

VILLAGE OF PALMETTO BAY  
MINUTES OF THE REGULAR COUNCIL MEETING  
OF MONDAY, JANUARY 12, 2009  
Deering Estate Visitor's Center  
16701 SW 72 Avenue

**I. 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 J. 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 7:00 p.m. He asked former Vice Mayor Linda Robinson to lead the pledge of allegiance.

**2. PROCLAMATIONS, AWARDS, PRESENTATIONS**

**A. Recognition to Village for 2008 Holiday Run**

Mr. Robert Pozo of PR Racing thanked the Council for four years of an outstanding event. He gave a brief history of the event and offered the Council a plaque in appreciation.

Mayor Flinn thanked Mr. Pozo and noted that it remains a wonderful event in the Village.

**B. Juvenile Diabetes Research Foundation**

Ms. Jean Horruitiner and Mrs. Paula Palm, representing Juvenile Diabetes Research Foundation were recognized. The ladies provided a history of the event, noting that \$740,000 was raised for Juvenile Diabetes research this year. Mrs. Palm thanked the Village, the volunteers, and residents Donna Latshaw and Bev Gerald.

Mayor Flinn congratulated the ladies and also thanked those who work so hard volunteering to assist those in need. The Vice Mayor and Council members concurred.

**3. APPROVAL OF MINUTES**

- A. Minutes of the December 1, 2008 Regular Council Meeting
- B. Minutes of the December 8, 2008 Special Council Meeting

Councilman Tendrich moved to approve the Minutes as submitted. Seconded by Vice Mayor Pariser. All voted in favor. The Minutes were approved unanimously (5-0.)

#### 4. CONSENT AGENDA

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO DISASTER RELIEF EFFORTS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE STATE OF FLORIDA, DEPARTMENT OF COMMUNITY AFFAIRS' DISASTER RELIEF FUNDING AGREEMENT NO: 08-PA-C2-11-23-13-562 BETWEEN THE VILLAGE OF PALMETTO BAY AND THE STATE OF FLORIDA, DEPARTMENT OF COMMUNITY AFFAIRS, FOR RELIEF FOLLOWING HURRICANE FAY; PROVIDING 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 NAGIN GALLOP FIGUEREDO, P.A. IN THE AMOUNT OF \$25,913.24; PROVIDING AN EFFECTIVE DATE.
- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; ACCEPTING A LEGISLATIVE APPROPRIATION FROM THE FLORIDA LEGISLATURE IN THE AMOUNT OF \$100,000; APPROVING THE PROJECT AGREEMENT WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE VILLAGE; AND PROVIDING AN EFFECTIVE DATE.
- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, SUPPORTING THE STATE OF FLORIDA'S PURCHASE OF NEARLY 300 SQUARE MILES OF LAND FOR EVERGLADES RESTORATION; URGING THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO CONTINUE PURCHASING ENVIRONMENTALLY SENSITIVE LAND IN THE TOWN OF CUTLER BAY; PROVIDING FOR TRANSMITTAL TO THE STATE; 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 LEGISLATIVE SERVICES; AUTHORIZING THE VILLAGE MANAGER TO BEGIN THE PROCUREMENT PROCESS FOR SELECTION OF AN INDIVIDUAL OR FIRM TO PROVIDE LEGISLATIVE SERVICES AT THE FEDERAL LEVEL; DIRECTING THE VILLAGE MANAGER TO PREPARE AND ISSUE A

REQUEST FOR QUALIFICATIONS FOR THIS SERVICE; AND PROVIDING EFFECTIVE DATE.

Clerk Rader confirmed that Item 4D was pulled from Consent by Mayor Flinn.

Councilman Feller moved to approve Items 4 A, B, C, and E. Seconded by Councilwoman Stanczyk. All voted in favor. The Resolution was approved unanimously (5-0).

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

The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; and Bob Miller, 8801 SW 176 Street.

**6. VILLAGE MANAGER'S REPORT**

Manager Williams provided staff report. He reported that negotiations will be commencing in the near future with regard to the contract between Miami-Dade County Police Department and the Village. He advised that with reference to the "Mow and Go" program, 22 properties had been cleaned since December 15 and half of those properties had had liens placed upon them. He thanked the Code Enforcement Unit for their diligence. He advised that the library is fast approaching its completion and the project is on schedule.

