

**VILLAGE OF PALMETTO BAY, FLORIDA  
MINUTES OF THE MONDAY, APRIL 11, 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:

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

Vice Mayor Robinson asked Dottie Barton to lead the pledge of allegiance.

**II. PROCLAMATIONS, AWARDS, PRESENTATIONS**

- A. Proclamation – Bryant Alvarado  
Vice Mayor Robinson presented the Proclamation to Bryant Alvarado, congratulating him for his commitment in achieving Eagle Scout.
- B. Presentation by Miami-Dade Police Department, Sexual Predators Unit  
Detective Ernesto Urtiaga and Detective Victor Caceres provided a presentation. They provided information as to the differences between sexual predators and sexual offenders and how they are tracked and monitored. Detective Urtiaga encouraged all to visit the Florida Department of Law Enforcement web site at [www.fdle.state.fl.us](http://www.fdle.state.fl.us) and to contact their Unit if you witness suspicious behavior.

Commander Mouring advised that within the Village of Palmetto Bay there are no sexual predators; however, there are approximately 10 sexual offenders. He stated that the Palmetto Bay Policing Unit will be assisting the County and Probation officers by helping confirm the whereabouts of sexual offenders within the Village.

**III. APPROVAL OF MINUTES**

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

Councilman Breder moved to approve. Seconded by Councilman Neidhart. All voted in favor. The Minutes were approved (4-0).

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

- A. Mr. Scurr provided a brief report regarding staff and Council's visit to Tallahassee.

Vice Mayor Robinson noted that the trip was very productive. She provided information as to what agencies and legislators the Council and staff visited.

Councilman Feller concurred and thanked staff for their organization and advance planning of meetings during the Tallahassee visit. He also thanked the lobbyists for bringing exposure to Palmetto Bay.

Councilman Neidhart and Breder concurred.

- B. Mr. Scurr provided information concerning the Bayside Library, advising that a draft agreement has been received and will come before the Council on May 2<sup>nd</sup>. He stated that staff has made significant progress in Tallahassee with regard to the C-100 Bayfront Park and is currently seeking specialized architectural firms to respond to a Request for Qualifications with regard to the Haas building. Mr. Scurr further advised that the tennis plan submitted by Jane Foreman would be discussed at the April 20<sup>th</sup> Committee of the Whole Meeting. He suggested deferring the storm water utility plan and signage items.

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

- A. Attorney Boutsis advised that the Old Cutler Presbyterian Church litigation remains pending. She advised Council that she will be scheduling an attorney-client session in the near future.

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

- A. Report from Village Hall/Police Department Complex Committee (Mayor Flinn entered the meeting.)

Members of the Village Hall Selection Committee came forward. Mr. Brian Pariser introduced the members.

Mr. Scurr provided a report, advising that staff had solicited responses from possible willing sellers and had also visited several sites. He noted that the Committee did not feel that the Publix Park property would be appropriate. He advised that the willing sellers include Total Bank at 179 Street and Franjo Road, Neighbors Grocery Store at 97<sup>th</sup> Avenue and Hibiscus and the Palmetto Bay Village Center, Building C. He specified

that the Committee did not give a preference for any of the sites. Mr. Scurr asked for permission to begin negotiations with the three sites and return for consideration by Council. He noted that one Committee member felt we should pursue the current location; however, the property owner remains uninterested in selling.

Mr. Pariser advised that the Committee held approximately seven meetings and also held various site meetings at other city/village halls. He noted that the Committee concurred that the current location would be ideal; however, felt that eminent domain should not be pursued.

Attorney Boutsis stated that she had spoken to several appraisers and received a response that a semi-appraisal could be performed on short notice for approximately \$2,000 for each site.

Councilman Breder moved to approve engaging the appraiser to perform the three semi-appraisals. Seconded by Councilman Neidhart.

Vice Mayor Robinson remarked that she would prefer to seek the asking price prior to performing any appraisals.

