

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, MARCH 7, 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 7:00 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
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 Councilman Breder to lead the pledge of allegiance.

- II. PROCLAMATIONS, AWARDS, PRESENTATIONS:** None at this time.

III. APPROVAL OF MINUTES

- A. Minutes of the February 7, 2005 Council Meeting

Councilman Breder moved to approve the Minutes as drafted. Seconded by Councilman Neidhart. All voted in favor. The Minutes were approved.

IV. VILLAGE MANAGER'S REPORT

- A. Presentation of Quarterly Budget Comparison

Mr. Alfredo Acin, Finance Director, provided staff report.

Mayor Flinn asked if everything was tracking properly.

Mr. Acin confirmed that it was.

- B. Mr. Scurr thanked Vice Mayor Robinson and Community Services Director Ana Garcia for their efforts at the picnic.

- C. Presentation - State Attorney's Community Outreach Division: A representative from the State Attorney's Community Outreach Division provided packages for distribution, advising the public of the services offered by their office.
- D. Mr. Scurr reported that Safe Neighborhood Parks had approved dividing the lots at the Bayfront Park property to allow construction of the library. He reported that the County will have both the library and the seven acres of Perrine acquisition contracts by end of the week. He stated that staff is currently negotiating contracts for engineering services for Perrine Park.
- E. Mr. Scurr advised that the County is working on the website and will have the "mock" by the end of the month. He stated that staff is preparing content. He reported that the County has placed Palmetto Bay in the project list for the first sale of bonds, which means that the funds should be available in July or August. He noted that Miami-Dade Water and Sewer Authority has been cooperating with the Village for the projects throughout the Village. He advised that staff continues work on the C-100 Bayfront, meeting with DERM and Senator Robaina. He reported that the April 4th Council will move to April 11th due to Dade-Days.
- F. Mr. Scurr advised that the Cultural Council is seeking waiving of fees of the park for Art in the Park.
- G. Commander Michael Mouring, Village of Palmetto Bay Policing Unit, provided an update, advising that two new officers will be joining the Unit this month and two in April to fill the current vacancies. He stated that the secretary vacancy will also be filled this month.

V. VILLAGE ATTORNEY'S REPORT

- A. Update on Pastorella v. VPB and OCPC litigation

Attorney Boutsis provided a litigation update. She advised that the appeal of the Village's decision was upheld without allowing any appeal rights. She noted that a second action has been filed for declaratory relief. She advised that if Council wishes to further discuss the matter, an attorney-client session would be scheduled.

VI. 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 LOTT & LEVINE IN THE AMOUNT OF \$262.50; PROVIDING AN EFFECTIVE DATE. (17641 Old Cutler Road)

- B. 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 LOTT & LEVINE IN THE AMOUNT OF \$587.50; PROVIDING AN EFFECTIVE DATE. (14601 SW 87 Court)
- C. 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 LOTT & LEVINE IN THE AMOUNT OF \$780.00; PROVIDING AN EFFECTIVE DATE. (7860 SW 173 Terrace)
- 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 LOTT & LEVINE IN THE AMOUNT OF \$587.50; PROVIDING AN EFFECTIVE DATE. (9001 SW 157 Street)
- E. 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 \$12,958.72; PROVIDING AN EFFECTIVE DATE.

Councilman Feller moved to approve the items as presented. Seconded by Vice Mayor Robinson. All voted in favor (4-0). Resolutions 05-13 through 05-17 were adopted.

VIII. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO MIAMI-DADE COUNTY SCHOOLS; RATIFYING THE TRANSMITTAL OF COMMENT FORMS FOR THE LOCAL SCHOOLS CONCERNING THE MIAMI-DADE COUNTY SCHOOL BOARD'S PROPOSED FIVE-YEAR CAPITAL PLAN FOR FISCAL YEARS 2005-2009; PROVIDING AN EFFECTIVE DATE.

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

Mr. Scurr provided staff report, noting that Village staff, Mayor Flinn and Vice Mayor Robinson took a positive initiative and met with members of the PTA and principals to determine what capital needs were remaining. He advised that detailed transportation plans of each school were also sent to the Miami-Dade County School Board.

Mayor Flinn advised that the meetings were properly noticed and, following input from the PTA and principals, staff prepared the Comment Forms seeking capital improvements that would be appropriate to the number of students in each school. He asked for Council support.

Vice Mayor Robinson explained that ratification was necessary as the forms had to be returned to the district offices by February 28th.

Vice Mayor Robinson moved to approve the proposed Resolution. Seconded by Councilman Neidhart. All voted in favor (5-0). Resolution 05-18 was adopted.