Clerk Rader provided notice of the following upcoming meetings: January 14, 5:30 p.m. – Attorney/Client Session at Deering Estate Visitors' Center; January 16, 6 p.m. – Town Hall Meeting concerning canal boat speeds to follow the Attorney/Client Session; January 16, 9 am – Arbor Day event at Palmetto Bay Park; January 29, 6 p.m. - Bike/Pedestrian Master Plan Development Advisory Committee at Village Hall; February 2, 7 p.m. – Regular Council Meeting at Deering Estate Visitors' Center; the Zoning hearing for February 9<sup>th</sup> was canceled; and February 12, 9 am – Historic Preservation Advisory Board at Village Hall.

A. Public Safety Report: Commander Truitt provided an end of the year report. He noted that 12,000 calls for service were received in 2008, which is not a significant change since 2007. He noted that there has been a reduction in robbery, vehicle burglaries, and auto thefts (which are down by 9%). He advised that there have been approximately 400 grow houses busted in all of Miami-Dade County, eight of which were in Palmetto Bay. He noted that two crime watch neighborhoods are on board now. He encouraged all to contact him or Officer Judge to begin a neighborhood group.

Councilman Feller asked what happens to the property when the grow house is broken up. Commander Truitt noted that most are rental properties and does not believe you can seize the property in that case. Attorney Boutsis concurred, unless collusion with the property owner is proven.

Manager Williams encouraged all citizens to report any incident that concerns them – the Police are ready to respond.

7. **VILLAGE ATTORNEY'S REPORT:** January Update: Attorney Boutsis provided a written report and noted that she will be providing information on items as they come forward.
8. **BOARD AND COMMITTEE REPORTS:** None at this time.

#### **ORDINANCES FOR SECOND READING AND PUBLIC HEARING**

Councilman Feller moved to have the Ordinance concerning Shed Amnesty taken out of order as the next item. Seconded by Councilwoman Stanczyk. All voted in favor.

Councilwoman Stanczyk moved this item forward. Seconded by Vice Mayor Pariser. All voted in favor.

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 AND ADMINISTRATIVE ZONING REVIEW AND APPROVAL OF SHEDS WITHIN SIDE OR REAR SETBACKS OF RESIDENTIAL PROPERTIES PROVIDED A WAIVER IS RECEIVED FROM ALL ADJACENT PROPERTY OWNERS, PROVIDED THAT THE SHED IS LESS THAN 150 SQUARE FEET IN OVERALL SIZE, PROVIDED THE SHED IS SET BACK A MINIMUM OF THREE 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 AND PROVIDED THAT THE SHED PASSES A BUILDING INSPECTION; PROVIDING THAT SHEDS NOT MEETING REQUIREMENTS FOR AN ADMINISTRATIVE ZONING REVIEW AND APPROVAL PROCESS SHALL BE REMOVED OR CONTINUE TO REQUIRE 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].

Attorney Boutsis provided staff report. She noted that the proposed Ordinance provides that in order to meet the administrative variance criteria, the shed must be less than 150 square feet in size and be three feet or more from the property line of neighbor with landscaping between the encroachment of the setback. She stated that if you do not meet this criteria and you want to keep your shed, you would have to come before council for variance. Attorney Boutsis further explained that initially, the administrative review process required four neighbors to provide approval; however, a substitution ordinance is provided that will streamline the process. She stated that a notice would be published, giving any objectors a 30-day window to appeal. She further noted that to reduce the cost to the resident, any required hearings would be held in conjunction with regular zoning hearings and the cost of the ad would be prorated (approximately \$100 per person in advertising cost.)

Vice Mayor Pariser asked who would pay the cost for a re-hearing advertisement, should an individual miss their scheduled meeting. Attorney Boutsis replied that the individual would have to pay the entire amount.

Attorney Boutsis asked the Council if they wish to accept the substitute ordinance and, if so, the matter would require a third reading.

Mayor Flinn asked for clarification. Attorney Boutsis noted that under the substitution ordinance, if no one objects to the variance, there is no cost to the applicant, except for the permit fee. Mayor Flinn opened the public hearing.