Councilman Feller suggested that a five year analysis of anticipated revenues and expenditures be provided to Council prior to any decision being made on purchasing a village hall site.

Mr. Tom Ringel, member of the advisory committee, reiterated that Mr. Scurr be permitted to begin negotiations.

Following discussion, Councilman Neidhart called the question. The Motion failed 3-2, with Mayor Flinn, Vice Mayor Robinson and Councilman Feller being opposed.

Councilman Feller moved to authorize the Village Manager to begin negotiations with the three parties and prepare a financial plan. Seconded by Vice Mayor Robinson.

Mayor Flinn offered the amendment to include preparation of an acquisition estimate for the current village hall location. Councilman Feller agreed to include the amendment. Vice Mayor Robinson seconded.

A voice vote was taken. The proposed Amendment carried unanimously (5-0).

A vote was taken on the motion as amended. The Motion carried unanimously (5-0).

## **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 \$15,539.38; PROVIDING AN EFFECTIVE DATE.
- 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 \$1,568.240; PROVIDING AN EFFECTIVE DATE. (Certification of Title-Perrine Park)
- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO MEMBERSHIP INTO THE FLORIDA RETIREMENT SYSTEM (FRS); PROVIDING FOR THE MEMBERSHIP OF GENERAL EMPLOYEES AND ELECTED OFFICIALS; RELATING TO THE DESIGNATION OF ELECTED POSITIONS FOR INCLUSION IN THE ELECTED OFFICERS' CLASS OF THE FRS; PROVIDING AN EFFECTIVE DATE.
- 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 TASERS UNDER COUNTY CONTRACT BW1673-3/08 IN THE TOTAL AMOUNT OF \$8,910.18 FROM DGG TASER, INC.; PROVIDING AN EFFECTIVE DATE.

Mrs. Pier advised that requests had been received to pull items VII C and D from the Consent Agenda.

Councilman Feller moved to approve Items VII A & B. Seconded by Councilman Breder. Resolutions 05-22 and 05-23 were approved unanimously (5-0).

## VIII. RESOLUTIONS

- A. ZONING APPLICATION Z-00-357 - A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; COMPLYING WITH THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT'S MANDATE TO THE VILLAGE COUNCIL UNDER THE ACTION ENTITLED ALEMAR INVEST. CORP. V. MIAMI-DADE COUNTY, CASE NO.: 01-131-AP TO APPROVE THE APPLICATION OF ALEMAR INVESTMENTS CORP., N.V. FOR (1) A

SPECIAL EXCEPTION TO PERMIT A RESIDENTIAL DEVELOPMENT IN THE BU-IA ZONE; (2) NON-USE VARIANCE OF SETBACK REQUIREMENTS TO PERMIT A RESIDENTIAL BUILDING TO SETBACK 15' FROM THE FRONT (WEST) PROPERTY LINE AND 15' FROM THE INTERIOR SIDE (NORTH) PROPERTY LINE; (3) NON-USE VARIANCE OF SETBACK REQUIREMENTS TO PERMIT AN ACCESSORY BUILDING TO SETBACK 14' FROM THE REAR (EAST) PROPERTY LINE; AND (4) NON-USE VARIANCE OF SPACING REQUIREMENTS TO PERMIT A SPACING OF 15' BETWEEN BUILDINGS; PROVIDING AN EFFECTIVE DATE.

Councilman Breder moved the item. Seconded by Councilman Neidhart.

Mayor Flinn asked why the Miami-Dade County Attorney's office did not offer a defense to this action.

Attorney Boutsis provided a report concerning this matter. She advised that following repeated requests, the County Attorney's office did not have an answer as to why this matter was not defended.

Mayor Flinn suggested that it would be prudent to defer this matter until the County Attorney responds to Attorney Boutsis' request for information.

Councilman Feller moved to defer.

Attorney Boutsis advised that while public hearing is not allowed on this matter, Attorney Jerry Proctor asked for the opportunity to address the Council.

