assume responsibility for zoning matters.

Community Development Director Arleen Weintraub advised that the Village continues to transition and by April of this year, all zoning applicants will come to the Village for assistance on zoning matters.

A roll call vote was taken to pass the proposed Ordinance on first reading, as follows: Vice Mayor Robinson: Yes; Councilman Feller: Yes; Councilman Neidhart: Yes Councilwoman Stanczyk: Yes; Mayor Flinn: Yes. The motion carried (5-0).

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING THE VILLAGE'S PLANNING, ZONING, AND QUASI-JUDICIAL HEARING FEE SCHEDULE FOR ALL DEVELOPMENT APPLICATIONS; SPECIFICALLY REPEALING THE MIAMI-DADE COUNTY FEE SCHEDULE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Director Weintraub provided staff report.

A roll call vote was taken to pass the proposed Ordinance on first reading, as follows: Councilman Feller: Yes; Councilman Neidhart: Yes Councilwoman Stanczyk: Yes; Mayor Flinn: Yes; Vice Mayor Robinson: Yes. The motion carried (5-0).

XII. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING CHAPTER 33G "SERVICE CONCURRENCY MANAGEMENT PROGRAM" TO PROVIDE FOR PROVISIONS RELATING TO PROPORTIONATE FAIR-SHARE MITIGATION FOR TRANSPORTATION; CREATING SECTION 33G-5.1 "PROPORTIONATE FAIR SHARE MITIGATION FOR TRANSPORTATION;" PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Attorney Boutsis advised that this matter is being presented on third reading. She noted that the Florida Department of Transportation provided cities with a draft of the ordinance that follows what the Florida Statutes dictate must be done by large developers with regard to traffic impact.

Mr. Scurr added that with a major development, a developer is required to pay their share.

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

A roll call vote was taken to adopt the proposed Ordinance on final reading, as follows: Councilman Neidhart: Yes Councilwoman Stanczyk: Yes; Mayor Flinn: Yes; Vice Mayor Robinson: Yes; Councilman Feller: Yes. The Ordinance was adopted (5-0).

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PROCUREMENT; AMENDING ORDINANCE 03-09 (PALMETTO BAY CODE 2-175(f)). {SPONSORED BY COUNCILMEN ED FELLER AND PAUL NEIDHART}

Mr. Scurr provided staff report. He explained that the proposed ordinance will streamline the way the Village can procure items and allow for a cost and time effective means of purchasing. He noted that items over \$12,500 will return to Council for approval.

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

A roll call vote was taken to adopt the proposed Ordinance on final reading, as follows: Councilman Neidhart: Yes Councilwoman Stanczyk: Yes; Mayor Flinn: Yes; Vice Mayor Robinson: Yes; Councilman Feller: Yes. The Ordinance was adopted (5-0).

XIII. REQUESTS, PETITIONS AND PUBLIC COMMENTS: The following individuals addressed the Village Council: Erick Tulberg, 7884 SW 179 Terrace and Chuck Latshaw, 8825 SW 154 Terrace. Brief discussion ensued among the Council and staff regarding the traffic obstructions that regularly occur due to the drive-through at Starbucks (SW 148 Street & US-1).

XIV. MAYOR AND COUNCIL COMMENTS: Both Councilmen Neidhart and Feller wished the Florida Gators success.

XV. OTHER BUSINESS: None at this time.

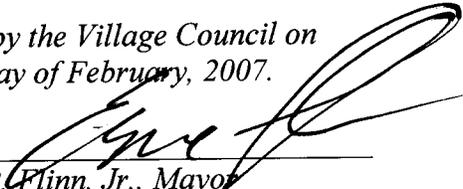
XVI. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 8:23 pm.

Prepared and submitted by:


Meighan J. Rader, CMC
Village Clerk

*Adopted by the Village Council on
this 5th day of February, 2007.*



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.