The following individuals addressed the Council: George Pustai, 9152 SW 187 Street; Eric Lindholm, 16162 SW 87 Court; Henry Clifford, 8875 SW 171 Street; Mary Ruiz, 9153 SW 183 Terrace; Jeff Prince, 17921 SW 89 Avenue; and Badru Deen, 7720 SW 168 Terrace.

Attorney Boutsis stated that the size of the shed is 150 square feet, as larger sheds being lot coverage into question, which, in turn, impacts other zoning issues. She stated that certain sheds were not previously permitted; therefore, they are not in compliance and there is a requirement to have either the neighbors sign off or allow for the alternate version; neighbors must be able to state their objection, if any. She noted that the Ordinance also will allow owners to prove the year their shed was constructed, in order to comply with that particular year's building requirement. She explained that currently, if you have an unpermitted shed, you would be required to comply with current laws.

Mayor Flinn asked how the County handled this matter in the past. Attorney Boutsis noted that the pre-substituted version follows the Miami-Dade County version. Mayor Flinn asked if the Village had placed additional restrictions on the shed after incorporating. Attorney Boutsis noted that the Village followed the Miami-Dade County law currently in place. Mayor Flinn asked if the County allowed a three-foot setback. Attorney Boutsis noted that the County mandated seven to 15 feet, depending upon the size of the property.

Vice Mayor Pariser remarked that the proposed ordinance is intended to be helpful and asked if the shed permit fee of \$225 can be re-considered. Attorney Boutsis noted that the Building Fee Schedule was adopted by ordinance. Manager Williams added that \$225 is the cost for permitting if you asked for a permit today.

Attorney Boutsis further clarified that the intent of the ordinance is to group the hearings and thereby reduce the cost of advertising and mailing, hearing approximately 12 cases per hearing to minimize the cost.

Councilman Feller opined that the amended version is not fair to the neighbors, as the amended version requires that the neighbor see the advertised notice. He stated that it is reasonable for to ask that neighbors should give consent or not.

Councilwoman Stanczyk disagreed, stating that the purpose is to simplify the procedure and make compliance not be a hardship. She opined that few people will put energy into making an objection. She added that there were few, if any, complaints received by staff

with regard to sheds. She moved to consider the substitute ordinance. Following brief discussion, Vice Mayor Pariser seconded the matter.

Councilman Feller moved to amend the substitute ordinance to include that notification must be made to the immediate neighbors.

Attorney Boutsis stated that this could be done at the same time that an advertisement is being publicized.

Councilwoman Stanczyk stated that she would not accept the amendment as a "friendly" amendment.

Councilman Tendrich seconded the amendment. The motion passed (3-2 – Mayor Flinn and Councilwoman Stanczyk opposed.)

Vice Mayor Pariser moved to approve the substituted amended version and have the matter be heard for a third reading. Following brief discussion, all voted in favor (5-0.) The motion passed unanimously.

## 9. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SPECIAL EVENTS; SPONSORING THE ANNUAL WEST PERRINE DR. MARTIN LUTHER KING, JR., ANNUAL CELEBRATION; AUTHORIZING THE VILLAGE MANAGER TO DISBURSE AN AMOUNT NOT TO EXCEED \$1,000.00; PROVIDING AN EFFECTIVE DATE. [Sponsored by Mayor Eugene P. Flinn, Jr.]

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

Manager Williams advised that this was an event that the Council has supported in the past and although it was not budgeted, the Village can find the funds through savings in other areas.

Following brief discussion, the Council concurred that this event supports our neighbors and honors Dr. Martin Luther King, Jr. The Resolution was approved unanimously (5-0).

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SPECIAL EVENTS; SPONSORING MIAMI-DADE COUNTY DADE DAYS FOR 2009 AUTHORIZING THE VILLAGE MANAGER TO DISBURSE AN AMOUNT NOT TO EXCEED \$3,000.00; PROVIDING AN EFFECTIVE DATE. [Sponsored by Mayor Eugene P. Flinn, Jr.]

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

Manager Williams provided staff report.

The Resolution was approved unanimously (5-0).

