

VILLAGE OF PALMETTO BAY
Minutes of the Regular Council Meeting of Monday, November 2, 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 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

A. Appreciation to Gus Machado Ford – Movie Night Sponsor

Mr. Jorge Rodriguez, representative of Gus Machado Ford, was present. Mayor Flinn thanked Mr. Rodriguez for the outstanding partnership between Ford and Palmetto Bay through their sponsorship of movie night. He thanked the dealership for their support of many past events, including fingerprinting children, popcorn for the movie night, and sponsoring movie equipment.

Mr. Rodriguez remarked that Gus Machado Ford is happy to be involved in the Palmetto Bay community.

B. Amedysis Home Health Care – National Home Health Care Month.

Mayor Flinn provided a proclamation for Amedysis Home Health of Palmetto Bay, naming the month of November "Home Health Care Month". The representatives thanked Mayor Flinn for his support.

Councilman Tendrich moved to hear the Local Planning Agency meeting following the Regular Council meeting. Seconded by Councilwoman Stanczyk. All voted in favor.

3. APPROVAL OF MINUTES

- A. Minutes of the Special Council Meeting of September 24, 2009
- B. Minutes of the Local Planning Agency Meeting of October 5, 2009

- C. Minutes of the Regular Council Meeting of October 5, 2009

Councilman Tendrich moved to approve the Minutes, as submitted. Seconded by Vice Mayor Pariser. All voted in favor (4-0.)

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 FBM LAW OFFICES IN THE AMOUNT OF \$23,496.74; PROVIDING AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO GRANTS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A CONTRACT UNDER THE MIAMI-DADE COUNTY DRUG CONTROL AND SYSTEM IMPROVEMENT PROGRAM FOR A PORTION OF THE FEDERAL FUNDS AWARDED TO MIAMI-DADE COUNTY THROUGH A GRANT IN THE AMOUNT OF \$5,932 FOR THE SCHOOL RESOURCE OFFICER PROJECT; PROVIDING AN EFFECTIVE DATE.

Councilman Tendrich moved to approve the Consent Agenda. Seconded by Councilwoman Stanczyk. All voted in favor. The Motion carried (4-0.)

5. REQUESTS, PETITIONS AND PUBLIC COMMENTS

Mr. Eric Tullberg, 7884 SW 179 Terrace, suggested a map of the path adjacent to the library be given to visitors at the library.

6. VILLAGE MANAGER'S REPORT

Manager Williams reported that the Building Department will be revising their operating hours, with a slight enhancement, to be posted on the web page. He advised that the hours will be Mondays, Wednesdays, and Fridays - 7:30 a.m. to 4:30 p.m. and Tuesdays, Thursdays - 7:30 a.m. to 3 p.m.

Manager Williams advised that the stimulus project is proceeding on an aggressive schedule and a bid opening was performed. He advised that, unfortunately, the responsive bid was above the minimum variance; therefore, the Village had to reject the bid, as the rules do not allow acceptance of a bid above 15% over budget. He noted that the bid has been re-advertised and staff is hopeful to return with an acceptable amount in the near future.

Manager Williams advised that an informative town hall meeting concerning the H1N1 flu virus was held in the Village. He stated that the community health departments provide the vaccination free of charge and while the inoculation is not mandatory for anyone, it is available for those who wish to receive it. He thanked Councilwoman Stanczyk.

Councilwoman Stanczyk thanked those who attended, and encouraged all to seek out information and be cautious, always wash your hands.

Manager Williams advised that the summary of the last quarter financial revenue and expenses is provided to the Council; and, while all departments are under budget, the highest percentage under budget was the police department.

Clerk Rader provided a calendar update.

7. VILLAGE ATTORNEY'S REPORT

A. November Update: Attorney Boutsis noted that her staff report was included in the Agenda package. She advised that the current moratorium expires December 31, which is the reason for extra meetings of the Local Planning Agency.

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

Mayor Flinn asked the Council to consider moving Item 10 C. forward. He stated that he has been consistent in his responsibility as Mayor. He advised that several years ago, former Vice Mayor Linda Robinson had sought to name a park after him. Mayor Flinn noted that he respectfully declined the naming suggestion. He noted that while he is honored and humbled to have this suggestion come forward; however, he will again decline, as work remains to be done in the Village and he will be offering two facility namings for others in the future. He thanked Council and staff for this thoughtful expression; however, he believes it is correct for him to decline once again. Mayor Flinn asked that the naming concerning the Fellers be brought forward.

