

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, OCTOBER 7, 2003
MEETING OF THE VILLAGE COUNCIL**

DEERING ESTATE VISITOR 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
Councilmember Ed Feller
Councilmember Paul Neidhart
Councilmember John Breder

The following staff members were present:
Village Manager Charles D. Scurr
Village Attorney Earl Gallop
Village Clerk Meighan Pier

Mayor Flinn asked State Senator Larcenia Bullard to lead the pledge of allegiance.

II. PROCLAMATIONS, AWARDS, PRESENTATIONS

- A. Presentation by citizen Gunther Karger regarding his recent trip to the Town of Kippenheim-Schmieheim, Germany, honoring the survivors of the Holocaust during the “Week of Remembrance”

Mr. Karger reported that he had presented the Village’s proclamation on September 6th in Germany and appreciated the Village providing the proclamation. He provided his personal history as he was the only Jewish survivor of the town (having been sent to Sweden at age 6), as all others died in the Holocaust.

III. APPROVAL OF MINUTES

- A. Minutes of the Special Council Meeting of August 28, 2003

Councilman Breder moved to approve the Minutes of August 28, 2003. Seconded by Councilman Feller. All voted in favor. The Motion carried.

IV. VILLAGE MANAGER'S REPORT

Mr. Scurr provided a brief report, noting that the Village successfully adopted its first budget and also assumed responsibility of the Parks.

Commander Mouring reported that the Village received 33 emergency calls in the month of September, with an average dispatch time of 2.11 minutes. He encouraged citizens to set up crime watch groups in their neighborhoods. He noted that his department had been in touch with several schools and will increase police services for Halloween.

Mr. Scurr reported that the Village has confirmed receipt of the MPO grant. He noted that the next Village Council meeting has been scheduled for Monday, November 3rd and the first annual State of the Village address is scheduled for November 7th. He provided information with regard to the annual address. He concluded that the Village will be seeking input with regard to the former Burger King location Charette.

Mr. Scurr introduced Jose Fuentes of the South Florida Water Management District (SFWMD), State Senator Larcenia Bullard, State Representative Julio Robaina and the Palmetto Bay Legislative Team, Ron Book and Bob Levy.

Senator Bullard thanked those in attendance and congratulated the Village. She noted that she is pleased to be able to present the grant award in conjunction with the SFWMD.

Representative Robaina thanked the Council and the citizens for allowing him the opportunity to be present this evening. He noted that the amount of the grant was significant, more than most new cities receive. He congratulated the Council for their wisdom in hiring the experts they have.

Mayor Flinn thanked all for their cooperation. He formally accepted the check for \$500,000.

Mr. Levy thanked the Council and the Village Manager for giving the lobbying team the opportunity to represent the Village. He noted that the Village received the largest grant out of all Florida cities and an unprecedented amount, larger than any new Village he had ever represented.

Mr. Scurr explained the modifications to the Agenda, noting that the item concerning ICMA had been added, a correction to the item concerning swale maintenance, and staff would request deferral regarding the Parks Master Plan, Code Enforcement and Ordinance regarding Open Permits.

Vice Mayor Robinson moved to defer items VIII E, VIII F and XA. Seconded by Councilman Breder. All voted in favor.

V. VILLAGE ATTORNEY'S REPORT

A. Acquisition 17641 Old Cutler Road forfeiture property

Attorney Gallop provided a report regarding the acquisition of the property located on Old Cutler Road. He advised that previously, the property owner had a worker build an island and was issued a notice of violation by DERM for mangrove damage. He stated that the County has agreed to sell property to the Village. He explained the State Forfeiture Statute and that the property was being used to commit a felony in the action of an environmental crime. He noted that funding through grants may be available.

Mr. Scurr added that the property may be purchased for \$300,000. He stated that the Village is hopeful that grant dollars may pay for most, if not all, of the acquisition.

B. Vacation of Alley in Robert's Subdivision

Attorney Gallop advised that staff is communicating with the utility service providers and will return with information and a Resolution.

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

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 \$5,269.08; PROVIDING AN EFFECTIVE DATE.

B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO EMPLOYEE RETIREMENT PLAN ADMIMISTRATOR; APPROVING THE SELECTION OF THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION (ICMA) RETIREMENT CORPORATION, TO PROVIDE PLAN ADMINISTRATIVE SERVICES; AND PROVIDING AN EFFECTIVE DATE.