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE SOUTH MIAMI-DADE CORRIDOR ALTERNATIVE ANALYSIS; FURTHER APPOINTING TWO INDIVIDUALS TO SERVE AS REPRESENTATIVES ON THE SOUTH MIAMI-DADE CORRIDOR CITIZEN'S ADVISORY COMMITTEE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Mr. Scurr advised that the alternative analysis concerns the southern leg of the Metrorail. He stated that the Village has been asked to provide two representatives to the Committee and he suggested Ron Williams and Paul Neidhart.

Mayor Flinn noted that he concurs with the suggested appointments. All voted in favor (5-0). Resolution 05-19 was adopted.

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 THE ADOPTION OF THE COMPREHENSIVE PLAN OF THE VILLAGE OF PALMETTO BAY; PROVIDING FOR ITS TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND TO ALL OTHER UNITS OF LOCAL GOVERNMENT OR OTHER AGENCIES AS REQUIRED BY LAW; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.
(PUBLIC HEARING REQUIRED)

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

Mr. Scurr advised that State law requires that the first reading of this Ordinance be a public hearing prior to transmitting the Comprehensive Development Master Plan (CDMP) to the agencies tasked with reviewing same. He stated that following the return of the Objections, Recommendations and Comments (ORC) Report, the Village may or may not be required to make further changes to the CDMP. He added that the Village has received a great deal of public input concerning the CDMP.

Ms. Arleen Weintraub, Director of Community Development, introduced Matt Noonkester of Kimley Horn. She announced that there is a sign-in sheet being circulated for those who wish to receive copies of correspondence to DCA.

Mr. Noonkester provided a report. He noted that the deadline for completion of the Master Plan is three years from the date of incorporation – or September 10, 2005. He advised that the Village has conducted three Council workshops, one citizen workshop, 42 charrette meetings and Council meetings. Mr. Noonkester reported that the CDMP also incorporates four master plans and two sidewalk inventories. He advised that the purpose of this Ordinance is for transmittal of the plan. He reviewed the schedule with Council.

Director Weintraub provided information regarding the modifications that had been made. She noted that the Palmetto Bay Village Center (PBVC) was modified on the Future Land Use map to represent what is accurate and preserves the environmentally protected areas. She further explained that the mixed use area was specified.

Mayor Flinn asked for verification that none of the actions that the Council may take with regard to the CDMP will abrogate any covenant currently in place.

Mr. Noonkester and Attorney Boutsis concurred.

Mayor Flinn noted that in Section 1-4, he suggested striking “continues to”, leave “allows uses such as” and delete the last sentence. Councilman Feller moved to approve the amendment. Seconded by Vice Mayor Robinson. All voted in favor (5-0). The Motion carried.

Mayor Flinn suggested deleting Section 1.4.6, Page 1-10, stating that he would prefer a “stream-lined” document. Vice Mayor Robinson moved to approve the amendment. Seconded by Councilman Neidhart. All voted in favor (5-0). The Motion carried.

Mayor Flinn suggested that the Council return the deadline for signage to 2006 (Page 8-5, Sections 8.2.6 and 8.2.12). Councilman Feller moved to

approve the amendment. Seconded by Councilman Breder. All voted in favor (5-0). The Motion carried.

Councilman Neidhart moved that the completion year also be 2006 on Page 1-8, Section 1.2.3. Seconded by Vice Mayor Robinson. All voted in favor (5-0). The Motion carried.

Discussion ensued concerning environmental concerns.

Councilman Neidhart suggested using the language, “move hospital entrance”, rather than saying which direction on Page 9-10. He moved as such. Seconded by Councilman Breder. All voted in favor (5-0). The Motion carried.

Councilman Breder noted that on Page 1-5, the area of the center of the Franjo Triangle, there should be a corresponding legend for the area defined RU-1.

Discussion ensued concerning the definition of “live-work” and the intended vision for the area

The public hearing was opened at 8:26 p.m.

The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; Carter McDowell of the law firm Bilzin, Sumberg (representatives of Palmetto Bay Village Center).

Attorney McDowell raised a concern that the definition of “other ancillary and supporting uses” (Page 1-6, Policy 1.1.3) may be prohibited of certain uses.

Discussion ensued with regard to the number of units particularly with regard to a senior living facility that may include nursing beds.

Steve Tendrich, representative of Devonshire and Associates, provided information as to what he believed was typical for the number of units in a facility of this type (75 nursing beds, 16 dementia beds and 40 assisted living).

Councilman Feller pointed out that the figures provided increase the population by approximately 50%. Discussion ensued.

Attorney McDowell encouraged the Council to revise the language, stating that he would work with village staff on the appropriate language.

Mayor Flinn suggested leaving the language as is and, if appropriate, revising the language at a later date.

