

VILLAGE OF PALMETTO BAY  
Minutes of the Regular Council Meeting of Monday, June 1, 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 Ed Feller  
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 7:25 p.m. Mayor Flinn led the pledge of allegiance.

**2. PROCLAMATIONS, AWARDS, PRESENTATIONS:** Mayor Flinn expressed how proud he was of the Westminster Boys Baseball and Girls Softball for both being state champions.

Mayor Flinn and the Council also congratulated all graduating seniors. Mayor Flinn stated that Palmetto Bay is the village of families and he encouraged all to ask their legislators what they are doing to help education.

**3. APPROVAL OF MINUTES**

- A. Minutes of the April 16, 2009 Special Council Meeting
- B. Minutes of the April 16, 2009 Local Planning Agency Meeting
- C. Minutes of the May 4, 2009 Regular Council Meeting
- D. Minutes of the May 11, 2009 Special Council Meeting

Councilman Tendrich moved to approve. Seconded by Councilman Feller. All voted in favor. The Minutes were approved.

**4. CONSENT AGENDA**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO MIAMI-DADE TRANSIT AGENCY (MTA) FOR FEDERAL FUNDING PASS-THROUGH ARRANGEMENTS WITH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) OF 2009 FEDERAL TRANSIT (FTA 5307); AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MTA TO PROVIDE TRANSIT

ENHANCEMENTS WITHIN VILLAGE BOUNDARIES; FURTHER AUTHORIZING VILLAGE OFFICIALS TO TAKE ALL STEPS NECESSARY FOR PARTICIPATION IN THE FEDERAL FUNDING GRANT PROGRAM; 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 FBM LAW OFFICES IN THE AMOUNT OF \$25,592.89; PROVIDING AN EFFECTIVE DATE.

Clerk Rader reported that no one had requested any item to be removed from Consent. Councilman Feller moved to approve the Consent Agenda items. Seconded by Councilwoman Stanczyk. All voted in favor.

## 5. REQUESTS, PETITIONS AND PUBLIC COMMENTS

Mr. Gary Sisler, 7961 SW 148 Street, spoke with regard to the use of the Coral Reef Park baseball field by Palmetto High School. Mr. Eric Tullberg, 7884 SW 174 Terrace, commented with regard to the Consent Agenda item concerning parking. He also remarked that the map on the website needs updating.

## 6. VILLAGE MANAGER'S REPORT

Mayor Flinn noted that former Vice Mayor Robinson was present.

- A. Request for Special Council Meeting to certify June 25<sup>th</sup> Election Results (June 29, 2009): Manager Williams provided an update concerning the future Village Hall site. He advised that proposals in response to the Request for Proposals/Qualifications are due on June 12<sup>th</sup> and staff anticipates awarding the contract later in the month of June.

Manager Williams reported that staff has been analyzing the repair work that needs to be done on the two bridges at Coral Reef Park. He stated that he would be providing a proposal to the Council concerning a long-term solution for the bridges. Dr. Feller asked if the bridges had deteriorated significantly since the engineering analysis performed on the bridge in 2003. Manager Williams advised that an analysis was done and, as the signature bridge is wooden and requires some maintenance, staff wants to insure it remains strong, useable, and viable. He noted that he is not confident that a full structural analysis was performed in 2003; however, staff did repair the bridge. Manager Williams advised that work has not been performed on the southern bridge since prior to incorporation.

Manager Williams advised that, in an effort to further assist the public, the Building Department recently began expanded business hours, including extending hours on Wednesday evenings throughout the month of June. Councilwoman Stanczyk thanked Building Official Ed Silva and Director Julian Perez for creating a flexible environment to serve the public appropriately. Vice Mayor Pariser asked if all

employees are Village employees. Manager Williams replied that only the inspectors are contract employees.

Manager Williams advised that the audit performed by the external auditors is complete and a report will be provided in July. He noted that maintaining the highest level of financial integrity is his highest charge. He added that the audit of the Jane Foreman Tennis Academy was complete.

Clerk Rader provided an update regarding the upcoming Special Election. She asked the Council to call for a special meeting on June 29 in order to certify the election results. The Council agreed and the special council meeting was called.

Attorney Boutsis announced that an Attorney-Client Session will be held on June 8<sup>th</sup> at 6 p.m. regarding the Palmer Trinity litigation.

7. **VILLAGE ATTORNEY'S REPORT:** June Update: Attorney Boutsis provided her written report and noted that she and Director Perez are working on concluding the land development code in July.

Mayor Flinn complimented staff for their commitment to being "green", stating that he will be pleased to have green elements of the code in place.

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

9. **RESOLUTIONS:** None at this time.

10. **RESOLUTIONS REQUIRING PUBLIC HEARING**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CERTAIN PROPERTY; PETITION TO DISCONTINUE THE USE OF CERTAIN REAL PROPERTY AND ABANDONING A RIGHT-OF-WAY FOR A PORTION OF LAND LYING IN SECTION 32, TOWNSHIP 55 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY BETWEEN E. GUAVA STREET AND EAST HIBISCUS STREET AND INTERSECTING S. DIXIE HIGHWAY/US-1; AND PROVIDING AN EFFECTIVE DATE.

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

Manager Williams advised that the street in question is located to the west of the future Village Hall site. He noted that staff wants to make this area available as part of the project, as it is infrequently used. He reported that staff had informed all adjoining, affected neighbors.