C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; APPROVING THE SELECTION OF HMS GARDENERS, INC. TO PROVIDE MOWING AND TREE TRIMMING MAINTENANCE SERVICES OF CERTAIN MEDIANS, SWALES, AND RIGHT-OF-WAYS WITHIN THE VILLAGE; AUTHORIZING THE VILLAGE MANAGER

TO ISSUE PURCHASE ORDERS IN AN AMOUNT NOT TO EXCEED \$45,000; AND PROVIDING AN EFFECTIVE DATE.

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO OFFICE FURNITURE; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER FOR THE VILLAGE HALL FURNISHINGS FOR THE POLICE DEPARTMENT FROM J.C. WHITE QUALITY OFFICE FURNITURE; PROVIDING AN EFFECTIVE DATE.
- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AUDIT SERVICES ENGAGEMENT AGREEMENT WITH RACHLIN, COHEN & HOLTZ, LLP; PROVIDING AN EFFECTIVE DATE.
- F. 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 A MUNICIPAL LEASE PURCHASE PLAN FOR VILLAGE TRUCKS WITH SUNTRUST LEASING CORPORATION; PROVIDING AN EFFECTIVE DATE.

Councilman Feller moved to approve the items under Consent Agenda. Seconded by Councilman Neidhart. All voted in favor. Resolutions 03-81, 03-82, 03-83, 03-84, 03-85, and 03-86 were adopted.

VIII. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATHLETIC FIELD LIGHTS AT CORAL REEF PARK, ADOPTING AS A POLICY OF THE VILLAGE A RESOLUTION PROHIBITING ANY PERMAMENT OR TEMPORARY LIGHTING OF THE ATHLETIC FIELDS AT CORAL REEF PARK, PROVIDING AN EFFECTIVE DATE.

Mr. Scurr provided a history of the park and noted that this matter was brought forward as Palmetto High School would like to use one of the park's baseball fields. He stated that staff felt that the items were not related; however, decided it may be appropriate to articulate the desire of the Council to not light the fields.

A Motion to adopt the Resolution was made by Councilman Feller. Seconded by Vice Mayor Robinson.

Councilman Breder expressed his opposition, stating that lighting of the parks had not been requested.

Mayor Flinn and Councilman Feller stated that many are opposed to allowing the use of the baseball field due to the potential lighting of the park.

Mayor Flinn polled the Council. The vote was as follows: Councilman Feller, Councilman Neidhart, Vice Mayor Robinson, and Mayor Flinn voting in the affirmative; Councilman Breder voting against. The Motion carried (4-1). Resolution 03-87 was adopted.

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND RECREATION, APPROVING AND AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A NON-EXCLUSIVE USE AGREEMENT AT CORAL REEF PARK WITH PALMETTO SENIOR HIGH SCHOOL FOR THE BOYS BASEBALL PROGRAM; PROVIDING AN EFFECTIVE DATE.

A Motion to adopt the proposed Resolution was made by Vice Mayor Robinson. Seconded by Councilman Feller.

Mr. Scurr explained the item. He noted that the agreement would be a three-year agreement, as a transition home for the team. He explained that the agreement would be a non-exclusive use agreement, with the specific schedule defined in the contract. He further provided information regarding terms of the Agreement.

Mayor Flinn asked that, due to the size of the audience, only four individuals from those in favor and those opposing present their argument. He asked Principal Janet Hupp to come forward.

Principal Hupp thanked all individuals who had provided suggestions.

The following individuals spoke in favor of the matter: Betsy Kaplan, Member of the Miami-Dade County School Board, Greg Rothman, a Senior on the Palmetto High School Baseball Team, and Ron Dentwick, 7601 S.W. 144 Terrace.

The following individuals spoke against the matter: Garth Webster, 14741 S.W. 74 Avenue, Joanne Tribino, 14501 SW 79 Avenue, and Gary Sisler, 7961 SW 148 Street.

Discussion ensued regarding the principal's authority to execute the contract. Attorney Gallop explained that Principal Hupp has authority; however, the

school board's attorney will review capital items and if the cost is extensive, then the school board will review.

Vice Mayor Robinson expressed her concern regarding the Village's liability and costs, particularly attorney's fees. She suggested delaying the matter for 30 days to discuss the matter further with the Miami-Dade Parks Department and with the School Board to find out why Chapman Field wasn't utilized, as that field has lights for night games.

Councilman Feller noted that the contract is temporary; therefore, he opined that the capital improvements would probably not be extensive. He also noted that high school baseball is not played at night. He proposed to amend the contract, Page 5 of 9, line 19, striking the word "may" and inserting the word "will" which concerns terminating the agreement if the school boundaries remove any area of Palmetto Bay. He moved to amend the contract. Seconded by Vice Mayor Robinson. All voted in favor, with the exception of Councilman Breder. Motion carried (4-1).