Mr. Scott Silver, 18001 Old Cutler Road, stated that the plan was presented as a continuing care retirement community, asserting that this type of facility would lessen traffic flow. He remarked that the developer had always considered having the additional care.

The public hearing continued with the following individuals addressing the Council in opposition to nursing care at the PBVC: Joseph Miorelli, 8481 SW 142 Street; RW Hayes, 7575 SW 173 Street; Stewart Guthrie, 6960 SW 144 Street; Joe Keefe, 8360 SW 164 Street; and, Sigfried Polcot, 14370 SW 74 Court.

Mayor Flinn closed the public hearing at 9:28 p.m.

Councilman Breder on Page 1-5 moved to substitute the words “live-work” with “commercial.” Seconded by Councilman Neidhart.

Mayor Flinn suggested that the amendment would remove the residential component.

Councilman Breder countered that he did not believe the person living upstairs had to be the person working downstairs.

Councilman Feller asked for the legal definition.

Attorney Boutsis replied that there is not a legal definition. Mr. Scurr stated that it is a concept.

Discussion ensued concerning the concept “live-work.”

Mr. Noonkester suggested that the Land Development Code could define that a residential unit be included in the second story of a townhouse in this area.

Councilman Breder agreed that the concept “live-work” could be defined at a later date; he withdrew his motion.

Discussion ensued concerning Village Mixed-Use. Mayor Flinn suggested that the Village should not have to include more components than necessary. Vice Mayor Robinson moved to amend the language to state “at least one,” rather than “two” uses. Seconded by Councilman Breder.

Discussion ensued.

Attorney Boutsis explained that one use and green space does not meet the definition of “mixed use.”

The Motion failed 3-2, with the Vice Mayor and Mayor voting in favor, Councilmen Feller, Neidhart and Breder against.

Mayor Flinn suggested, and the Vice Mayor moved, to include language as follows: “recreation/open space, offices and may include one or more of the following additional uses.” Seconded by Councilman Neidhart.

Attorney Boutsis noted that the language would require the land-owner to always have offices on site. Mr. Scurr advised that if the land-owner desired to remove the offices, the CDMP would have to be modified.

The Motion carried 4-1, with Councilman Breder in opposition.

Councilman Feller moved to approve the Resolution with amendments to the CDMP as previously stated. Seconded by Vice Mayor Robinson. A roll call vote was taken, as follows: Mayor Flinn: yes; Vice Mayor Robinson: yes; Councilman Feller: yes; Councilman Neidhart: yes; and Councilman Breder: yes. The Motion carried unanimously (5-0).

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

XII. REQUESTS, PETITIONS AND PUBLIC COMMENTS:

The following individuals addressed the Council: Aida Crusan, 17501 SW 92 Avenue; and, Jacqueline Prussing, 9341 SW 178 Street.

XIII. MAYOR AND COUNCIL COMMENTS

- A. Councilman Feller thanked the Vice Mayor, Director Garcia and the members of the Special Events Committee for their efforts that resulted in an excellent picnic. He mentioned that an email was sent from the local Audubon society that suggested the Village was going to rezone the PBVC and damage environmental areas. He advised that within a day, the organization was contacted and apologized for relaying the incorrect information.
- B. Councilman Neidhart also thanked Vice Mayor Robinson, the Committee and staff for the event. Councilman Breder concurred.
- C. Vice Mayor Robinson thanked Director Garcia and the members of the Committee. She also thanked Mayor Flinn for “his energy.”
- D. Mayor Flinn commented that the Village takes its environmental responsibilities seriously. He, too, thanked the Vice Mayor, Director Garcia and the Committee for the picnic.

XIV. OTHER BUSINESS

Art in the Park – Mr. Scurr advised that he had received a written request to waive the rental fee for the set-up and conducting of the art festival (a 4-5 day period) in Coral Reef Park.

Councilman Feller asked if the fee was waived the previous year.

Mr. Scurr noted that the Village was not charging fees at that time.

Councilman Feller moved that the Village waive the fees provided that the Village does not have to pay for the clean up of the event. Seconded by Councilman Neidhart.

Councilman Breder remarked that he supports the Cultural Council efforts; however, he was made aware that last year, a member of the Cultural Council was trying to prohibit roller-blading through the area. He stated that the park uses should not be limited.

Mr. Scurr advised that staff will coordinate the event with the Council and insure that placement of the artists' tents does not hamper park activity.

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

XV. NEXT MEETING AND ADJOURNMENT: The Meeting was officially adjourned at 10:35 pm.

Prepared and submitted by:

*Meighan J. Pier, CMC
Village Clerk*

*Adopted by the Village Council on
this ___ day of April, 2005.*

Eugene P. Flinn, Jr., Mayor

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