

**VILLAGE OF PALMETTO BAY**  
**Minutes of the Regular Council Meeting of Monday, June 7, 2010**  
**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 7:10 p.m. Mayor Flinn asked the Boy Scouts of Troop 941 to lead the pledge of allegiance.

**2. PROCLAMATIONS, AWARDS, PRESENTATIONS**

- A. Proclamation for Westminster Christian School Baseball team - 2A State Title Champions: Head Coach Head Coach Emil Castellanos was recognized and announced the school's victory. Mayor Flinn expressed his appreciation to the coaches and players and thanked them for their hard work.
- B. Proclamation for Eagle Scouts of Troop 457: Mayor Flinn recognized the Troop Leaders and allowed Head Master David Ziska to say a few words in support of scouting. Mayor Flinn expressed the Village's pride in the dedication of the Eagle Scouts.
- C. Proclamation for Tyler Kalbac, Silver Knight Award Winner: Mr. Kalbac was unable to attend this evening.
- D. Proclamation honoring retiring Officer Alberto Juliachs – 30 years of service: Mayor Flinn noted that one of the most important things that the village does is to keep our children safe. He asked Commander Gregory Truitt to introduce Officer Alberto Juliachs. Commander Truitt provided Officer Juliachs history with the Police Department. Mayor Flinn thanked Commander Truitt and Manager Williams for their leadership. He expressed his gratitude to Officer Juliachs for his dedication to Palmetto Bay, particularly encouraging safe streets around our schools. Officer Juliachs thanked the Council and the Mayor.

**3. APPROVAL OF MINUTES**

- A. Minutes of the Regular Council Meeting of May 3, 2010: Councilman Feller moved to approve the Minutes as submitted. Seconded by Councilman Tendrich. All voted in favor (5-0.)

**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 \$29,947.37; PROVIDING AN EFFECTIVE DATE.

Clerk Rader reported that Councilwoman Stanczyk timely removed Item 4 A from Consent.

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN AGREEMENT WITH THE CORRADINO GROUP, INC. FOR THE DEVELOPMENT OF A SAFE ROUTES TO SCHOOL STUDY AND TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$50,000.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilwoman Stanczyk moved to approve the remaining Consent Agenda item. Seconded by Vice Mayor Pariser. All voted in favor. The Resolution passed unanimously (5-0.)

- 5. REQUESTS, PETITIONS AND PUBLIC COMMENTS:** The following individual addressed the Council: Eric Tulberg, 7884 SW 179 Terrace.

**6. VILLAGE MANAGER'S REPORT**

Manager Williams reported that the initial property assessments were released on June 1<sup>st</sup>. He stated that Palmetto Bay is expected to have a property reduction of approximately 8.2%. He noted that Palmetto Bay will be actively working on the budget over the next few weeks.

Manager Williams reported that administration has authorized a garage sale above the maximum of two, which decision was deemed necessary based upon the amount of materials.

Manager Williams further reported that the Village has been quite successful with foreclosure collection, with Director Julian Perez and his staff having collected \$111,000 in property clean-up liens for 2008-09. For the fiscal year 2009-10, \$184,000 in collections has been received. He concluded that the tenacity of the Planning and

Zoning staff has been beneficial to the Village in bringing back revenue that was spent to improve the Village.

Manager Williams provided a brief update of the hurricane preparation meeting that was held with staff.

Clerk Rader provided the calendar update.

Mayor Flinn thanked Parks and Recreation Director Fanny Carmona for the outstanding job she has done working with our schools and the Eagle Scouts.

## **7. VILLAGE ATTORNEY'S REPORT**

- A. June Update: Attorney Boutsis noted that she had provided her written report to Council.

## **8. BOARD AND COMMITTEE REPORTS**

- A. Tree Advisory Board Update: Mr. John DuBois provided a report on behalf of the Committee. He noted that the Committee is working on the tree care ordinance and furthering community awareness. He stated that the group would like to be further involved with activities such as education materials, involvement in Arbor Day, and wildlife habitat improvement. He noted that the members should be given the opportunity to attend continuing education courses.

Vice Mayor Pariser directed staff to bring the draft tree care ordinance to a Committee of the Whole Meeting prior to it being sent to Council.