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

Following brief discussion, Councilwoman Stanczyk called the question. All voted in favor; the Resolution passed unanimously (5-0).

11. **ORDINANCES FOR FIRST READING:** None at this time.

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 PROCUREMENT; AMENDING THE VILLAGE'S PROCUREMENT CODE TO CLARIFY BID PROTEST REQUIREMENTS UNDER SECTION 2-175(o); PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report, noting that the amendment further enhances and maintains our competitive process. She explained that the Code incorporates the cone of silence provisions, and to facilitate flow, the village manager makes the recommendation and the process goes through him. She noted that a 15% bid protest amount was included.

Vice Mayor Pariser asked if the right to protest was five calendar days or business days. Attorney Boutsis replied that it was business days.

Mayor Flinn opened the public hearing. The following individuals addressed the Council: Joe Porter, 7645 SW 178 Terrace, and Owner of Tip Top, 18101 SW 98 Court, objected to the amount of the bid protest bond; and, Paul Neidhart, 15800 SW 79 Avenue, concurred.

Mayor Flinn closed the public hearing.

Mayor Flinn asked if the Village had conducted a survey of other cities' procedures.

Attorney Boutsis noted that this Ordinance was modeled from the City of Miami's Ordinance. She stated that while a survey wasn't performed, staff had reviewed the ordinances from Miami Beach and Coral Gables. She opined that this process precludes frivolous types of claims.

Mayor Flinn asked how many bid protests had been received by the Village. Manager Williams replied that two had been received.

Mayor Flinn asked the length of time required to resolve these protests. Manager Williams advised that approximately two weeks had been needed and the protests are normally tied to whether the document meets the bid specifications and is the lowest, most responsive bid.

Councilman Feller remarked that while he is in favor of the concept, the Council may wish to consider varying the protest bond so that it would not be onerous to a

proposed bidder. He suggested that the bond could be 15% for a certain amount and reduced for lower bids.

Mayor Flinn suggested a fixed amount.

Vice Mayor Pariser suggested a scale, with fixed amounts at certain levels. He explained that staff time is involved with contract, including legal fees that should be recouped if a bid protest is sought.

Mayor Flinn suggested that the filing fee should be \$100, not \$500, with a minimum bond of \$1000, no higher than \$5,000.

Manager Williams explained that the filing fee is connected to the validity of a protest. He stated that with the recent village hall project, there are 78 potential bidders on this major contract and it could be possible that a firm will not agree on the deliberations.

Following discussion, Vice Mayor Pariser suggested the following scale: under \$100K contract – 5%; over \$100K to \$500K contract – 7.5%; over \$500K contract – 10%.

Mayor Flinn noted that he believes the amount of a bond should not exceed \$1,000 on a project under \$500K and that 5% on projects over \$500K would be acceptable. He added that the Village has rarely had a bid protest.

Councilman Tendrich moved to include the amounts to be as follows: \$500 bond for projects up to \$100K; \$1,000 bond for projects over \$100K up to \$500K. Seconded by Councilwoman Stanczyk. Following brief discussion, Mayor Flinn called the question. The Motion passed (3-2, Vice Mayor Pariser and Councilman Feller opposed.)

Councilman Feller moved to include 7.5% for projects exceeding \$500,000. Seconded by Councilman Tendrich. Mayor Flinn called the question. The Motion passed (3-2, Mayor Flinn and Councilwoman Stanczyk opposed.)

Councilman Tendrich suggested a \$150 filing fee. Councilwoman Stanczyk seconded. Following brief discussion, the Motion passed (3-2, Vice Mayor Pariser and Councilman Feller opposed.)

Attorney Boutsis asked Council to amend the Ordinance to clarify five (5) business days (line 15, page 2). Councilman Feller moved to amend. Seconded by Councilwoman Stanczyk. All voted in favor.

Councilman Feller moved to adopt the Ordinance as amended. Seconded by Councilwoman Stanczyk. Mayor Flinn called the question. The Ordinance, as amended, was adopted unanimously (5-0).

**13. OTHER BUSINESS**

Mayor Flinn remarked that concerning Senate Bill 360, although the Village had passed a resolution encouraging its veto, he believes the Council should take further individual action, making phone calls or speaking to legislators.

Councilwoman Stanczyk stated that she would like the Council to consider establishing a youth advisory committee at the next Committee of the Whole Meeting.

Councilman Tendrich noted that many children are involved in the community, whether through working community service hours or assisting with the picnic and other projects; therefore, he suggested that an advisory board may not be necessary.

Mayor Flinn remarked that there are a lot of opportunities for the community to get involved, particularly with the library park.

Vice Mayor Pariser remarked that he and Councilwoman Stanczyk had both attended the Town of Miami Lakes' State of the Town Address and were impressed with the active youth and elder groups in Miami Lakes.

**14. COUNCIL COMMENTS:** No additional comments at this time.

**15. NEXT MEETING AND ADJOURNMENT**

The Meeting was officially adjourned at 8:50 pm.

*Prepared and submitted by:*

  
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Meghan J. Rader, CMC  
Village Clerk

*Adopted by the Village Council on  
this 13<sup>th</sup> day of July, 2009.*

  
\_\_\_\_\_  
Eugene P. Flinn, Jr., Mayor

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