Mayor Flinn stated that it would not be appropriate to allow one side to speak.

Vice Mayor Robinson seconded the previous motion.

Following discussion, Councilman Feller asked that Attorney Boutsis provide the following information to Council at the next hearing: 1. What are the Village's options if the county intentionally or unintentionally failed to pursue the case; 2. What action can the village take in the court system since the Village was not apprised of this lawsuit; and, 3. As the Village was not properly notified, would the Village be able to seek recovery of any financial detriment from the County.

A voice vote was taken on the previous motion. The Motion carried 3-2, with Councilman Breder and Councilman Neidhart being opposed.

Attorney Proctor asked to be heard concerning the motion for deferral. He objected to the deferral.

Mayor Flinn advised that the Council is undertaking due diligence and requires a deferral in order to get the answers from the County Attorney's office.

Councilman Feller added that his motion is to address the procedure that was undertaken, not the action on the property.

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; APPROVING THE LEASE PURCHASE AGREEMENT FOR THE 7.6 ACRE PARCEL ADJOINING PERRINE PARK; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE LEASE-PURCHASE AGREEMENT WITH MIAMI-DADE COUNTY ON BEHALF OF THE VILLAGE OF PALMETTO BAY FOR A SALE AMOUNT NOT TO EXCEED \$910,504.24, PLUS CUSTOMARY CLOSING COSTS; AND PROVIDING AN EFFECTIVE DATE.

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

Mr. Scurr provided a report. He noted that following six months of negotiating, the County has agreed to convey the land for cost. He advised that the matter remains to be heard before the County Commission.

Attorney Boutsis advised that the agreement is legally sufficient, allowing for five years to purchase.

Mr. Scurr explained that the Village will consummate the agreement prior to its termination with General Obligation Bond funds and grant dollars.

Councilman Neidhart moved to approve the Resolution. Seconded by Councilman Breder. All voted in favor. Resolution 05-24 was approved (5-0).

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO THE STORMWATER UTILITY MANAGEMENT REPORT, ACCEPTING THE FINAL REPORT DOCUMENTS AND RECOMMENDATIONS; FURTHER AUTHORIZING THE VILLAGE MANAGER TO PROCEED WITH IMPLEMENTATION OF THE REPORT FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

TO EXECUTE AN AGREEMENT WITH MIAMI-DADE COUNTY ACCEPTING RESPONSIBILITY FOR THE INSTALLATION AND MAINTENANCE OF STREET NAME, PARKING RESTRICTIONS, WARNING AND SPEED LIMIT SIGNS ON THOSE STREETS MAINTAINED BY THE VILLAGE, WITHIN ITS BOUNDARIES; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Feller moved to defer items VIII C and D. Seconded by Vice Mayor Robinson. The Motion carried 3-2, with Mayor Flinn, Vice Mayor Robinson and Councilman Feller voting in the affirmative.

## **IX. RESOLUTIONS REQUIRING PUBLIC HEARING**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, APPROVING THE WAIVER OF PLAT FOR A PARCEL OF LAND, LOCATED AT S. DIXIE HIGHWAY AND S.W. 157<sup>TH</sup> STREET, PALMETTO BAY, FLORIDA MORE SPECIFICALLY IN SECTION 28, TOWNSHIP 55 SOUTH, RANGE 40 EAST, COUNTY OF MIAMI-DADE, STATE OF FLORIDA, TOGETHER WITH A PORTION OF BLOCK 5 OF "CORAL REEF HOMESITES" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 45, AT PAGE 94 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

Councilman Neidhart explained that he has an interest in this property. He recused himself and left the meeting.

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

Mr. Ron Williams, Public Works Director, provided staff report. He noted that all appropriate agencies have reviewed and approved this matter.

Attorney Boutsis suggested that the sixth "whereas" clause be removed, as a bond is not necessary.

Following discussion, Mayor Flinn opened the public hearing at 8:33 p.m. The hearing was closed as no one wished to speak.