## **9. RESOLUTIONS**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE ART-IN-PUBLIC PLACES (AIPP) PROGRAM, ACCEPTING THE RECOMMENDATION OF THE AIPP ADVISORY BOARD TO INCORPORATE AN OBELISK DESIGNED BY BBC ENGINEERING AS THE FOUNDATION FOR THE INCORPORATION OF A PUBLIC ART COMPONENT TO MEET THE AIPP REQUIREMENTS FOR A TRAFFIC CIRCLE AT THE INTERSECTION OF SW 168 ST/RICHMOND DRIVE AND SW 87 AVE/GALLOWAY ROAD; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER AND APPROVE EXPENDITURE OF FUNDS FROM THE ART-IN-PUBLIC PLACES FUND IN AN AMOUNT NOT TO EXCEED \$29,200; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Director Perez provided staff report. He explained that the artwork is an obelisk for the round-about project.

Councilman Feller asked the amount of the art-in-public-places account. Manager Williams stated that he would provide the exact figure to the Council.

Mayor Flinn called the question. All voted in favor. The Resolution was adopted unanimously (5-0).

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE ART-IN-PUBLIC PLACES (AIPP) PROGRAM, ACCEPTING THE RECOMMENDATION FROM THE AIPP ADVISORY BOARD TO APPROVE THE GLASS AND TILE MOSAIC AS DESIGNED BY NORA M. CERVINO TO MEET THE AIPP REQUIREMENTS FOR THE CORAL REEF PARK CONCESSION STAND / PAVILLION, LOCATED AT 7895 SW 152<sup>ND</sup> STREET; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER AND APPROVE EXPENDITURE OF FUNDS FROM THE ART-IN-PUBLIC PLACES FUND IN AN AMOUNT NOT TO EXCEED \$7,000; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Director Perez provided staff report, noting that this recommendation follows a public call for artists, wherein the top three were invited to make presentations before the Board. He noted that the artwork is an optical illusion piece to be placed at Coral Reef Park. The artist Nora Cervino was recognized.

Vice Mayor Pariser asked for further clarification. Director Perez noted that the proposal numbered 1 and 4 were being recommended by the board.

The artist, Nora Cervino, gave a statement, expressing her inspiration and noting that she is desirous of combining the piece with the building and surrounding environment.

Following brief discussion, all voted in favor. The Resolution was adopted unanimously (5 to 0.)

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PROCUREMENT; DIRECTING THE VILLAGE MANAGER TO

IDENTIFY AVAILABLE PROVIDERS OF MUNICIPAL RADIO STATIONS IN ORDER FOR THE VILLAGE COUNCIL TO CONSIDER THE OPTION OF ESTABLISHING A RADIO STATION TO SERVE THE RESIDENTS OF THE VILLAGE OF PALMETTO BAY; PROVIDING AN EFFECTIVE DATE.

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

Manager Williams provided staff report.

Mayor Flinn noted that the City of Doral piggy-backed off the Key Biscayne contract and that he believes that radio may be another means to reach out to the residents, particularly during a crisis or other major city event. He stated that the station would not be intended to provide 24/7 programming.

Mayor Flinn called the question. All voted in favor. The Resolution was adopted unanimously (5-0).

- D. 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 \$29,947.37; PROVIDING AN EFFECTIVE DATE. (from Consent Agenda)

Councilman Tendrich moved this item forward. Councilman Feller seconded this motion.

Councilwoman Stanczyk motion to sever the 5<sup>th</sup> line item on page 2 – the matter concerning Attorney Boutsis's conversation with Attorney George Knox. Seconded by Vice Mayor Pariser.

Councilman Feller asked the reason for this motion. Councilwoman Stanczyk stated that she was told that Attorney Knox would provide information to Council and answer question; she believes he did not do this. She stated that she would like Attorney Boutsis to have the remainder of her invoice paid with the exception of this item.

Councilman Feller stated that he understood that Attorney Knox was to provide legal opinion as an outside, uninvolved individual in order to provide additional guidance to the Council. He concluded that it was proper for Attorney Boutsis to converse with him.

Councilman Tendrich added that Attorney Knox was an expert in the field and gave his opinion, as he was asked to do.

Mayor Flinn called the question. The motion failed (3 to 2, Councilwoman Stanczyk and Vice Mayor Pariser voting in the opposition.)

Councilman Tendrich moved to approve the entire invoice. Seconded by Councilman Feller. The Resolution passed (4 to 1, Councilwoman Stanczyk opposed.)

