

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, MAY 2, 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

- I. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE**

The Meeting was called to order at 7:15 p.m. Girl Scout Troop 89 led the pledge of allegiance.

- II. PROCLAMATIONS, AWARDS, PRESENTATIONS**

- A. Certificates of Appreciation – Junior Girl Scouts: Mayor Flinn introduced Girl Scout Troop 89 and thanked them for their participation at the April 16th Baynanza Clean up, focusing their efforts at the C100 Canal section of the Deering Estate. He provided certificates of appreciation to the following young ladies: Nicole Rilo, Stephanie Voight, Heather Dasher, Sommer Walker, Ramsey Baggs, Savannah Phillips, Katie Flinn, Melissa Obeso, Erin Maroon, and Jodi Palenzuela.
- B. Proclamation – Alan Noe: Mayor Flinn provided a Proclamation to Alan Noe, celebrating his entering the military and beginning training for the Army Rangers.
- C. Proclamation – Lance Corporal Stanley N. Kowlessar: Mayor Flinn presented a Proclamation to Lance Corporal Stanley Kowlessar, thanking him for his excellent service as a Marine.

- III. APPROVAL OF MINUTES**

- A. Minutes of the April 11, 2005 Council Meeting: Councilman Feller moved to approve as drafted. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried unanimously (5-0).

IV. VILLAGE MANAGER'S REPORT

- A. Mr. Scurr provided an update concerning the legislative session. He stated that the reports from the lobbyists remain positive. He advised that he hopes to have a full report for the Council at the June meeting.
- B. Mr. Scurr thanked Councilmen Feller and Breder for their assistance concerning the Bayfront library. He advised that the architectural services agreement is being finalized. Concerning Perrine Park, Mr. Scurr noted that the architectural services agreement should be finalized in June and will define the phases of the project.
- C. Mr. Scurr stated that staff will request the Council consider a motion to release the \$85,000 escrowed from the mitigation payment to the County.
- D. Mr. Scurr advised that Attorney Boutsis had met with Jane Forman's attorney and will provide a report concerning Coral Reef Park at the next Council workshop.
- E. Mr. Scurr reported that staff is withdrawing the item concerning the Florida Retirement System.
- F. Mr. Scurr advised that the next Council meeting shall be June 6th; the next zoning hearing shall be June 13th; and, the Council workshop for May will be re-scheduled in the near future.

V. VILLAGE ATTORNEY'S REPORT: None at this time.

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 \$21,447.67; PROVIDING AN EFFECTIVE DATE.
- B. 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.

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION EMERGENCY RELIEF PROGRAM AGREEMENT; ACCEPTING THE REIMBURSEMENT OF \$11,781.00 FOR EXPENSES INCURRED AS A RESULT OF HURRICANE FRANCES; AND PROVIDING AN EFFECTIVE DATE.
- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO STREET PAVING AND DRAINAGE IMPROVEMENTS ON SW 164TH STREET; AUTHORIZING AN AMENDMENT TO THIS CONTRACT WITH KIMLEY-HORN TO INCLUDE ADDITIONAL DESIGN SERVICES TO INCORPORATE SIDEWALKS AS PART OF THIS PROJECT; FURTHER AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER IN AN AMOUNT NOT TO EXCEED \$6,800; AND PROVIDING FOR AN EFFECTIVE DATE.
- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, SUPPORTING THE MIAMI-DADE COUNTY SCHOOL BOARD IN ITS EFFORTS TO IMPROVE CORAL REEF ELEMENTARY SCHOOL; PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Mayor Eugene P. Flinn, Jr.)

Councilman Neidhart moved to adopt the Consent Agenda. Seconded by Vice Mayor Robinson. All voted in favor (5-0). Resolutions 05-27, 05-28, 05-29, 05-30, and 05-31 were approved.

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

Attorney Boutsis provided staff report. She recommended approval.

Councilman Neidhart moved to approve. Seconded by Councilman Feller.

Vice Mayor Robinson explained that this matter arose due to the previous action taken by the Community Council prior to incorporation. She stated that the Council desired answers prior to making a decision; however, she feels that a vote can be made this evening.

