

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, DECEMBER 5, 2005
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 7:05 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
Councilman John Breder

The following staff members were present:
Village Manager Charles D. Scurr
Village Attorney Eve A. Boutsis
Village Clerk Meighan Pier

Mayor Flinn asked Denise “Dee Dee” Heacock, Executive Director of the Perrine-Cutler Ridge Council, to lead the pledge of allegiance.

II. PROCLAMATIONS, AWARDS, PRESENTATIONS

A. Report by Rachlin, Cohen & Holtz regarding the Fiscal Year 2004-05 Audit

Mr. Jerry Chiocca provided a report, explaining the Basic Financial Statements. He advised that the audit revealed no instances of non-compliance, no matters of material weaknesses, no recommendations for improvement, and no violations of any laws or illegal/improper expenditures. He thanked Alfredo Acin, former Finance Director, and Mr. Scurr.

Vice Mayor Robinson moved to accept the report. Seconded by Councilman Breder. All voted in favor. The Motion carried.

B. Proclamation for Denise D. Heacock, Executive Director of the Perrine Cutler-Ridge Council

Councilman Neidhart read the Proclamation for Ms. Heacock. Councilman Breder thanked her for her service.

Ms. Heacock expressed her appreciation, adding that it is easy to serve this community because it is a wonderful community. She stated that she would return to visit.

Mayor Flinn thanked her for her assistance with receiving the \$14 million bond item for sewer infrastructure in the commercial corridor.

C. Presentation by Robert Pozo regarding Holiday Run to benefit Toys for Tots

Mr. Robert Pozo, Race Director for ING Miami Marathon, provided a report regarding the Holiday Run that will be held in the Village of Palmetto Bay. He stated that all runners and observers are urged to bring a new toy for the Toys for Tots program.

Mayor Flinn stated that he and Director Ana Garcia, Community Services, were asked if the Village would sponsor the event and provide \$1,500 for police services.

Councilman Neidhart moved to approve co-sponsoring the event and offering \$1,500 for police services. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried.

Mayor Flinn noted that Mayor Juan Bermudez of the City of Doral was present. He asked the Council to consider hearing Resolution VIII F out of order. Councilman Feller moved to hear the item. Seconded by Vice Mayor Robinson. All voted in favor.

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA OPPOSING THE PRACTICE OF REQUIRING COMMUNITIES THAT WANT TO FORM MUNICIPALITIES TO PAY MITIGATION TO THE COUNTY; SUPPORTING THE PASSING OF A LAW WHICH WOULD PROHIBIT COUNTIES FROM REQUIRING MUNICIPALITIES TO PAY ANY TAX, FEE OR OTHER CONSIDERATION IN RETURN FOR ALLOWING CITIZENS OF AN AREA TO INCORPORATE; PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bermudez provided a report concerning the prospect of asking all municipalities to join together and seek the removal of mitigation payments from the County to the cities. He stated that he hopes to eliminate mitigation and that several legislators have expressed their support. He thanked Mayor Flinn for his support and asked the Council to join with them in this statewide effort.

Following brief discussion, Vice Mayor Robinson moved to approve the proposed Resolution. Seconded by Councilman Feller. A roll call vote was taken, as follows: Councilman Feller: Yes; Councilman Neidhart: Yes; Councilman Breder: Yes; Mayor Flinn: Yes; Vice Mayor Robinson: Yes. Resolution 05-95 was adopted unanimously (5-0).

D. Recognition of Special Events Committee Members

Vice Mayor Robinson stated that the Special Events Committee has been working very hard to put together all events. She thanked them for their efforts and presented a Certificate of Appreciation to the all members of the Committee: Jeanne Rothfield, Donna Coughlin, Gail Dotson, Celina Herrero, Anna Feiler, Dottie Barton, and Pat Gladieux. Vice Mayor Robinson announced that March 4 is the date of the next Celebration Picnic.