Vice Mayor Robinson moved to amend the contract, on line 22, to include "and approval by the Village Council". Seconded by Councilman Feller.

Councilman Feller remarked that the amendment would be cumbersome, as anyone who wants to use the field would require a Council meeting.

Vice Mayor Robinson withdrew the Motion.

Following discussion, a roll call vote was taken. The vote was as follows: Councilman Feller, Councilman Neidhart, Councilman Breder, Vice Mayor Robinson, and Mayor Flinn voting in the affirmative. The Motion carried (5-0). Resolution 03-88 was adopted.

C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE FRANJO ROAD TRIANGLE, APPOINTING A CHARETTE ADVISORY COMMITTEE; PROVIDING AN EFFECTIVE DATE.

A Motion to adopt the proposed Resolution was made by Councilman Neidhart. Seconded by Councilman Breder.

Mr. Scurr explained the item.

Mayor Flinn named the following individuals to serve on the Advisory Committee: DeeDee Heacock, Carlton Decker, Joyce Masso, Steve Kreisher, and Tom David.

A roll call vote was taken. The vote was as follows: Councilman Feller, Councilman Neidhart, Councilman Breder, Vice Mayor Robinson, and Mayor Flinn voting in the affirmative. The Motion carried (5-0). Resolution 03-89 was adopted.

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CHARTER SCHOOLS; CREATION OF A FACT-FINDING COMMITTEE FOR THE PURPOSE OF INFORMATION GATHERING REGARDING MIDDLE AND POSSIBLY HIGH SCHOOL CHARTER SCHOOLS; PROVIDING AN EFFECTIVE DATE.

Mayor Flinn explained the item.

A Motion to approve the proposed Resolution was made by Councilman Breder. Seconded by Councilman Feller.

Mayor Flinn suggested the following individuals: Ed Ludovici, Karin Brown, Rosemary Fuller, Ray Abercombe, Hope Phillips, Juanita Alvarez, Marti Greenberg.

A roll call vote was taken. The vote was as follows: Councilman Feller, Councilman Neidhart, Councilman Breder, Vice Mayor Robinson, and Mayor Flinn voting in the affirmative. The Motion carried (5-0). Resolution 03-90 was adopted.

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AUTHORIZING THE OPENING OF ACCOUNTS WITH THE STATE BOARD OF ADMINISTRATION FOR THE INVESTMENT OF FUNDS; PROVIDING AN EFFECTIVE DATE.

Vice Mayor moved to approve the proposed Resolution. Seconded by Councilman Feller.

Mr. Scurr advised that as grants and other revenue sources are forthcoming, the Village should maximize the interest earned on accounts.

Attorney Gallop noted that the documents are legally sufficient.

A roll call vote was taken. The vote was as follows: Councilman Feller, Councilman Neidhart, Councilman Breder, Vice Mayor Robinson, and Mayor Flinn voting in the affirmative. The Motion carried (5-0). Resolution 03-91 was adopted.

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE PARKS MASTER PLAN; SEEKING APPROVAL TO CONTRACT WITH BERMELLO, AJAMIL AND PARTNERS, INC. IN AN AMOUNT NOT TO EXCEED \$50,000 FOR THE DEVELOPMENT OF A PARKS MASTER PLAN FOR THE VILLAGE OF PALMETTO BAY; AND PROVIDING AN EFFECTIVE DATE. **(DEFERRED)**
- G. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CODE ENFORCEMENT, APPROVING AND AUTHORIZING THE VILLAGE MANAGER TO EXECUTE ADDENDUM 1 TO THE CONTRACT BETWEEN THE VILLAGE OF PALMETTO BAY AND CSA SOUTHEAST, INC. FOR THE PROVISION OF CODE ENFORCEMENT SERVICES; PROVIDING AN EFFECTIVE DATE. **(DEFERRED)**
- IX. RESOLUTIONS REQUIRING PUBLIC HEARING:** None at this time.
- X. ORDINANCES FOR FIRST READING AND EMERGENCY ORDINANCES**

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA PROVIDING FOR A FEE TO CLOSE EXPIRED PERMITS PREVIOUSLY ISSUED BY MIAMI-DADE COUNTY; WAIVING PENALTIES; PROVIDING FOR ENFORCEMENT OF THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. **(DEFERRED)**
- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LOBBYING, CREATING CHAPTER _____ OF THE CODE OF ORDINANCES OF THE VILLAGE OF PALMETTO BAY, ENTITLED “LOBBYIST REGISTRATION”; PROVIDING DEFINITIONS AND EXCLUSIONS; PROVIDING FOR REGISTRATION OF LOBBYISTS, DISCLOSURE OF MEETINGS WITH VILLAGE PERSONNEL AND PROHIBITING CONTINGENCY FEES; CREATING PENALTIES FOR VIOLATIONS AND DEBARMENTS; PROVIDING FOR APPEALS TO SPECIAL MASTER; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Councilman Breder moved to approve on first reading. Seconded by Councilman Feller.