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SPECIAL EVENTS; SPONSORING THE ANNUAL EDC GOLF TOURNAMENT; AUTHORIZING THE VILLAGE MANAGER TO DISBURSE AN AMOUNT NOT TO EXCEED \$1,000.00; PROVIDING AN EFFECTIVE DATE.

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

Manager Williams provided staff report.

The Resolution was approved unanimously (5-0).

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO VILLAGE SOFTWARE APPLICATIONS; RATIFYING THE CONTRACT WITH TYLER TECHNOLOGIES FOR AN ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM, IMPLEMENTING AND TRAINING COSTS AND SUPPORT NOT TO EXCEED \$763,771; PROVIDING AN EFFECTIVE DATE.

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

Manager Williams provided staff report.

Councilman Tendrich remarked that this will be an ongoing expense of approximately \$70-80,000 per year.

Manager Williams responded that productivity will increase, paperwork will decline, and accountability will significantly improve.

Vice Mayor Pariser remarked that he has spoken to several department heads concerning this and believes it is necessary.

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 PALMETTO BAY PARK; RELATING TO PARKS MASTER PLAN; REQUIRING COMPLIANCE WITH THE PARKS MASTER PLAN AS IT RELATES TO THE PROPOSED USE OF THE FIELDS AT PALMETTO BAY PARK FOR GIRLS' SOFTBALL USE; REQUIRING UNANIMOUS VOTE OF THE VILLAGE COUNCIL TO MODIFY OR REMOVE THE PREFERENCE FROM THE PARKS MASTER PLAN; PROVIDING AN EFFECTIVE DATE. [Sponsored by Council Person Shelley Stanczyk].

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

Attorney Boutsis provided staff report. She noted that this Resolution would affirm the approval previously considered by the Council for the parks master plan. Certain fields were designed primarily for girls' softball and certain age group for boys' baseball. She explained that "right of first refusal" would allow boys to use the field if the fields were not already scheduled by the girls' teams.

Vice Mayor Pariser asked if certain age groups were considered in the past.

Attorney Boutsis noted that the 200' fields are for girls' softball and for use by boys of aged 10 and younger.

Mayor Flinn stated that it was not designed for use by adults.

Vice Mayor Pariser asked if the boys will still be able to use the fields.

Attorney Boutsis replied affirmatively, with girls having the first right of refusal.

Following brief discussion, Councilman Tendrich stated that he was not in favor of the "unanimous vote" aspect of the resolution.

Councilman Feller concurred.

Councilwoman Stanczyk remarked that she would like modifications to the park to be done by more than a simple majority.

Councilman Feller moved to amend the resolution to include the language of 4/5<sup>th</sup> vote for this matter for Palmetto Bay Park. Seconded by Councilwoman Stanczyk. All voted in favor.

Councilman Feller proposed an amendment to state that any substantive change to the parks master plan would require a super majority vote. Seconded by Vice Mayor Pariser. The amendment passed (3-2, Mayor Flinn and Councilwoman Stanczyk being opposed.)

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SUPPORT BY THE VILLAGE OF PALMETTO BAY IN THE PALMETTO BAY VILLAGE CENTER'S EFFORTS TO FIND FUNDS AND ACT AS A NON-MONETARY SPONSOR IN SECURING GRANT FUNDS FROM THE FLORIDA FOREVER PROGRAM OR OTHER POTENTIAL FUNDING SOURCES FOR THE CUTLER WETLANDS NORTH ADDITION HAMMOCK WHICH HAMMOCK HAS RECEIVED PROGRAM B, FIFTY (50) PERCENT FUNDING, FROM MIAMI-DADE COUNTY'S ADMINISTRATION OF THE ENVIRONMENTALLY ENDANGERED LANDS (EEL) PROGRAM;

PROVIDING AN EFFECTIVE DATE. [Sponsored by Mayor Eugene P. Flinn, Jr.].

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

Manager Williams provided staff report.

Mayor Flinn asked if the Village is protected with regard to any financial matter.

Manager Williams stated that the Village was protected.

Mayor Flinn remarked that additional fire service is his priority and there is now a specific spot for the fire station.

Councilman Tendrich expressed his approval.

The Resolution was approved unanimously (5-0).