Attorney Boutsis provided further explanation.

Following brief discussion, 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). Resolution 05-32 was approved.

Councilman Feller moved that staff seek an apology from the Miami-Dade County Attorney's office for their lack of proper follow-up of this case during the more than three years that it was being litigated.

Mayor Flinn suggested amending the motion to include that staff also suggest that the County Attorney's office investigate whether they should improve their case-tracking software.

Councilman Feller accepted the amendment. Vice Mayor Robinson seconded the motion. All voted in favor. The Motion carried unanimously (5-0).

- B. A RESOLUTION 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; AMENDING THE CONTRACT WITH KIMLEY-HORN AND ASSOCIATES, INC. IN AN ADDITIONAL AMOUNT NOT TO EXCEED \$20,000 TO PREPARE THE VILLAGE RESPONSE TO THE DEPARTMENT OF COMMUNITY AFFAIRS "OBJECTIONS, RECOMMENDATIONS, AND COMMENTS REPORT;" AND PROVIDING AN EFFECTIVE DATE.

Councilman Breder moved this item. Seconded by Councilman Neidhart.

Mr. Scurr provided staff report. He advised that staff had anticipated paying for an additional scope of services for the ORC report. He explained that the comprehensive plan has been filed with the State and the comments will be

forthcoming. He advised that the negotiated amount would be for a standard response to the ORC; remaining optimistic that the matter will not require a protracted response.

Councilman Neidhart called the question. 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). Resolution 05-33 was approved.

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; APPROVING AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY FOR A BAYSIDE PARK LIBRARY; PROVIDING AN EFFECTIVE DATE.

Councilman Feller moved this item. Seconded by Councilman Neidhart.

Mr. Scurr provided staff report.

Attorney Boutsis advised that safeguards are included. She explained that the contract contains the basic ideas and content, but will be finalized. She suggested that Council approve the agreement in its substantial form since it will be heard by the County in Committee on May 11th.

Councilman Breder thanked the Fellers for their innovation. He remarked that the library will be a signature building that will be elevated for a view of the Bay.

Councilman Feller thanked Councilman Breder for his assistance with negotiations for this library. He expressed his desire to have ground-breaking as early as possible.

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). Resolution 05-34 was approved.

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; APPROVING THE PURCHASE OF PLAYGROUND SURFACE MATERIALS FROM PIAZZA, INC. FOR CORAL REEF PARK; AUTHORIZING THE VILLAGE MANAGER TO DISBURSE AN AMOUNT NOT TO EXCEED \$73,122.15 FOR THE PURCHASE, DELIVERY AND INSTALLATION OF THE PLAYGROUND SURFACING MATERIAL; AND PROVIDING AN EFFECTIVE DATE.

Councilman Feller moved this item. Seconded by Councilman Neidhart.

Mayor Flinn asked the funding source.

Mr. Scurr replied that the funding source would be the General Obligation Bonds.

Mayor Flinn stated that he would prefer priorities to be established prior to spending the funds.

Mr. Scurr advised that the playground surfacing was suggested in order to ensure that the parks are “user-friendly” and to bring the park up to standard.

Mayor Flinn expressed that he is not in support of spending the funds until a prudent stratification process was completed.

Councilman Feller remarked that the current surface of sand is not effective, as it holds dirt and takes a great deal of staff time to maintain. He suggested that the Village act on the plans that have been discussed in the past.

Mr. Scurr explained that the re-surfacing would not preclude the Village from expanding the tot lot.

Councilman Feller advised that re-surfacing was the first priority, with new benches and picnic tables being the next priority.

Director of Community Services Ana Garcia advised that the three items concerning Parks improvements total \$153,000, to be spent out of the \$3,000,000 bond. She noted that sand is not an appropriate surface for ADA compliance.

Councilmen Breder and Neidhart expressed their desire to move forward with park improvements.

Following brief discussion, Resolution 05-35 was approved 4 to 1, with Mayor Flinn being the sole opposition.

