

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, JANUARY 5, 2004
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 Beth Adler to lead the pledge of allegiance.

II. PROCLAMATIONS, AWARDS, PRESENTATIONS

- A. Proclamation recognizing the runners from Palmetto Bay who participated in the Disney World Marathon as part of a fund raising event to benefit the Leukemia & Lymphoma Society

Mayor Flinn invited the Council to join him in congratulating the following runners from Palmetto Bay: Joe Scott; Lisette Zamora; Lauren Spencer; Leslie Applewhite; Kim Loutzenhiser; Doug Yglesias; Lisa Yglesias; Kelly Fodiman; and Linda Martinez. The Council thanked the runners for their assistance in helping raise funds for the Leukemia and Lymphoma Society.

III. APPROVAL OF MINUTES

- A. Minutes of the January 5, 2004 Council Meeting

Vice Mayor Robinson moved to revise the Minutes on Page 3 of 10 by omitting the word “picnic” and insert “celebration” in its place. Seconded by Councilman Feller. All voted in favor. The Motion carried.

IV. VILLAGE MANAGER’S REPORT

A. Presentation of the Quarterly Budget Comparison

Mr. Scurr provided an explanation of public financing. He noted that the budget is tracking well. He explained that the expenditures are well in line and mitigation is not payable until the last quarter. He also reported that the Special Revenue Funds would not be spent for several months. He stated that the positive variance of public works/parks is due to the vehicles being purchased under budget.

Mr. Alfredo Acin, Finance Director, noted that the Finance Department has been verifying the availability of all funds prior to committing the dollars. He further explained that once a contract is awarded or resolutions are passed, the funds are encumbered and therefore are unavailable to be spent on other items. He stated that the oversight of the budget is monitored through his department and the Manager, with contingencies being closely monitored. He advised that the Village has received 82% of the ad valorem tax revenue and while the cash funds are currently being invested, they will be released and utilized throughout the year.

B. Miami-Dade Police Department –Update

Commander Michael Mouring provided the Police Department update. He noted that the average response time in the Village is three minutes and speeding remains the number one complaint in the Village, which is the purpose for the three items on tonight's agenda concerning speed monitoring. He noted that the move to Village Hall is imminent with the installation of cabling to commence in the near future.

Commander Mouring congratulated Officer Omar Diaz and Officer Lou Jaramillo for their successful efforts in assisting a woman who gave birth in the parking lot of the Village's Marshall's shopping center.

C. Perrine Park / YMCA – Update

Mr. Scurr thanked Councilman Breder, Parks and Recreation Director Ana Garcia and Tom Den Boer of the YMCA for their negotiating efforts that will result in the YMCA entering into an agreement with the Village to provide programmed activities at Perrine Park (with the exception of existing Khoury League programs). He noted that the Village will continue to have responsibility for non-programmed activities. He advised that staff will be meeting with the County regarding the acquisition of the remaining land for Perrine Park.

Vice Mayor Robinson announced the Village celebration on March 13th and asked that citizens provide historic photographs for an exhibit to be display at the celebration.

D. Unsafe Structure Board Update

Mr. Scurr reported that with regard to the abandoned strip shopping mall on Fern Street, the owner has agreed to bring the building up to standard or the building will be demolished.

E. Update on grant opportunities

Mr. Scurr advised that the Village received two proposals regarding grant writing, which would be brought before the Council in the near future. He explained that staff is currently seeking five different grants.

Mr. Scurr announced that the next meeting of the Council would be a Zoning hearing to be held on Monday, February 23, 2004 at Southwood Middle School.

V. VILLAGE ATTORNEY'S REPORT

Attorney Gallop advised that with regard to the proceedings on the Celeste D'Lamour property, his office is continuing with its attempts to rectify any potential title problem.

VII. BOARD AND COMMITTEE REPORTS

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 \$7,507.43; PROVIDING AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO COUNCIL MEETING PROCEDURES; AMENDING RESOLUTION 04-01 TO RESCHEDULE THE FEBRUARY HEARING ON APPLICATIONS FOR LAND DEVELOPMENT PERMITS; PROVIDING AN EFFECTIVE DATE.

Councilman Feller moved to approve the Consent Agenda Items. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried. Resolutions 04-12 and 04-13 were adopted.

VIII. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO BOARDS

AND AGENCIES; AMENDING RESOLUTION 03-99 TO PROVIDE SUFFICIENT MEMBERS TO THE SPECIAL EVENTS COMMITTEE; PROVIDING AN EFFECTIVE DATE.