III. APPROVAL OF MINUTES

A. Minutes of the November 7, 2005 Council Meeting

Councilman Feller moved to approve. Seconded by Councilman Breder. All voted in favor (4-0 – Vice Mayor Robinson briefly left the meeting). The Motion carried.

IV. VILLAGE MANAGER'S REPORT

Mr. Scurr thanked staff for their efforts that resulted in the State of the Village being a success. He noted that with regard to mitigation, he has been working with Miami-Dade County to attempt to get several services paid for from mitigation and that the County indicated that they are willing to discuss the items mentioned on their list. He announced that the Village's new and improved website is operational and staff will be working to insure the site is dynamic. He stated that staff has spoken to the County and has begun repairing and replacing hurricane damaged stop signs, in particular the poles that experienced a clean break.

Mayor Flinn thanked Mr. Scurr and Director Ron Williams, Public Works, for their diligence in getting the signs repaired.

Mr. Scurr explained the Item concerning the AutoNation hearing resolution. He advised that the Council would be considering whether to hear the item again in January of 2006; the Council is not voting on the substance of the item. He announced that there will be an Energy Summit in South Miami on January 7, 2006. He encouraged all to attend. He advised that the next Council meeting will be held on January 9, 2006 and a Zoning Hearing on January 23, 2006.

Commander Michael Mouring, Palmetto Bay Policing Unit, provided a report concerning the increase in officers on the road during the holiday season. He provided samples of the crime brochures.

V. VILLAGE ATTORNEY'S REPORT

Attorney Boutsis advised that staff is working to finalize the Ordinance concerning Florida Power & Light.

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 \$18,834.77; PROVIDING AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO DISASTER RELIEF EFFORTS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE WITH THE STATE OF FLORIDA, DEPARTMENT OF COMMUNITY AFFAIRS' DISASTER RELIEF FUNDING AGREEMENT NO: 06-RT-&W-11-23-00-519 AND 06-WL-&K-11-23-00-581 BETWEEN THE VILLAGE OF PALMETTO BAY AND THE STATE OF FLORIDA, DEPARTMENT OF COMMUNITY AFFAIRS FOR RELIEF FOLLOWING HURRICANES RITA AND WILMA; AND PROVIDING AN EFFECTIVE DATE.
- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; MOVING TO REHEAR THE APPLICATION OF AN DEALERSHIP HOLDING CORP. FOR A SPECIAL EXCEPTION TO MODIFY PREVIOUSLY APPROVED PLANS FOR A USED AUTOMOBILE DEALERSHIP TO INCLUDE A NEW AND USED AUTOMOBILE DEALERSHIP AND AN ACCOMPANYING REPAIR FACILITY; AND AN APPLICATION TO MODIFY THE DECLARATION OF RESTRICTIONS ASSOCIATED WITH THE PREVIOUSLY APPROVED SITE PLANS TO ALLOW FOR NEW CAR SALES AT THE SITE; PROVIDING AN EFFECTIVE DATE.
- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; ACCEPTING THE AWARD FROM SPONSOR TOWARD THE VILLAGE'S BOUNDLESS PLAYGROUND; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE GRANT AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.
- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY ENCOURAGING MIAMI-DADE COUNTY TO EXPEDITE THE REPAIR AND REPLACEMENT OF COUNTY OWNED SIGNAGE LOCATED WITHIN THE VILLAGE BOUNDARIES; FURTHER AUTHORIZING THE VILLAGE MANAGER

TO ASSIST THE COUNTY IN THIS IMPORTANT SAFETY RELATED EFFORT; AND PROVIDING FOR AN EFFECTIVE DATE.

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THANKING EMPLOYEES; AUTHORIZING THE ONE TIME ISSUANCE OF ADDITIONAL PTO FOR ALL EMPLOYEES THAT ASSISTED THE VILLAGE DURING HURRICANES KATRINA AND WILMA; PROVIDING AN EFFECTIVE DATE. (Sponsored jointly by the Village Council)

Councilman Neidhart moved to approve. Seconded by Councilman Feller. All voted in favor (5-0). Resolutions 05-96 through 05-101 were adopted.