**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, RELATING TO CODE COMPLIANCE; UPDATING CODE COMPLIANCE PROCEDURES; UPDATING APPELLATE LANGUAGE; CONFORMING ORDINANCE LANGUAGE WITH IMPLEMENTATION TO CALL THE DEPARTMENT "CODE COMPLIANCE" AND NOT "CODE ENFORCEMENT"; AND PROVIDING FOR THE VILLAGE'S CIVIL INFRACTION FEE SCHEDULE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Director Perez and Attorney Boutsis provided staff report. They explained that the Village had previously followed the County Code for its fee schedule; however, with the conclusion of the Land Development Code, this is no longer the appropriate method under which to operate.

Mayor Flinn thanked staff for their efforts and suggested that the Ordinance be included on the website.

Director Perez noted that many of the infractions are given warnings first, unless it is a health/safety situation.

Councilwoman Stanczyk noted while some fees have been reduced, she explained that she did not feel it was appropriate to have fines concerning special events when the village does not have a special event ordinance. She also noted that overgrown vacant lots should have a courtesy notice.

Attorney Boutsis advised that in the case of a foreclosure, staff removed the courtesy notice.

Director Perez stated that with an overgrown lot, the resident is contacted, overgrown and abandoned is not provided courtesy notices.

Following discussion, Vice Mayor Pariser asked counsel to consider revising the language so that courtesy notices are provided to items that are not life threatening or safety or environmental.

Councilwoman Stanczyk moved to remove Class 1 – Special Events and Class 3 - Commercial Special Events. Councilman Tendrich seconded the motion. All voted in favor (5-0.)

Mayor Flinn called the question. All voted in favor of passing the amended Ordinance on first reading and scheduling for second reading (5-0.)

- B. 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 50, ENTITLED "ZONING DISTRICTS"; TO LIMIT RESIDENTIAL PROPERTIES TO ONE UTILITY SHED OF 100 SQUARE FEET; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Howard Tendrich]

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

Director Perez provided staff report. Attorney Boutsis advised that there is currently no limitation regarding the number of sheds in the past.

Mayor Flinn asked if set backs are modified. Attorney Boutsis stated that set backs are not changed.

Mayor Flinn asked the number the County allows. Attorney Boutsis noted that the County allows one.

Vice Mayor asked for clarification. Director Perez noted that a shed can not exceed 8 feet in height and must comply with accessory set back requirements; however, if this is complied with, the number of sheds is not limited.

Councilman Tendrich stated that with the majority of the properties in Palmetto Bay being less than one acre.

Mayor Flinn suggested that grandfathering of the sheds be considered.

Councilman Feller opined that there should be some type of restriction, as it would not be appropriate to have multiple sheds on small properties.

Councilman Tendrich moved to allow two sheds on properties over one acre. Seconded by Councilman Feller.

Mayor Flinn suggested allowing grandfathering of two sheds to be rebuilt if you already have two sheds, regardless of property size. Attorney Boutsis noted that she would have to research this option.

Mayor Flinn opened the matter for public hearing. The following individuals addressed the Council: Henry Clifford, 8875 SW 171 Street; Richard Barnet, 8450 SW 174 Street; John Dubois, 17575 Old Cutler Road; Gary Pastorella, 6940 SW 142 Terrace; Eric Tullberg, 7884 SW 179 Terrace; and Jim Schultz, Old Cutler and SW 146 Terrace.

Discussion ensued regarding the standard size of a shed, the definition of a shed, and the grandfathering.

Councilman Tendrich moved to modify the size to 12 x 12 or 144 square feet. Seconded by Councilwoman Stanczyk. All voted in favor (5-0.)

Mayor Flinn called the question. All voted in favor of passing the amended Ordinance on first reading and scheduling for second reading (5-0.)

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE EXISTING RESIDENTIAL SHED AMNESTY PROGRAM; PROVIDING FOR A DEADLINE AFTER OBTAINING ZONING APPROVAL UNDER THE SHED NON-USE ADMINISTRATIVE OR PUBLIC HEARING VARIANCE TO SUBMIT FOR BUILDING DEPARTMENT REVIEW AND APPROVAL; FAILURE TO PAY FOR A PERMIT WITHIN 45 DAYS SHALL RESULT IN REVOCATION OF ZONING APPROVAL; PROVIDING FOR EXTENSION OF THE PERMIT DEADLINE BASED UPON GOOD CAUSE; PROVIDING FOR NULLIFICATION OF ZONING APPROVAL FOR FAILURE TO COMPLETE BUILDING PERMIT APPROVAL PROCESS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Member Howard Tendrich].