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO NAMING THE COMMUNITY ROOM/AMPHITHEATER LOCATED AT LUDOVICI PARK, 17641 OLD CUTLER ROAD, IN HONOR OF EDWARD AND ARLENE FELLER; PROVIDING AN EFFECTIVE DATE. (Sponsored by Councilman Howard J. Tendrich)

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

Manager Williams provided staff report. He noted that but for the insight and involvement of the Fellers in the entire complex and noted that this project may not have come to fruition were it not for the activities of the Fellers, who displayed a commitment well above and beyond the legislative role that council usually plays.

Mayor Flinn opened the public hearing. The following individuals addressed the Council: Donna Latshaw, 8825 SW 154 Terrace; Linda Robinson, 15605 SW 77 Court; Ben Oppenheim, 14120 SW 72 Avenue; Eric Tullberg, 7884 SW 179 Terrace; Gus Karger, 14950 SW 86 Avenue; Bob Orban, 6140 Paradise Point Drive; Mike Saco, 15715 SW 89 Avenue; Elaine Romer, 7705 SW 138 Terrace; Kevin Ryan, 15305 SW 77 Court; and, Dottie Barton, 15390 SW 82 Avenue. Mayor Flinn closed the public hearing.

Councilman Tendrich expressed that the Council is govern by the Sunshine Law and does not discuss Village issues prior to coming together in a public meeting.

Mayor Flinn noted that there is a policy in place concerning naming of facilities and the policy is appropriate and clear. He stated that while some may not agree with naming facilities after living people, he does not agree with this opinion. He noted that the last time he declined to have a facility named after him no one was running for office and there was no opposition. He stated that he is very proud of the Fellers and pleased that their vision resulted in such an outstanding facility. Mayor Flinn remarked that recognizing people is appropriate and the Fellers are deserved of this recognition.

Vice Mayor Pariser concurred, adding that the visions of the Fellers resulted in an asset to the community. He stated that there is precedence with naming facilities in this manner in other cities, such as JC Bermudez Park in Doral and Evelyn Greer Park in Pinecrest. He remarked that he does not agree with waiting until someone is no longer around to appreciate the gesture.

Councilwoman Stanczyk concurred. She noted that the acknowledgement is for the Fellers doing a remarkable job. She called the question. All voted in favor of the Resolution. The Resolution was approved (4-0.)

9. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; APPROVING THE SELECTION OF EDWARD REESE HOLDINGS, INC. TO PROVIDE OPERATION OF CONCESSION FACILITIES AT VILLAGE PARKS PURSUANT TO BID NO. 2009-03; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO CONTRACT NEGOTIATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Manager Williams provided staff report. He noted that staff received one acceptable proposal, the other came late and legally we could not accept it. He stated that staff is seeking authorization to begin negotiations, as the vendor is well-versed in providing this kind of service.

Mayor Flinn expressed his disappointment at receiving only one bid.

Vice Mayor Pariser concurred.

Attorney Boutsis advised that there are federal IRS guidelines that governed the procurement process, which may have been the reason for the small turnout.

Vice Mayor Pariser acknowledged that the vendor is qualified; however, he would like to see the matter re-bid in order to have more participation in the process.

Manager Williams stated that the vendor responded timely and staff would like to give them the opportunity to come to the table.

Mayor Flinn called the question. The matter failed on a tie vote (2-2, Councilman Tendrich and Councilwoman Stanczyk in favor.)

The matter shall be re-bid.

10. RESOLUTIONS REQUIRING PUBLIC HEARING

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO REAL PROPERTY; PETITION TO DISCONTINUE THE USE OF CERTAIN REAL PROPERTY AND ABANDONING A 20.00 FOOT RIGHT-OF-WAY FOR A PORTION OF LAND LYING IN SECTION 32, TOWNSHIP 55 SOUTH, RANGE 40 EAST MIAMI-DADE COUNTY, FLORIDA ALONG E. GUAVA STREET NORTH OF AND PARALLEL TO THE NORTHERLY LIMITS OF SAID BLOCK 41 BETWEEN SW 97 AVENUE (FRANJO ROAD) AND SW 98 AVENUE ROAD (HOLCOMB AVENUE) AND INTERSECTING S DIXIE HIGHWAY / US-1; AND PROVIDING AN EFFECTIVE DATE.

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

Manager Williams provided staff report. He stated that staff has reviewed the issue and looked at the street carefully and believes that there is a vital public purpose and closure creates a safer environment. Staff recommends approval.

Mayor Flinn opened the public hearing. Tom David, 381 N. Krome, Suite 200, Homestead, Florida, representing the Hagans, noted that they are committed to being a cooperative neighbor and had identified four areas of concern. He stated that he would like to meet with staff further prior to Council acting on this matter.

The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; Tom Kennedy, 17645 S Dixie Highway; and, Albert Kennedy, 9394 Haitian Drive, Cutler Bay.