VIII. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LOBBYING THE FLORIDA LEGISLATURE TO AMEND THE FWUA LEGISLATION TO AMEND THE ARBITRARY WINDSTORM "LINE" OF EAST OF U.S. HIGHWAY 1 AND EAST OF I-95 SO AS TO FAIRLY DISTRIBUTE RISK THROUGHOUT THE STATE; AND SEEKING SUPPORT FROM ALL NEIGHBORING COMMUNITIES WITH THIS INITIATIVE; PROVIDING AN EFFECTIVE DATE. (Sponsored by Vice Mayor Linda Robinson and Councilman Ed Feller)

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

Councilman Feller began the report. He advised that this item was drafted as Palmetto Bay residents are experiencing increased insurance rates. He advised that the State Insurance Committee had allowed a compromise to induce insurance companies to continue to write windstorm insurance in the south. This compromise included the drawing of an arbitrary line wherein the east of the line was considered high risk. In 1993, after Hurricane Andrew, when State windstorm insurance was set up (now Citizen's), the insurance companies were permitted to not cover those properties on the east of the line and Citizen's was permitted to charge its exorbitant rates. He opined that there is no scientific evidence to support the drawing of this line. Councilman Feller noted that he has contacted former State Senator John Cosgrove and Representative Julio Robaina to bring this item to the forefront.

Vice Mayor Robinson concurred. She added that she has also sought support from several municipalities and insurance companies.

A roll call vote was taken, as follows: Vice Mayor Robinson: Yes; Councilman Feller: Yes; Councilman Neidhart: Yes; Councilman Breder: Yes; Mayor Flinn: Yes. Resolution 05-102 was adopted unanimously (5-0).

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LOBBYING THE FLORIDA LEGISLATURE TO AMEND SECTION 119.07, FLORIDA STATUTES, THE STATE'S "SUNSHINE LAW" TO PROVIDE AN EXEMPTION FROM PUBLIC RECORDS THE NAMES AND E-MAIL ADDRESSES OF RECIPIENTS OF COMMUNITY NEWS BULLETINS OR NEWS UPDATES; AND SEEKING SUPPORT FROM ALL NEIGHBORING COMMUNITIES WITH THIS INITIATIVE; PROVIDING AN EFFECTIVE DATE. (Sponsored by Councilman Paul Neidhart)

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

Councilman Neidhart explained that this item resulted from provisions of the Sunshine Law that require that a listing of email addresses obtained for dissemination of public information would be subject to release. He opined that individuals would not give their email addresses to the government because as a public record, your email address could be received by potential "spammers." He remarked that it would be beneficial to the Village to have a complete list of email addresses of their citizens, as individuals are more likely to daily visit their "inbox" than the website. Councilman Neidhart stated that Senator Gwen Margolis and Representative Julio Robaina are supportive of this issue.

Attorney Boutsis advised that the content of a Village newsletter is public record; however, Councilman Neidhart's suggested revision to the Sunshine Law would allow confidentiality from receiving the recipient's email address to prevent telemarketers or spammers from having your email address.

Vice Mayor Robinson called the question. A roll call vote was taken, as follows: Councilman Feller: Yes; Councilman Neidhart: Yes; Councilman Breder: Yes; Mayor Flinn: Yes; Vice Mayor Robinson: Yes. Resolution 05-103 was adopted unanimously (5-0).

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, APPROVING THE SELECTION OF A2 GROUP, INC. TO PROVIDE CONSTRUCTION MANAGER AT RISK SERVICES FOR THE PALMETTO BAY BRANCH LIBRARY CONSTRUCTION PROJECT; AUTHORIZING THE VILLAGE MANAGER TO NEGOTIATE A CONTRACT WITH SAID FIRM; AND PROVIDING AN EFFECTIVE DATE.

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

Mrs. Olga Cadaval, Chief of Staff, provided staff report. She explained that a Construction Manager at Risk insures the project remains on budget and is performed appropriately. She advised that the selection committee recommended A2 Group and that staff will return to Council for contract approval in the future.