- G. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE ART IN PUBLIC PLACES PROGRAM, APPOINTING TWO (2) MEMBERS TO FILL VACANCIES ON THE VILLAGE OF PALMETTO BAY ARTS ADVISORY BOARD; AND, PROVIDING AN EFFECTIVE DATE.

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

Director of Planning and Zoning Arleen Weintraub provided staff report.

Vice Mayor Pariser suggested Mary Elizabeth Maggio; Councilman Tendrich suggested Rhona Kritzer.

The Resolution was approved unanimously (5-0).

Director Weintraub introduced the two ladies.

- H. 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. (Request deferral until adoption of Ordinance concerning Tree City USA designation)

Councilman Feller moved to defer. Seconded by Councilman Tendrich. All voted in favor.

- I. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO VILLAGE HALL; AUTHORIZING THE VILLAGE MANAGER TO INVESTIGATE

AND TO PURSUE ACQUISITION OF PROPERTY LOCATED AT 9705 EAST HIBISCUS STREET FOR GOVERNMENTAL USE AND PURPOSE FOR AN AMOUNT NOT TO EXCEED \$4,400,000; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Manager Williams provided staff report. He noted that this is a unique opportunity for the Village to purchase this property in the southern area of the village for a Village Hall. He noted that the resolution provides authorization to extensively perform due diligence and explore the financial possibility of this purchase for an amount not to exceed \$4.4 million.

Attorney Boutsis noted that any loans needed would require an ordinance with two readings.

Vice Mayor Pariser stated that the location could be a stimulus to the area. He stated that the comparables do not appear current and do not seem to take the current economy situation into consideration.

Councilman Feller concurred, adding that the Council needs to give the Manager a number to work with. He suggested changing the resolution and adding "possible" acquisition. Attorney Boutsis stated that she would modify the resolution.

The Resolution was approved unanimously (5-0).

- J. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, SUPPORTING THE STATE OF FLORIDA'S PURCHASE OF NEARLY 300 SQUARE MILES OF LAND FOR EVERGLADES RESTORATION; URGING THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO CONTINUE PURCHASING ENVIRONMENTALLY SENSITIVE LAND IN THE TOWN OF CUTLER BAY; PROVIDING FOR TRANSMITTAL TO THE STATE; PROVIDING AN EFFECTIVE DATE. [Sponsored by Mayor Eugene P. Flinn, Jr.]

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

Mayor Flinn stated that this resolution would support the identical resolution put forth by cutler bay.

Councilman Tendrich stated that it is important to convince our legislature that these lands are needed for educational purposes.

The Resolution was approved 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, 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 Feller moved this item forward. Seconded by Councilman Tendrich.

Manager Williams provided staff report.

Mayor Flinn stated that he would assume the Village may lower fees with a budget adjustment when mitigation is abolished. He noted that one group, Howard Palmetto baseball/softball, straddles multiple jurisdictions and there should be an apportioned system for them.

Following discussion, the Council felt that staff should consider the possibility of a monthly fee for frequent users of the skate park.

All voted in favor of the proposed Ordinance on first reading.

- B. 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. [Sponsored by Mayor Eugene P. Flinn, Jr.]

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

Attorney Boutsis provided staff report.

Mayor Flinn stated that the Village should not undertake the duty of the golf cart owner's responsibility and this proposed ordinance streamlines the process.

Councilman Feller stated that the notarized affidavit that the owner has to file should list all of the requirements.

Attorney Boutsis agreed.

All voted in favor of the proposed Ordinance on first reading.

- C. 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 Vice Mayor Pariser.

Mayor Flinn remarked that this ordinance creates an incentive for property owners to keep their parking on their property.

Attorney Boutsis provided staff report. She advised that the developer can either have all of their parking on their property, have some on-street parking to use; or have all parking off-site through a variance process. She noted that after five years, the Village would begin to charge for the off-site parking. The property owner would have to construct the public parking, and since they did build the space, they would have five years until the fee begins.

Councilwoman Stanczyk stated that it would be a green element, too, as a Village parking lot could be built and the Village could have a circulator that could go to the parking lot.