Vice Mayor Pariser asked if he has to recuse himself, as a speaker contributed to his recent campaign. Attorney Boutsis asked if they had contacted Vice Mayor Pariser for lobbying. Vice Mayor Pariser stated they had not. Attorney Boutsis stated that he was able to participate in the vote.

Mayor Flinn called the question. All voted in favor of passing the Resolution (4-0.)

11. ORDINANCES FOR FIRST READING

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE'S CODE OF ORDINANCES, CHAPTER 30 ENTITLED "ZONING," CREATING DIVISION 30, ENTITLED "DEVELOPMENT APPROVAL PROCEDURES"; WHICH DIVISION SHALL BE PART OF THE VILLAGE'S LAND DEVELOPMENT CODE; PROVIDING FOR ZONING APPLICATION PROCESS, PUBLIC HEARING NOTICE REQUIREMENTS, PROCESS FOR REVIEWING VARIANCES, CODE AMENDMENTS, COMPREHENSIVE PLAN AMENDMENTS, ADMINISTRATIVE MODIFICATIONS, AND APPEAL PROCEDURES; REVIEWING THE PROCEDURES ORDINANCES AS THE LAND PLANNING AGENCY AND AS THE VILLAGE COUNCIL; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (1st Reading – Public Hearing Required)

Councilman Tendrich moved this item forward. Councilwoman Stanczyk seconded.

Attorney Boutsis provided staff report, noting that this is the last division of Chapter 30. She advised that a workshop will be held on November 10 at 6:30 pm at the Edward and Arlene Feller Community Room. She provided highlights and stated that staff is seeking input.

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

Following brief discussion. Mayor Flinn called the question. All voted in favor (4-0.)

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING 30-60.4 RELATING TO SWIMMING POOL SAFETY BARRIERS; TO REQUIRE EITHER A WALL, FENCE, AND/OR SCREEN ENCLOSURE SURROUNDING THE POOL STRUCTURE FOR CHILD SAFETY REASONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Councilwoman Stanczyk seconded.

Attorney Boutsis provided staff report.

Mayor Flinn asked why this is required.

Building Official Ed Silva noted that the ordinance addresses the safety issues for pools. He stated that the ordinance is intended to prevent a personal tragedy.

Vice Mayor Pariser moved to amend the ordinance to include that existing and/or permitted gates are exempt. Mayor Flinn asked if this would materially change the

ordinance. Attorney Boutsis replied that it would not. The motion was seconded by Councilwoman Stanczyk. All voted in favor.

Councilman Tendrich noted a scrivener's error. All voted in favor of passing the item on first reading (4-0.)

12. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING CHAPTER 30, DIVISION 60 ENTITLED "GENERAL REGULATIONS" BY ADOPTING SECTIONS 30-60.10 AND 30-60.11 RELATING TO DEMOLITION AND CONSTRUCTION FENCING REQUIREMENTS; REQUIRING FENCING OF CONSTRUCTION AND DEMOLITION SITES; REQUIRING SITE MANAGEMENT PLANS FOR CONSTRUCTION AND/OR DEMOLITION ACTIVITIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report.

Mayor Flinn opened the public hearing. Eric Tullberg, 7884 SW 179 Terrace, addressed the Council.

Following brief discussion, Vice Mayor Pariser moved to amend the Ordinance to state that should there be a disaster, the mayor and council may move to suspend this ordinance for good cause. Seconded by Councilman Tendrich. The Motion carried (3-1, Councilwoman Stanczyk opposed.)

Mayor Flinn called the question on the entire ordinance, as amended. The Ordinance was adopted unanimously (4-0.)

- B. 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.

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

Manager Williams provided staff report.

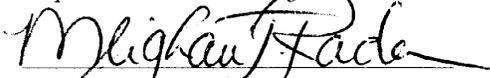
Mayor Flinn opened the public hearing. No one wished to be heard.

Mayor Flinn called the question. The Ordinance was adopted unanimously (4-0.)

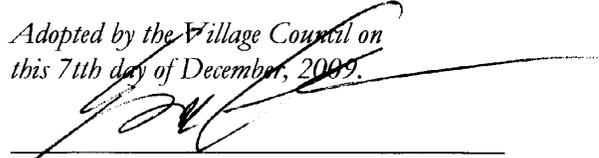
13. **OTHER BUSINESS:** None.
14. **COUNCIL COMMENTS:** None at this time.
15. **NEXT MEETING AND ADJOURNMENT**

The Meeting was officially adjourned at 9:02 pm.

Prepared and submitted by:


Meghan J. Rader, CMC
Village Clerk

*Adopted by the Village Council on
this 7th day of December, 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.