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

Director Perez noted that when the shed amnesty went forward, there was no deadline within which the resident had to begin the process.

Attorney Boutsis added that there is a two year time period following zoning approval and this Ordinance would place a deadline for those who received amnesty to 45 days following public hearing.

Following discussion, Councilman Feller moved that this matter be considered at the next Committee of the Whole meeting. Seconded by Councilwoman

Stanczyk. The motion passes (4-1) – the item is tabled pending discussion at a Committee of the Whole meeting.

- D. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING CHAPTER 27 RELATING TO LOT MAINTENANCE AND ABANDONED PROPERTY; PROVIDING FOR MISCELLANEOUS OFFENSES RELATING TO LOT RIGHT-OF-WAY, PARKING LOT, FENCE, WALL AND ENTRANCE FEATURE MAINTENANCE, RENUMBERING THE VILLAGE'S EMERGENCY LOT MAINTENANCE FOR ABANDONED/FORECLOSED PROCEDURES PROVISIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report, noting that this is exactly what was included in the Miami-Dade County Code.

Mayor Flinn noted that the Village is not enacting a stricter code.

Councilwoman Stanczyk moved to table the matter to the next Committee of the Whole meeting. Seconded by Vice Mayor Pariser.

Mayor Flinn asked if she intended to lessen the provisions. She replied that she wished further discussion. The motion failed (2-3, Vice Mayor Pariser and Councilwoman Stanczyk being in support.)

Mayor Flinn asked for any modifications. Attorney Boutsis noted that the only change is under Section 27-22, maintenance standards for non-residential – we included vines and invasive vines on non-residential properties and that more than 25% of area be maintained, rather than 50%. She asserted that all else is identical to chapter 19 of Miami-Dade code.

Mayor Flinn called the question. The Ordinance passed on first reading (4 to 1, Councilwoman Stanczyk opposed). The matter shall be scheduled for second reading.

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

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO NEGOTIATIONS FOR A LOAN IN AN AGGREGATE AMOUNT NOT TO EXCEED \$14,000,000, PLUS COST OF ISSUANCE, FROM THE FLORIDA MUNICIPAL LOAN COUNCIL;

APPROVING THE FORM OF AND THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH THE FLORIDA MUNICIPAL LOAN COUNCIL; APPROVING THE EXECUTION AND DELIVERY OF A BOND PURCHASE CONTRACT; APPROVING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION WITH THE MAKING OF SUCH LOAN, AND PROVIDING AN EFFECTIVE DATE.

Manager Williams provided staff report. He advised that with the adoption of this Ordinance, the line of credit will be released.

Mayor Flinn asked how much the Village will save. Manager Williams explained that due to the diligence of the Mayor and Council, the Village will no longer be paying \$1.7 million in mitigation; and, with the exception of specific line items, such as CITT. He concluded that the Village will realize \$700,000 reduction in debt.

Mayor Flinn opened the public hearing. The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; and, John DuBois, 17575 Old Cutler Road.

Following discussion, Mayor Flinn called the question. All voted in favor. The Ordinance passed unanimously (5-0.)

### **13. OTHER BUSINESS**

Vice Mayor Pariser asked when the next Committee of the Whole meeting will be scheduled. Mayor Flinn asked staff to consider a date in the near future.

### **14. COUNCIL COMMENTS**

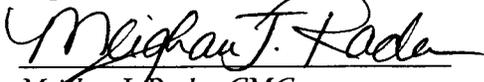
Mayor Flinn expressed that he is proud of and pleased with the Village's involvement with the schools, working hard to set an example and help children become responsible adults.

Councilman Feller stated that he is pleased that the Council passed the ordinance that insures the village's finances for the future and spreads the debt appropriately. He stated that with regard to the County Assessor's information, Palmetto Bay reduced 8.2, the eighth lowest decrease. He concluded that after eight years of being a village, we are one of the most successful areas, as evident by the low tax reduction.

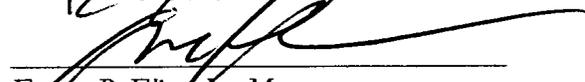
15. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 10:15 pm.

Prepared and submitted by:

  
Meghan J. Rader, CMC  
Village Clerk

Adopted by the Village Council on  
this 12 day of July, 2010.

  
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.