Mayor Flinn advised that the Charter mandates this type of Ordinance.

Attorney Gallop concurred. He explained that the staff used the Miami-Dade County lobbyist registration ordinance and incorporated the Village's Charter requirements.

Mayor Flinn asked how the \$250 registration fee was determined.

Attorney Gallop explained that the County charges \$490; therefore, staff felt \$250 was appropriate.

Mayor Flinn asked if the Clerk's office would coordinate the provisions of the Ordinance.

Mrs. Pier responded affirmatively.

Councilman Feller asked if the Village's legislative lobbyists have to register with the Village Clerk.

Attorney Gallop responded that they did not.

Following discussion, Councilman Breder noted that in section H (page 5 of 8) the lobbyists have to disclose their compensation. He asked if this provision is this required by the Charter.

Attorney Gallop responded affirmatively, noting that the provision has been subject to challenge.

A roll call vote was taken. The vote was as follows: Councilman Feller, Councilman Neidhart, Councilman Breder, Vice Mayor Robinson, and Mayor Flinn voting in the affirmative. The Motion carried (5-0). The Ordinance was adopted on first reading.

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; ADOPTING CERTAIN AMENDMENTS TO CHAPTER 33 OF THE MIAMI-DADE COUNTY CODE OF ORDINANCES, ENTITLED "ZONING", WHICH WERE ENACTED BY THE MIAMI-DADE COUNTY COMMISSION SUBSEQUENT TO DECEMBER 2, 2002; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Attorney Gallop explained the proposed Ordinance.

Councilman Feller moved to table the item pending a workshop on the matter. Seconded by Vice Mayor Robinson.

Following discussion concerning scheduling a workshop prior to second reading, the motion to table was put to vote. The Motion failed (1-4), with Vice Mayor Robinson voting in the affirmative.

A roll call vote was taken concerning moving the matter forward for second reading. The vote was as follows: Councilman Feller, Councilman Neidhart, Councilman Breder, Vice Mayor Robinson, and Mayor Flinn voting in the affirmative. The Motion carried (5-0).

- D. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; ESTABLISHING A MORATORIUM ON NEW APPLICATIONS FOR ZONING DISTRICT CHANGE, MODIFICATION, VARIANCE, SPECIAL EXCEPTIONS OR OTHER ZONING CHANGE; PROVIDING EXCEPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Councilmember Feller)

Attorney Gallop explained the matter.

Councilman Feller added that when the Council heard the matter regarding a zoning charge north of S.W. 184 Street, he felt that the Village should not have to make decisions without clear guidelines. He advised that he is not opposed to development, rather he would like the Village to have its own Master Plan, not utilize what the County envisioned for the Village.

Councilman Feller moved to approve on first reading. Seconded by Vice Mayor Robinson.

Mayor Flinn asked the approximate cost of a Charette.

Mr. Scurr noted that Charettes can cost up to \$125,000 for large neighborhood areas. He explained that staff is beginning preparing the scope of work for the Comprehensive Development Master Plan (CDMP), which may take 18-24 months until it is completed.

Following discussion, a roll call vote was taken, as follows: Councilman Neidhart, Councilman Breder, Vice Mayor Robinson, and Mayor Flinn voting against same. Councilman Feller voting in the affirmative. The Motion failed (4-1).

Councilman Feller moved to direct staff to provide a time table with regard to the completion of the CDMP. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried.

XI. ORDINANCES FOR SECOND READING AND PUBLIC HEARING: None at this time.

XII. PUBLIC COMMENTS: No one from the audience requested to be heard.

XIII. MAYOR AND COUNCIL COMMENTS

Councilman Feller thanked the Village Parks Department and the Cultural Council for their excellent work at the Park and for the outstanding Art in the Park event.

Mayor Flinn and Vice Mayor Robinson concurred.

XIV. OTHER BUSINESS: None at this time.

XV. NEXT MEETING AND ADJOURNMENT

Vice Mayor Robinson moved to adjourn. Seconded by Councilman Feller. All voted in favor. The meeting was adjourned at 10:40 p.m.

Prepared and submitted by:

*Meighan J. Pier
Village Clerk*

*Adopted by the Village Council on
this ___ day of December, 2003.*

Eugene P. Flinn, Jr., Mayor