Mr. Scurr provided a brief report.

Vice Mayor Robinson suggested that the Mayor consider nominating Gail Dotson and Anna Feiler.

Mayor Flinn nominated Pat Gladieux, Anna Feiler and Gail Dotson.

A Motion to approve the Resolution with the addition of the three nominations was made by Councilman Breder. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried. Resolution 04-14 was adopted.

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO BOARDS AND AGENCIES; RE-APPOINTING KARIN BROWN TO SERVE AS LIAISON TO THE MIAMI-DADE COUNTY SCHOOL BOARD FOR AN ADDITIONAL ONE-YEAR TERM; PROVIDING AN EFFECTIVE DATE.

Mr. Scurr provided staff report.

Mayor Flinn stated that he believes Mrs. Brown has done a good job.

Councilman Breder moved to approve the Resolution. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried. Resolution 04-15 was adopted.

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO VILLAGE POLICE PROCUREMENT; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER FOR A SPEED MONITORING AWARENESS TRAILER (SMART) UNDER COUNTY CONTRACT 6193-3/03-3 IN THE AMOUNT OF \$10,138.00 FROM TRAFFIC SAFETY PRODUCTS; PROVIDING AN EFFECTIVE DATE.

Mr. Scurr provided a brief report, noting that the Village would be “piggy-backing” off a current County contract and the acquisition is \$1,800 under amount budgeted.

Councilman Neidhart moved to approve the Resolution. Seconded by Councilman Breder. All voted in favor. The Motion carried. Resolution 04-16 was adopted.

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO VILLAGE

POLICE PROCUREMENT; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER FOR HAND-HELD RADAR GUNS UNDER COUNTY CONTRACT 6193-3/03-3 IN THE TOTAL AMOUNT OF \$12,000.00 FROM KUSTOM SIGNALS, INC.; PROVIDING AN EFFECTIVE DATE.

Mr. Scurr provided a report, noting that the total purchase for eight hand-held radar guns remains \$4,000 under budget.

Councilman Feller moved to approve the Resolution. Seconded by Councilman Breder. All voted in favor. The Motion carried. Resolution 04-17 was adopted.

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO VILLAGE POLICE PROCUREMENT; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER FOR LASER RADAR GUNS UNDER COUNTY CONTRACT 6193-3/03-3 IN THE AMOUNT OF \$6,390.00 FROM APPLIED CONCEPTS, INC.; PROVIDING AN EFFECTIVE DATE.

Mr. Scurr advised that this purchase was also under a “piggy-backing arrangement” with the County and remains \$1,200 under budget.

Vice Mayor Robinson moved to approve the Resolution. Seconded by Councilman Feller. All voted in favor. The Motion carried. Resolution 04-18 was adopted.

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; AUTHORIZING A GRANT APPLICATION TO THE SAFE NEIGHBORHOOD PARKS BOND PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

Mr. Scurr provided staff report, advising that the Safe Neighborhood Parks Bond programs are prioritizing projects offered by new municipalities and for fully accessible tot lots, which result in typically 50/50 matches.

Councilman Breder moved to approve the Resolution. Seconded by Councilman Neidhart. All voted in favor. The Motion carried. Resolution 04-19 was adopted.

- G. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; APPROVING A PLANNING CHARRETTE FOR THE FRANJO TRIANGLE/U.S. 1 COMMERCIAL ISLAND FOR THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE MANAGER TO NEGOTIATE AND ENTER INTO A CONTRACT WITH MIAMI-DADE COUNTY IN AN AMOUNT NOT TO

EXCEED \$50,000; AND PROVIDING AN EFFECTIVE DATE. (Sponsored by Councilman Paul Neidhart)

Mr. Scurr provided staff report. He noted that the County recently performed Charrettes of adjacent areas, such as Old Cutler and the Perrine areas

Councilman Neidhart advised that he had participated in the County's charrette process in the past and was well-pleased. Councilman Breder concurred.

Councilman Feller asked why the County was selected.

Ms. Arlene Weintraub, Community Development Director, explained that the Planning and Zoning Department of the County has gathered an exceptional group of highly experienced urban designers and planners, with access to a large data base and to high quality equipment. She noted that as the Village would be the County's first contracted job, they have the incentive to perform.

Vice Mayor Robinson asked staff to seek a credit on mitigation for this project.