Vice Mayor Robinson called the question. The proposed Resolution was approved unanimously (4-0).

The Council took a recess at 8:35 p.m. The meeting re-convened at 8:46 p.m.

The Council considered the following items that were pulled from the Consent Agenda:

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO MEMBERSHIP INTO THE FLORIDA RETIREMENT SYSTEM (FRS); PROVIDING FOR THE MEMBERSHIP OF GENERAL EMPLOYEES AND ELECTED OFFICIALS; RELATING TO THE DESIGNATION OF ELECTED POSITIONS FOR INCLUSION IN THE ELECTED OFFICERS' CLASS OF THE FRS; PROVIDING AN EFFECTIVE DATE.

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

Mr. Scurr provided staff report.

Councilman Feller moved to defer the matter to the next Council meeting. Seconded by Vice Mayor Robinson.

Councilman Feller explained that he recommends deferral, as he is not necessarily opposed to the plan with the current number of employees, but remains concerned if in the future the village was significantly increased. He asserted that a large number of employees eligible for this plan may be cost prohibited.

Mayor Flinn stated that the outsourcing model has been successful; therefore, he would agree with offering this benefit as the village is not "employee-heavy."

A voice vote was taken on the previous motion. The Motion carried (4-1), with Councilman Neidhart being the sole opposition.

- F. 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 TASERS UNDER COUNTY CONTRACT BW1673-3/08 IN THE TOTAL AMOUNT OF \$8,910.18 FROM DGG TASER, INC.; PROVIDING AN EFFECTIVE DATE.

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

Mr. Scurr provided staff report. Commander Mouring added that tasers are very useful as non-lethal weapons.

Vice Mayor Robinson asked if the officers could not transfer their tasers from one shift to the next.

Commander Mouring advised that sharing a taser is comparable to sharing firearms in that officers must log the use of the taser through a computer program and sharing would be detrimental to accountability.

Councilman Breder asked if the tasers would be the property of the village.

Commander Mouring responded that they would belong to the village.

Councilman Feller asked for the estimated life expectancy.

Commander Mouring advised that tasers have been in use by Miami-Dade County Police for over two years, but he is uncertain as to their life expectancy.

Councilman Feller called the question. All voted in favor. The Motion carried (5-0).

**X. ORDINANCES FOR FIRST READING AND EMERGENCY ORDINANCES:** None at this time.

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

**XII. REQUESTS, PETITIONS AND PUBLIC COMMENTS:** Aida Cruzan, 17501 SW 92 Avenue, addressed the Council concerning parking concerns for the Village's Parks. She asked that all park plans maximize parking spaces.

**XIV. OTHER BUSINESS**

A. Councilman Feller moved that staff draft a policy resolution concerning providing access to the field currently used by Palmetto High School at Coral Reef Park. He suggested that three openings in the fence be provided for that field and that signage be installed noting that when the field is not being used by the High School that it is available to the public. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried (5-0).

B. Mayor Flinn raised the issue of the racquetball courts at Coral Reef Park and their current state of disrepair.

Discussion ensued and the Manager's procurement authority was noted.

Councilman Breder moved to direct staff to act expeditiously to have the racquetball courts resurfaced at the vendor's expense, either initially or reimburse. Seconded by Vice Mayor Robinson. The Motion carried unanimously (5-0).

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

- A. Vice Mayor Robinson stated that the Village had a productive meeting with several parents of Coral Reef Elementary School students and School Board Member Evelyn Greer concerning “concreteables” that will be replacing the portable classrooms.

Mayor Flinn concurred, thanking Board Member Greer for her willingness to meet with the residents, staff and Council.

### **XV. NEXT MEETING AND ADJOURNMENT:** The Meeting was officially adjourned at 9:25 pm.

*Prepared and submitted by:*

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*Meighan J. Pier, CMC  
Village Clerk*

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

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*Eugene P. Flinn, Jr., Mayor*

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