

**VILLAGE OF PALMETTO BAY  
MINUTES OF THE MONDAY, JULY 2, 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 Ron E. Williams  
Village Attorney Eve A. Boutsis  
Village Clerk Meighan J. Rader

Mayor Flinn led the pledge of allegiance.

**II. PROCLAMATIONS, AWARDS, PRESENTATIONS**

A. Presentation to the Honorable Senator Larcenia Bullard and Honorable Congressman Mario Diaz Balart. Mayor Flinn and the Council thanked Congressman Diaz-Balart for his support and for coming to visit the Village and its parks. He presented the Congressman with a key to the Village. Congressman Diaz-Balart presented Mayor Flinn with a ceremonial United States flag and a certificate.

Mayor Flinn and the Council presented a key to the Village to Senator Larcenia Bullard and thanked her for her constant and continuing support. Senator Bullard thanked the Village Council for their hard work and provided a post-session report.

**III. APPROVAL OF MINUTES**

- A. Minutes of the June 11, 2007 Council Meeting
- B. Minutes of the June 18, 2007 Special Council Meeting

Councilman Feller moved to approve the Minutes. Seconded by Councilman Neidhart. All voted in favor. The Motion carried (5-0).

#### **IV. VILLAGE MANAGER'S REPORT**

Manager Williams provided a report to the Council. He advised that staff is in the process of finalizing the draft budget for Council review, anticipating delivery by August 1<sup>st</sup>. He noted that the State of the Village remains tentatively scheduled for October 24. Mr. Williams noted that progress continues on Palmetto Bay Park and the dog-friendly Perrine Wayside Park with a late-November opening. He stated that staff will be meeting the principals of the library project in the near future. Mr. Williams concluded by advising that planning for the five-year anniversary of the Village is underway and staff is open to suggestions from Council.

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

Attorney Boutsis reported that the Darcy/Bolger property is being cleared. She advised that she would provide legal comment as items come forward.

#### **VI. BOARD AND COMMITTEE REPORTS**

- A. Special Events Advisory Committee: Vice Mayor Robinson invited Committee Chair Donna Coughlin to come forward. She thanked the Committee for their hard work with the annual celebration picnic.

Ms. Donna Coughlin provided a report. She noted that next year's event would cost less as the Village won't have to rent a stage due to the recent construction of the pavilion at the Park. She thanked the Committee for their assistance.

#### **VII. 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 \$18,853.56; PROVIDING AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, IN SUPPORT OF THE SOUTH WATER MANAGEMENT DISTRICT'S REQUEST FOR CONGRESSIONAL APPROPRIATION OF FUNDS NECESSARY TO BRING THE HERBERT HOOVER DIKE INTO COMPLIANCE WITH CURRENT LEVEE PROTECTION SAFETY STANDARDS AND TO EXPEDITE FUNDING FOR THE IMPROVEMENTS THROUGH PROMPT ENACTMENT OF THE ENERGY AND WATER APPROPRIATIONS BILL OR OTHER MECHANISM; AND PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Eugene P. Flinn, Jr.)
- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN INTERLOCAL

AGREEMENT WITH MIAMI-DADE COUNTY FOR FRANCHISES FEES REMITTED BY FLORIDA POWER & LIGHT TO THE COUNTY FOR RIGHTS TO UTILIZE PUBLIC RIGHT OF WAY LOCATED WITHIN THE VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Feller moved to approve the Consent Agenda. Seconded by Councilman Neidhart. All voted in favor. The Resolutions were approved unanimously (5-0).

**VIII. RESOLUTIONS**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE FIVE YEAR ANNIVERSARY AND THE STATE OF THE VILLAGE EVENTS; AUTHORIZING THE VILLAGE MANAGER TO ALLOCATE FUNDING IN AN AMOUNT NOT TO EXCEED \$35,000 FOR THE PLANNING AND IMPLEMENTATION OF THE FIVE-YEAR ANNIVERSARY, INCLUDING PROMOTIONAL MATERIALS AND OTHER RELATED EVENTS; AND PROVIDING AN EFFECTIVE DATE.