Councilman Neidhart moved to approve the Resolution. Seconded by Councilman Breder. All voted in favor, 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 04-20 was adopted.

- H. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE ESTABLISHMENT AND IMPLEMENTATION OF A STORMWATER MASTER PLAN AND PUBLIC UTILITY; AUTHORIZING THE SELECTION OF KIMLEY-HORN AND ASSOCIATES, INC., TO PROVIDE CIVIL ENGINEERING SERVICES TO THE VILLAGE IN THE AMOUNT OF \$170,000; FURTHER AUTHORIZING THE VILLAGE MANAGER TO APPROVE A CONTRACT FOR THESE SERVICES FOR THE STATED AMOUNT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Scurr provided a brief report.

Mr. Ron Williams, Public Works Director, explained that the Village should move toward establishing a clear and defined stormwater plan, including identifying all repairs, proceeding with work necessary and making a stormwater utility available to the Village, which would allow the Village to join the National Florida Insurance Program. He noted that the task was funded at \$180,000, but was negotiated for \$170,000. He thanked Mr. Neidhart and the selection committee for their assistance.

Councilman Neidhart explained that the three firms that offered proposals were well-qualified; however, timeline was a factor.

Following brief discussion, Vice Mayor Robinson moved to approve the Resolution. Seconded by Councilman Neidhart. All voted in favor. The Motion carried. Resolution 04-21 was adopted.

- I. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO DRAINAGE REPAIR ON SW 160TH STREET IN THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE MANAGER TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$21,000 ON A PROJECT THAT WILL SUBSTANTIALLY IMPROVE THE DRAINAGE CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Scurr and Mr. Williams provided staff report.

Following brief discussion, Councilman Neidhart moved to approve the Resolution. Seconded by Councilman Breder. All voted in favor. The Motion carried. Resolution 04-22 was adopted.

IX. RESOLUTIONS REQUIRING PUBLIC HEARING

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACCEPTING THE REARDON ESTATES PLAT AS FINAL FOR PROPERTY LOCATED AT THE CORNER OF S.W. 142 STREET AND S.W. 82 COURT, MORE SPECIFICALLY THE WEST ½ OF THE NE ¼ OF THE SE ¼ OF THE SE ¼ OF THE NW ¼ OF SECTION 22, TOWNSHIP 55 SOUTH, RANGE 40 EAST, LYING IN VILLAGE OF PALMETTO BAY, MIAMI-DADE COUNTY, FLORIDA; SETTING AN EFFECTIVE DATE.

Attorney Gallop provided a brief report and then asked the applicant to give description of the project.

Attorney Joseph Goldstein, on behalf of the property owners, explained that the property is located to the west of 82 Avenue on the south side of 142 Street. He explained that his client is in the process of subdividing the parcel into three lots, with the total parcel being over 45,000 square feet (zoned EU-M). He stated that code requires 125' lot frontage; however, because of the configuration of the lots, the client chooses to utilize severable use rights on this "deep parcel" of land. He briefly explained the meaning of severable use rights. He provided a survey of the surrounding area and noted that lot sizes ranged between 13,500 to 18,000 square feet with few exceptions. He stated that if his client would be permitted to plat, paving of 82 Court would be

accomplished (320 feet of pavement) and his clients have agreed to increase the number of street trees.

Mayor Flinn asked for information regarding drainage.

Mr. Mark Reardon, developer, replied that three drains and one fire hydrant would be installed

Attorney Goldstein advised that the conveyance of the severable use right (SUR) was aligned to the property prior to acquisition of the property (which was purchased in April of 2003 with the SUR conveyance).

Attorney Gallop further explained the meaning of SUR, noting that SUR's was a program formulated to allow transfer of a development right from an undevelopable site, specifically the East Everglades. He noted that the SUR is a matter of right, and with a boundary change as is proposed, the criteria has been met. He added that to his knowledge there are no other SUR's matter currently pending.

Mayor Flinn expressed his opposition to the concept of the SUR in this matter.

Councilman Neidhart concurred, adding that he researched the area and found that many lots exceed 18,000 square feet.

Vice Mayor Robinson concurred, asking if the Village could legally vote against a right that the County had previously allowed.

Attorney Gallop advised that Council could deny the plat approval; however, the Village may have to defend the disapproval and he is not certain as to what would be the outcome of the lawsuit.

Councilman Feller opined that he is not happy that the Village appears bound by the County zoning code. However, he stated that as the previous owner had purchased the conveyance and Mr. Reardon had relied on that provision when he purchased the property, he stated that it may be difficult to stringently oppose the matter.