Vice Mayor Pariser expressed his concerns: 1 - someone will have to keep track of these parking credits; and 2 - parking garages are substantial structures that may cost 5 to 10 million dollars. He stated that he is concerned that the village may be forced to erect a parking garage when we there are not sufficient funds to do so.

Mayor Flinn remarked that it is better to have some funding, and this ordinance does not provide an automatic variance. Attorney Boutsis concurred.

Vice Mayor Pariser asked Attorney Boutsis to consider that a property owner may try to force the Village to build the garage, as they could argue that they have been paying fees and there is not enough parking for their business.

## **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 AMENDING ORDINANCE NUMBER 08-12; AMENDING THE VILLAGE'S BUDGET FOR THE 2007-2008 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 Feller moved this item forward. Seconded by Councilman Tendrich.

Manager Williams provided staff report, noting that the \$8,600 overage was in the legal department due to increased expenses from litigation.

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

All voted in favor of the proposed Ordinance (5-0.)

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO TREE CITY USA, CREATING A TREE BOARD AS AUTHORIZED UNDER SECTION 4.2 OF THE VILLAGE CHARTER; AMENDING CHAPTER 2 TO INCLUDE SECTION 2-108, RELATING TO A TREE ADVISORY BOARD; AUTHORIZING THE VILLAGE MANAGER TO APPLY FOR THE NATIONAL ARBOR DAY FOUNDATION'S TREE CITY USA PROGRAM; AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL STEPS NECESSARY TO SATISFY THE REQUIREMENTS OF THE APPLICATION FOR THE NATIONAL ARBOR DAY FOUNDATION'S TREE CITY USA PROGRAM; PROVIDING FOR CODIFICATION, ORDINANCES IN CONFLICT; AND AN EFFECTIVE DATE. [Sponsored by Mayor Eugene P. Flinn, Jr. and Co-Sponsored by Council Member Howard Tendrich].

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

Manager Williams provided staff report.

Councilman Tendrich expressed his approval

Mayor Flinn opened the public hearing.

The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; and Henry Clifford, 8875 SW 171 Street.

The public hearing was closed.

All voted in favor of the proposed Ordinance (5-0.)

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 Feller moved to return the item to the floor. Seconded by Councilman Tendrich. All voted in favor.

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

Manager Williams provided staff report.

Following discussion, the Council concurred to defer the matter to the February 2, 2009 Regular Council meeting. All voted in favor.

### **13. OTHER BUSINESS**

Mayor Flinn stated that with regard to mortgage foreclosure issues, he and Attorney Boutsis will be meeting with Judge Farina through a Miami Dade County League of Cities meeting wherein the County is considering a foreclosure diversion program. He stated that he will attend and will report back to the Council.

Mayor Flinn advised that a realtor had contacted him regarding enforcement of realtor signs sizes. He suggested that if the Village specifically approved a specific sized sign, we may be burdening the realtors with a custom-sized sign; and, if so, we should consider modifying this ordinance.

Vice Mayor Pariser stated that the Board of Realtors should have been consulted and the Village should allow time for conformance.

Mayor Flinn asked Manager Williams if the Village could hold on enforcement until staff can determine if the size is a standard size sign for the industry.

Manager Williams replied that this ordinance was passed in October and many realtors have already complied; however, staff can amend the ordinance.

Director Weintraub noted that she actually brought in a 10" x 14" sign to the Council meeting; however, she could amend the ordinance to include an overall number of inches. She added that flyers are being distributed to the realtors; no one is being issued tickets at this time.

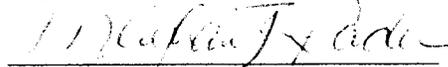
### **14. COUNCIL COMMENTS**

Councilman Feller thanked those who attended the meeting, encouraging all to attend Council meetings regularly. The Council concurred.

Mayor Flinn allowed resident Paul Blake to speak. Mr. Blake suggested the Village pursue the idea of a dedicated non-emergency police dispatch for non-emergency issues.

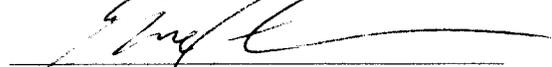
**15. NEXT MEETING AND ADJOURNMENT:** The meeting adjourned at 10:30 p.m.

*Prepared and submitted by:*



Meighan J. Rader, CMC  
Village Clerk

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