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

Manager Williams provided staff report. He stated that staff seeks funds to begin the development of 5 year anniversary presentation materials and related events.

All voted in favor of the proposed Resolution. 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 THE OLYMPIC TRIALS COMMITTEE; ADDING MEMBERS TO THE OLYMPIC TRIALS COMMITTEE AND ESTABLISHING A LIAISON TO MIAMI-DADE COUNTY PARKS AND RECREATION DEPARTMENT AND USA TRACK AND FIELD.

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

Manager Williams advised that staff seeks deferral.

Vice Mayor Robinson moved to defer the matter to the August 6 Council Meeting. Seconded by Councilman Neidhart.

Manager Williams noted that Mr. Pozo could not be present this evening.

Mayor Flinn suggested that the motion be amended to not include date certain.

Vice Mayor Robinson moved to amend to defer the matter. Seconded by Councilman Neidhart. Following brief discussion, all voted in favor of the motion (5-0).

- 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 144<sup>TH</sup> STREET FROM SW 87<sup>TH</sup> AVENUE TO SW 74<sup>TH</sup> AVENUE IN THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO CONTRACT WITH THE MARLIN ENGINEERING, INC. TO PROVIDE CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR THIS AREA AND TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$26,837.80 ON A PROJECT THAT WILL SUBSTANTIALLY IMPROVE THE FLOW OF TRAFFIC AND PROVIDING FOR AN EFFECTIVE DATE.

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

Manager Williams noted that the Village had utilized Marlin Engineering (one of the village's approved vendors) and the design is complete; bid pending. He advised that a mandatory pre-bid conference today and staff is asking for Marlin to be selected to manage the project, as they had designed the plans and staff has been satisfied with their previous service to the Village.

Attorney Boutsis noted that Marlin Engineering is a "rotating" vendor, thus authorization would be acceptable.

Manager Williams explained that the project is part of the traffic master plan and includes several traffic calming devices.

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

- D. A RESOLUTION OF THE MAYOR AND THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, REQUESTING THAT THE FLORIDA LEAGUE OF CITIES ADOPT A RESOLUTION SUPPORTING HOUSE BILL 7167 WHICH WAS APPROVED BY THE GOVERNOR AND FOR THE FLORIDA LEAGUE OF CITIES TO FURTHER REQUEST THAT MIAMI-DADE COUNTY ABIDE BY THE LEGISLATION; PROVIDING FOR AN EFFECTIVE DATE

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

Attorney Boutsis provided staff report, noting that Governor Crist signed House Bill 7167 "anti-mitigation" into law. She stated that Palmetto Bay is asking the

Florida League of Cities to assist Palmetto Bay by supporting the bill and asking Miami-Dade County to abide by the legislation.

Councilman Feller asked if the Miami-Dade League had passed similar legislation.

Attorney Boutsis replied that the Miami-Dade League had done so before the bill was drafted.

Councilman Feller asked Attorney Boutsis to include the Senate Bill number 2848.

All voted in favor of the proposed Resolution. The Motion carried (5-0).

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LITIGATION; AUTHORIZING THE VILLAGE ATTORNEY TO HIRE BRUCE S. ROGOW, P.A., TO PROVIDE LITIGATION SERVICES RELATING TO A POSSIBLE ACTION AGAINST MIAMI-DADE COUNTY RELATING TO CHARTER ENFORCEMENT AND ENFORCEMENT OF STATE LAW CHAPTER 2700-26; AUTHORIZING A FUNDING ALLOCATION FOR ANY SUCH LITIGATION; PROVIDING FOR THE AUTHORIZATION OF PAYMENT AND COSTS TO MR. ROGOW OF UP TO \$35,000.00; AND PROVIDING AN EFFECTIVE DATE.

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

Attorney Boutsis provided Mr. Rogow's biography and asked for approval.

Councilman Neidhart asked if the other affected cities were joining Palmetto Bay in this defense.

Mayor Flinn noted that the City of Doral has done so and the Town of Miami Lakes is expected to do so this evening.

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

Councilman Feller to hear the ordinance concerning street sign bonding as the next item. Seconded by Councilman Feller.