Councilman Breder expressed his support for the Resolution, noting that if the property were to be developed into two lots, they would exceed the size of the majority of the lots in the neighborhood.

Mayor Flinn opened the public hearing at 9:05 p.m.

Mr. Howard Tendrich, citizen, Antonio Guevero, 15720 SW 76 Avenue, and Gabriel Bifano, 7371 SW 156 Street, expressed their opposition to the matter.

Mayor Flinn closed the public hearing at 9:10 p.m.

Councilman Feller asked if the approval of a zoning or plat encumbered with SUR rights may set a precedent for properties that do not have SUR rights.

Attorney Gallop stated that it may be possible for future developers to state precedent on non-use variance applications.

Vice Mayor Robinson asked if the developers spoke with neighbors.

Mr. Reardon noted that one neighbor to the south, first name Klaus, is in favor.

Following discussion, Attorney Gallop was instructed to provide language as follows for an amendment: the owner would provide an additional 8 street trees which would consist of Live Oak Trees, minimum 14 feet in height and if space is not available on opposite side of the street, then the trees would be installed on the property.

Vice Mayor Robinson moved to approve the Resolution. Seconded by Councilman Breder. The vote was as follows: Councilman Feller: No; Councilman Neidhart: No; Councilman Breder: Yes; Vice Mayor Robinson: No; and Mayor Flinn voting in the opposition. The Motion failed (4-1).

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 ZONING; REPEALING SECTIONS 33B-41 THROUGH 33B-47 OF THE CODE OF METROPOLITAN DADE COUNTY; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Attorney Gallop provided staff report.

Following discussion, Attorney Gallop suggested insertion of a new Section 4: The Village will not accept for processing any plat approval to which SUR applies subsequent to February 2, 2004.

Vice Mayor Robinson moved to approve the proposed Ordinance as amended on first reading. Seconded by Councilman Neidhart. All voted in favor, 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).

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; PROVIDING STANDARDS AND PROCEDURES FOR DETERMINING

SUBSTANTIAL COMPLIANCE WITH PRIOR ZONING ACTIONS OR ADMINISTRATIVE APPROVALS; PROVIDING STANDARDS AND PROCEDURES FOR MODIFYING OR ELIMINATING CERTAIN ZONING CONDITIONS AND RESTRICTIVE COVENANTS OR PARTS THEREOF; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

Attorney Gallop provided staff report

Following discussion, Councilman Feller moved to approve the proposed Ordinance on first reading. Seconded by Vice Mayor Robinson. All voted in favor, 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).

XI. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

XII. REQUESTS, PETITIONS AND PUBLIC COMMENTS

- A. Mrs. Dottie Barton, 15290 SW 82 Avenue, remarked that the Council should have portraits made.
- B. Mr. Steve Kreisher, 18201 SW 98 Avenue, asked if the Council has considered the traffic problem with the development to the south of former Burger King site.

Councilman Neidhart advised that the Village is in the process of performing traffic studies.

- C. Mr. Ed Ludovici, 17415 S Dixie Highway, expressed his opposition to the denial of the Reardon plat.
- D. Ms. Lyndia Charles, 17540 SW 93 Place, asked for assistance with removing individuals' cars who park in front of her driveway to utilize Perrine Park.
- E. Mrs. Aida Crusan, 17501 SW 92 Avenue, expressed her opposition to dog parks.
- F. Mr. Gabriel Bifano, 7371 SW 156 Street, asked Council to consider including a provision into the 03-93 ordinance that would cease administrative approvals immediately.

XIII. MAYOR AND COUNCIL COMMENTS

- A. Councilman Feller asked staff to be diligent with overseeing the County during the charrette process.

Councilman Neidhart remarked that his experience in the past with the County's performance on charrettes was positive.

XIV. OTHER BUSINESS:

Mayor Flinn suggested that Council concurred to schedule a special council meeting for February 23rd at 6:00 p.m. to consider the SUR Ordinance.

XV. NEXT MEETING AND ADJOURNMENT

Councilman Feller moved to adjourn. Seconded by Councilman Neidhart. All voted in favor. The meeting was adjourned at 10:04 p.m.

Prepared and submitted by:

Meighan J. Pier
Village Clerk

Adopted by the Village Council on
this ___ day of March, 2004.

Eugene P. Flinn, Jr., Mayor