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN AGREEMENT WITH PIAZZA, INC. TO PURCHASE MUCH NEEDED PARK AMENITIES FOR CORAL REEF PARK; DISBURSING AN AMOUNT NOT TO EXCEED ~~\$80,000~~ 64,234.40 FOR THE PURCHASE, DELIVERY AND INSTALLATION OF PARK BENCHES, PICNIC TABLES AND TRASH RECEPTACLES; AND PROVIDING FOR AN EFFECTIVE DATE.

Director Garcia provided a report. She advised that staff has amended the Resolution for an amount not to exceed \$64,234.40, as certain items have been removed and recycling items included.

Following discussion, Councilman Feller called the question. Resolution 05-36 was approved unanimously (5-0) through voice vote.

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; APPROVING THE PURCHASE OF PLAYGROUND EQUIPMENT FROM PIAZZA, INC. FOR CORAL REEF PARK; AUTHORIZING THE VILLAGE MANAGER TO DISBURSE AN AMOUNT NOT TO EXCEED \$14,848.78 FOR THE PURCHASE, DELIVERY AND INSTALLATION OF THE PLAYGROUND EQUIPMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Director Garcia provided staff report.

Following brief discussion, Councilman Feller moved to approve. Seconded by Vice Mayor Robinson. Resolution 05-37 was approved unanimously (5-0).

Councilman Feller suggested that staff expedite this purchase.

- G. 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.

Councilman Feller moved to withdraw this item. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried (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, AMENDING ORDINANCE 04-23, RELATING TO REGULATING GARAGE SALES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Mr. Scurr provided staff report.

Mayor Flinn asked if it would be possible to modify the number of garage sales per year.

Attorney Boutsis advised that minor modifications could be addressed prior to final reading.

Vice Mayor Robinson moved to approve on first reading and schedule the public hearing for June 6, 2005. Seconded by Councilman Breder. 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).

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CREATING CHAPTER _____ OF THE CODE OF ORDINANCES ENTITLED "PUBLIC CHARTER SCHOOL FACILITIES" WHICH ESTABLISHES PURPOSE, DEFINITIONS, REVIEW PROCESS AND STANDARDS FOR APPROVAL OF PUBLIC CHARTER SCHOOL FACILITIES; PROVIDING FOR ORDINANCES IN CONFLICT; CODIFICATION; SEVERABILITY; AND, AN EFFECTIVE DATE.

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

Mr. Scurr provided staff report.

Councilman Feller noted that the County approves charter application without site specificity. He wondered if the Village retains control concerning the zoning requirements for a charter school.

Mr. Scurr responded that if the proposed school were to be constructed in an area that falls within a category that allows schools, the Village would have to approve.

All voted in favor of approving the ordinance on first reading and scheduling the public hearing for June 6, 2005, 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: Eric Tulberg, 17884 SW 79 Terrace; Kim Moggio, of Coral Estates Soccer; and John Moggio, Coach of Coral Estates Soccer.

XIII. OTHER BUSINESS

- A. Councilman Feller moved to release the remaining mitigation funds to the County. Seconded by Councilman Neidhart. The Motion carried 4 to 1, with Vice Mayor Robinson being the sole opposition.

- B. Mayor Flinn moved to direct staff to begin preparing a budget for priorities to be discussed at the next Committee of the Whole meeting, and then to be heard and determined by Council. Seconded by Councilman Feller. All voted in favor (5-0). The Motion carried.
- C. Mayor Flinn suggested that mid-year budget adjustments be presented in June, if any.
- D. Mayor Flinn stated that prior to the July Council meeting, he would like each Department Director to take last year's budget and prepare a prioritization and vision/anticipation of their future budget. He directed Mr. Scurr to schedule separate meetings with each Director and individual council members to discuss each department budget.

XIV. MAYOR AND COUNCIL COMMENTS: None at this time.

XV. NEXT MEETING AND ADJOURNMENT: The Meeting was officially adjourned at 9:15 pm.

Prepared and submitted by:

*Meighan J. Pier, CMC
Village Clerk*

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

Eugene P. Flinn, Jr., Mayor

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