Councilman Feller noted that he was a member of the committee and believes the selection is appropriate.

Councilman Feller called the question. A roll call vote was taken, as follows: Councilman Neidhart: Yes; Councilman Breder: Yes; Mayor Flinn: Yes; Vice Mayor Robinson: Yes; Councilman Feller: Yes. Resolution 05-104 was adopted unanimously (5-0).

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, APPROVING THE SELECTION OF ZURQUI CONSTRUCTION SERVICES, INC. TO PROVIDE CONSTRUCTION MANAGER AT RISK SERVICES FOR PHASE I OF THE PERRINE PARK AND ADJACENT AREA EXPANSION; AUTHORIZING THE VILLAGE MANAGER TO NEGOTIATE A CONTRACT WITH SAID FIRM; AND PROVIDING AN EFFECTIVE DATE.

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

Mrs. Cadaval provided staff report. She noted that the selection committee recommended Zurqui Construction for their extensive experience with park projects, particularly working with the City of Miami and the City of Doral. She advised that staff will negotiate the contract and return to Council.

Mayor Flinn asked if Phase I includes the skate park.

Mrs. Cadaval responded affirmatively.

A roll call vote was taken, as follows: Councilman Breder: Yes; Mayor Flinn: Yes; Vice Mayor Robinson: Yes; Councilman Feller: Yes; Councilman Neidhart: Yes. Resolution 05-105 was adopted unanimously (5-0).

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, EXPRESSING GRATITUDE TO MIAMI-DADE COUNTY COMMISSIONERS KATY SORENSON AND DENNIS MOSS FOR THEIR DEDICATION TO AND SUPPORT OF

THE FINE ARTS, RESULTING IN THE GROUNDBREAKING OF THE SOUTH MIAMI-DADE CULTURAL CENTER; PROVIDING AN EFFECTIVE DATE.

Councilman Neidhart moved this matter forward. Seconded by Councilman Breder.

Councilman Neidhart provided a report.

Councilman Breder added his appreciation to the Perrine-Cutler Ridge Council for their assistance with this project.

A roll call vote was taken, as follows: Mayor Flinn: Yes; Vice Mayor Robinson: Yes; Councilman Feller: Yes; Councilman Neidhart: Yes; Councilman Breder: Yes. Resolution 05-106 was adopted unanimously (5-0).

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO BOARDS AND AGENCIES; APPOINTING MEMBERS TO THE CHARTER REVISION COMMISSION; PROVIDING AN EFFECTIVE DATE.

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

Mr. Scurr advised that the Charter requires that in December of 2005 this Commission must be created. He explained that each Council person appoints one individual and each district must be represented. He noted that the Charter advises that the Commission must return its findings on July 1st.

Vice Mayor Robinson appointed Brian Pariser (resident of District 2)
Councilman Feller appointed Stanley Kowlessar (resident of District 1)
Mayor Flinn appointed Tom Ringel (resident of District 1)
Councilman Neidhart appointed Barnett Greenberg (resident of District 3)
Councilman Breder appointed Susan Ludovici (resident of District 3)

Mayor Flinn suggested Paul Neidhart be appointed as the non-voting member. He asked Attorney Boutsis to provide a review of the Sunshine Laws to the Committee at its first meeting.

Vice Mayor Robinson called the question.

A roll call vote was taken, as follows: Vice Mayor Robinson: Yes; Councilman Feller: Yes; Councilman Neidhart: Yes; Councilman Breder: Yes; Mayor Flinn: Yes. Resolution 05-107 was adopted unanimously (5-0).

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, RELATING TO ETHICS, AMENDING CHAPTER __ OF THE CODE OF ORDINANCES OF THE VILLAGE OF PALMETTO BAY, ENTITLED “CONFLICT OF INTEREST AND CODE OF ETHICS”; PROHIBITING ACCEPTANCE OF TRAVEL EXPENSES FROM VILLAGE VENDORS; PROHIBITING VILLAGE PERSONNEL FROM PERFORMING CONTRACT RELATED DUTIES WHERE RELATIONSHIP EXISTED WITH VENDOR WITHIN TWO YEARS OF EMPLOYMENT WITH THE VILLAGE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis reported that the proposed Ordinance is modeled after the Miami-Dade County Commission on Ethics. She provided information as to the revisions that strengthen the current Ordinance.