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO STREET SIGN BOND PROGRAM; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A FINANCE AGREEMENT WITH REGIONS BANK; PROVIDING FOR A TWO MILLION FIVE HUNDRED THOUSAND

DOLLAR TAX EXEMPT LOAN UNDER A 12 YEAR TERM, AT 3.90 PERCENT FIXED INTEREST RATE; PROVIDING FOR ORDINANCES IN CONFLICT; PLEDGING 1/2 CENT TAX FUNDS AS THE REVENUE STREAM FOR FUNDING THE PROGRAM; CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Mr. Jerry Heniser of Regions Bank was present. He thanked Council for their diligence.

Attorney Boutsis provided staff report.

Mayor Flinn opened the public hearing.

Mr. Eric Tullberg, 7884 SW 179 Terrace, spoke in support of the project.

Mayor Flinn closed the public hearing.

A roll call vote was taken, as follows: Mayor Flinn: yes; Vice Mayor Robinson: yes; Councilman Feller: yes; Councilman Neidhart: yes; and, Councilwoman Stanczyk: yes. The Ordinance was adopted unanimously.

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AN EXISTING AGREEMENT WITH INTERNATIONAL SIGN AND DESIGN, INC., TO PROVIDE FABRICATION, INSTALLATION AND REMOVAL OF REFLECTIVE STREET NAME SIGNAGE WITHIN THE VILLAGE; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER IN AN AMOUNT UP TO \$1,712,000; AND PROVIDING AN EFFECTIVE DATE. (To be considered following item XI E.)

Councilman Neidhart moved the item forward. Seconded by Councilwoman Stanczyk.

Manager Williams advised that approval allows Public Works to proceed with the sign program. He noted that this request does not include the over-head mast-signs at this time, as staff is continuing discussions with Miami-Dade County concerning the possibility of lighting the mast arms.

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

- IX. RESOLUTIONS REQUIRING PUBLIC HEARING**
- X. ORDINANCES FOR FIRST READING AND EMERGENCY ORDINANCES**
- XI. 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 THE VILLAGE'S CODE OF ORDINANCES, CHAPTER 30 ENTITLED "ZONING," CREATING DIVISION 80, ENTITLED "PLATTING AND SUBDIVISION"; WHICH DIVISION SHALL BE PART OF THE VILLAGE'S LAND DEVELOPMENT CODE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Director Weintraub provided staff report, noting that the four ordinances to be discussed will be chapters of the Land Development Code. She noted that this division includes technical information that must be included prior to plat approval. She added that there will no longer be a "tentative plat approval", as the process is simplified and all plat approvals must be in final form. She stated that she had received no emails or communications regarding the matter.

Mayor Flinn thanked Director Weintraub for her hard work on the proposed Ordinances.

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

A roll call vote was taken, as follows: Mayor Flinn: yes; Vice Mayor Robinson: yes; Councilman Feller: yes; Councilman Neidhart: yes; and, Councilwoman Stanczyk: yes. The Ordinance was adopted unanimously.

- 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 110, ENTITLED "PRIVATE SCHOOLS AND CHILD CARE FACILITIES"; WHICH DIVISION SHALL BE PART OF THE VILLAGE'S LAND DEVELOPMENT CODE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Director Weintraub provided staff report, noting that the ordinance contains guidelines for the permitting of a private school and child care facility.

Mayor Flinn opened the public hearing.

The following individuals were heard: Stanley Kaplan, 18220 SW 78 Place, attorney for Concerned Citizens of Old Cutler, Inc.; Henry Clifford, 8875 SW 171 Street; and, Stanley Kowlessar, 8360 SW 140 Drive.

Mayor Flinn closed public hearing.

Councilwoman Stanczyk asked staff to provide more specific definitions of buffering, screening, etc., in order to assuage citizens' concerns.

Councilman Feller asserted that the division is drafted for inclusion in the code, not directed toward a specific site. He remarked that general definitions are included that would affect any private school and he believes the definitions are appropriate.

Mayor Flinn asked if the ordinance contains any language that would prevent the village from imposing a level of definition at the time of the hearing.