Councilman Neidhart called the question.

A roll call vote was taken, as follows: Councilman Feller: Yes; Councilman Neidhart: Yes; Councilman Breder: Yes; Mayor Flinn: Yes; Vice Mayor Robinson: Yes. The proposed Ordinance passed on first reading.

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; EXTENDING BY SEVEN MONTHS THE EXISTING MORATORIUM ON THE ISSUANCE OF BUILDING PERMITS FOR DEVELOPMENTS THAT EXCEED A BUILDING HEIGHT OF SIX STORIES, SUCH TEMPORARY MORATORIUM TO APPLY TO ALL PROPERTIES LOCATED WITHIN THE VILLAGE OF PALMETTO BAY; PROVIDING EXCEPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Mayor Eugene P. Flinn, Jr.)

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

Attorney Boutsis provided staff report. She stated that the previous moratorium expires in January, 2006; and, it would be more appropriate to complete the Land Development Code prior to lifting the moratorium.

Mayor Flinn suggested that the expiration be specified - “expiring seven months or until enactment of the corresponding code.”

Attorney Boutsis stated that the language is included in the body of the proposed Ordinance, but she would include it in the heading.

Vice Mayor Robinson called the question. A roll call vote was taken, as follows: Councilman Neidhart: Yes; Councilman Breder: Yes; Mayor Flinn: Yes; Vice Mayor Robinson: Yes; Councilman Feller: Yes. The proposed Ordinance passed on first reading.

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 LOBBYING, AMENDING CHAPTER ___ OF THE CODE OF ORDINANCES OF THE VILLAGE OF PALMETTO BAY, ENTITLED "LOBBYIST REGISTRATION" TO PROVIDE FOR CONSULTANT DISCLOSURE AND REGISTRATION OF CONSULTANTS; AND CREATING PENALTIES FOR VIOLATIONS AND DEBARMENT; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Mayor Eugene P. Flinn, Jr.)

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

Attorney Boutsis provided staff report.

Mayor Flinn asked if the modifications strengthen our existing Ordinance.

Attorney Boutsis responded affirmatively, the language promotes further disclosure.

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

Councilman Feller called the question. A roll call vote was taken, as follows: Councilman Breder: Yes; Mayor Flinn: Yes; Vice Mayor Robinson: Yes; Councilman Feller: Yes; Councilman Neidhart: Yes. The Ordinance was adopted unanimously.

XII. REQUESTS, PETITIONS AND PUBLIC COMMENTS: None at this time.

XIII. MAYOR AND COUNCIL COMMENTS

- A. Councilman Feller wished all a Happy Holiday and New Year. He asked Mayor Flinn to tell the audience about his brother.
- B. Councilman wished all a Happy Holiday and New Year.

- C. Councilman Breder expressed kind holiday wishes to all.
- D. Vice Mayor Robinson thanked all for attending the State of the Village Address and thanked the Mayor for his speech.
- E. Mayor Flinn thanked the Special Events Committee for their hard work. He thanked Finance Director Desmond Chin for his diligence. In response to Dr. Feller's urging, Mayor Flinn advised that his brother is a Captain in the Army who had served in Iraq, returning home with a combat medal – The Silver Star. He stated that he is extremely proud of his brother.

XIV. OTHER BUSINESS

Councilman Feller asked staff to schedule a Committee of the Whole meeting for this month.

- XV. NEXT MEETING AND ADJOURNMENT:** The Meeting was officially adjourned at 8:50 pm.

Prepared and submitted by:

*Meighan J. Pier, CMC
Village Clerk*

*Adopted by the Village Council on
this ___ day of January, 2006.*

Eugene P. Flinn, Jr., Mayor

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