Director Weintraub stated that the Council could impose conditions on a case-by-case basis and that each new private/child care facility will require a public hearing.

Vice Mayor Robinson concurred with Councilwoman Stanczyk.

Councilman Neidhart stated that he, too, believes the definitions are appropriate and that a "pre-hearing" on the zoning application could be performed.

Attorney Boutsis remarked that many developers chose on their own to meet with community groups. She advised that if exact definitions are included, the Village may lose discretion, i.e., if the Village wants the school to construct a larger wall, the Village may not be allowed to impose the requirement if the definition is stringent.

Following brief discussion, a roll call vote was taken, as follows: Mayor Flinn: yes; Vice Mayor Robinson: no; Councilman Feller: yes; Councilman Neidhart: yes; and, Councilwoman Stanczyk: no. The Ordinance was adopted (3-2).

- C. 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 120, ENTITLED "PUBLIC CHARTER SCHOOL FACILITIES"; WHICH DIVISION SHALL BE PART OF THE VILLAGE'S LAND DEVELOPMENT CODE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Director Weintraub provided staff report. She stated that the ordinance is the same as the one that is currently in affect; however, adoption would insure that the provisions become effective on October 1<sup>st</sup>. She advised that there are currently no applications for charter schools pending.

Attorney Boutsis concurred.

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

A roll call vote was taken, as follows: Mayor Flinn: yes; Vice Mayor Robinson: yes; Councilman Feller: yes; Councilman Neidhart: yes; and, Councilwoman Stanczyk: yes. The Ordinance was adopted unanimously (5-0).

- D. 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 130, ENTITLED "ALCOHOLIC BEVERAGES"; WHICH DIVISION SHALL BE PART OF THE VILLAGE'S LAND DEVELOPMENT CODE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Director Weintraub stated that this Ordinance provides procedures for the sale of alcoholic beverages and defines locations between businesses who sell same and from schools and houses of worship. She advised that the Ordinance prohibits sale of liquor on Sundays.

Mayor Flinn opened the public hearing.

The following individuals addressed the Council: Howard Tendrich, 16500 SW 74 Avenue; and Eric Tullberg, 7884 SW 179 Terrace.

Following brief discussion, a roll call vote was taken, as follows: Mayor Flinn: yes; Vice Mayor Robinson: yes; Councilman Feller: yes; Councilman Neidhart: yes; and, Councilwoman Stanczyk: yes. The Ordinance was adopted unanimously (5-0).

## **XII. REQUESTS, PETITIONS AND PUBLIC COMMENTS**

The following individuals addressed the Council: Mr. Chuck Latshaw, 8825 SW 154 Terrace; Eric Tullberg, 7884 SW 179 Terrace; Stanley Kowlessar, 8360 SW 140 Drive; and Henry Clifford, 8875 SW 171 Street.

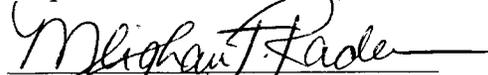
## **XIII. MAYOR AND COUNCIL COMMENTS**

- A. Mayor Flinn remarked that staff should consider enacting a code concerning driveway designs for drive-through establishments that will take the safety of vehicles into consideration.
- B. Councilwoman Stanczyk stated that the code should include language that requires zoning applicants to be responsible for impact fees. Brief discussion ensued. Staff noted that it could be implemented.
- C. Councilman Feller remarked that he was pleased with the new street signage and congratulated Village schools for their A ratings.

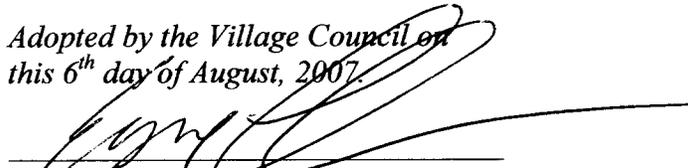
**XIV. OTHER BUSINESS**

**XV. NEXT MEETING AND ADJOURNMENT:** The meeting adjourned at 9:35 p.m.

*Prepared and submitted by:*

  
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Meighan J. Rader, CMC  
Village Clerk

*Adopted by the Village Council on  
this 6<sup>th</sup> day of August, 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.