

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, MAY 3, 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
Councilman Paul Neidhart
Councilman John Breder

The following staff members were present:
Village Manager Charles D. Scurr
Village Attorney Earl Gallop
Village Clerk Meighan Pier

Mayor Flinn lead the pledge of allegiance.

II. PROCLAMATIONS, AWARDS, PRESENTATIONS

Mayor Flinn, the members of the Council and Commander Mouring recognized citizen, Gail Smith, a nurse who successfully revived her neighbor's child who had accidentally fallen into the pool.

Mr. Scurr reminded all that CPR classes are available for anyone who is interested.

III. APPROVAL OF MINUTES

- A. Minutes of the April 12, 2004 Council Meeting

Mayor Flinn noted that on Page 4, the citizen's name is "Benjamin Powell".

Vice Mayor Robinson moved to approve as amended. Seconded by Councilman Breder. All voted in favor. The Motion carried unanimously.

IV. VILLAGE MANAGER'S REPORT

Mr. Scurr thanked those who came out for the Southwest Palmetto Bay Charrette. He advised that the consultant's presentation is on the Village web site.

- A. Quarterly Budget Comparison Report: Mr. Scurr explained the report. He noted that with the increased activity in the Building and Permitting Department, higher revenue is expected and an adjustment would be forthcoming. He explained the negative figure in code enforcement is due to the fact that the Village is still utilizing the County. He stated that staff believes the budget will remain “on target”.
- B. Village Center Complex Preliminary Analysis: Mr. Scurr provided a report. He stated that throughout both Charrettes, a proposal to include Village Hall has been included. Mr. Scurr provided the comparison that was performed with other cities. He advised that staff needs to begin exploration, as the sites offered will not be available forever.

Mr. Scurr announced that there shall not be a zoning hearing in May, rather the next hearing would be on June 14 at Southwood Middle School. He advised that the next regular Council meeting will be held on June 7th and staff will seek Council approval to reschedule the July Council meeting due to the Independence Day holiday.

V. VILLAGE ATTORNEY’S REPORT

- A. Palmetto Bay Village Center Accessory Uses Policy: Attorney Gallop advised that Grouper Financial has requested a letter regarding accessory uses for tenants and potential tenants. He stated that giving this letter would be a policy decision by Council.
- B. Status of review of Palmetto Bay Village Center documents: Attorney Gallop advised that staff is continuing to research the covenants and restrictions in addition to seeking further documents.
- C. Time line for preparing code sections: Attorney Gallop advised that Council had requested staff identify and develop Codes relating to missions/responsibilities of the Village. He advised that several Ordinances will be drafted and/or addressed.
- D. Report of Pastorella v. Village of Palmetto Bay, et al.: Attorney Gallop asked the Council to consider whether an attorney/client meeting should be scheduled. He explained the process involved with this type of meeting and the Writ of Certiorari process.
- E. Attorney Gallop advised that he had provided legal opinion regarding the 10% recall vote and those interested may request a copy from the Village Clerk.

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 \$10,527.15; PROVIDING AN EFFECTIVE DATE.

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE TRANSFER OF ROADS BETWEEN MIAMI-DADE COUNTY AND THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT WITH MIAMI-DADE COUNTY ACCEPTING JURISDICTION, OWNERSHIP AND RESPONSIBILITY FOR PUBLIC ROADS WITHIN THE CORPORATE LIMITS OF THE VILLAGE OF PALMETTO BAY EXCEPT FOR THE ROADS IDENTIFIED AS "EXEMPT ROADS" PER THE ATTACHED AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

A Motion to adopt the consent agenda was made by Councilman Feller. Seconded by Councilman Neidhart. All voted in favor. Resolutions 04-37 and 04-38 were adopted unanimously (5-0).

VIII. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; COMMITTING THE VILLAGE TO IMPLEMENT THE IMPROVEMENTS IDENTIFIED IN THE VILLAGE'S APPLICATION TO THE 2003-2004 LAND AND WATER CONSERVATION FUND GRANT APPLICATION; COMMITTING THE VILLAGE TO INCLUDE THE BAYFRONT PARK DEVELOPMENT PROJECT IN ITS CAPITAL IMPROVEMENT PLAN; AND PROVIDING AN EFFECTIVE DATE.

Mr. Scurr provided report. He noted that the grant would require a match which would be taken from Park impact funds. He advised that this grant scores on a point system and if the Village's declares its intent to include this matter in our Master Plan, points may be received.

Mayor Flinn noted that the grant does not anticipate any additional expenditures our behalf.

A Motion to adopt the proposed Resolution was made by Councilman Feller. Seconded by Vice Mayor Robinson. All voted in favor. Resolution 04-39 was adopted unanimously (5-0).

B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CODE ENFORCEMENT, AUTHORIZING THE VILLAGE MANAGER TO EXECUTE ADDENDUM 1 TO THE AGREEMENT WITH CSA SOUTHEAST FOR THE PROVISION OF CODE ENFORCEMENT SERVICES BY CSA SOUTHEAST AND M.T. CAUSLEY; PROVIDING AN EFFECTIVE DATE

Mr. Scurr provided staff report. He thanked Paula Palm and the members of the committee for their input. He advised that the conclusion was reached that out-sourcing would be the most effective manner in which to serve this function. Mr. Scurr noted that the Village had budgeted \$225,000 for this division; however, the contract would be for \$210,000, well within budget. He concluded that the Village would receive a revenue stream for code enforcement violations; however, the purpose of this function is not revenue-generation, rather compliance.

Attorney Gallop advised that the contract is legally sufficient and includes appropriate termination clauses.

Mayor Flinn asked if sufficient flexibility on schedules is included.

Mr. Scurr responded affirmatively, adding that the code enforcement division would report to the Director of Community Development.

Mayor Flinn asked how disputes would be handled between neighbors.

Mr. Scurr advised that staff would attempt to get neighbors talking, rather than arguing. He advised that most code enforcement problems are due to lack of information and courtesy notices would be provided in many cases. He stated that staff will provide notice to the County that the Village would assume this responsibility in early July and staff will begin the selection process for a Special Master.

Following discussion, Councilman Breder asked if an addendum to the current contract is appropriate as the current Building and Permitting contract is between the Village and CSA and the addendum is between the Village and CSA and MT Causley. He suggested an amendment to the contract at Page 4 of 9, Section 6.7, replace the word "receive" with "require".

Attorney Gallop advised that staff would correct the contract language and that Council can resolve without further action or ratify at a future date.

Further discussion ensued regarding contract rates. Mr. Mike Causley explained the meaning of "flex hours".

A Motion to adopt the proposed Resolution with the contract amendment was made by Vice Mayor Robinson. Seconded by Councilman Breder. All voted in favor. Resolution 04-40 was adopted unanimously (5-0).

IX. RESOLUTIONS REQUIRING PUBLIC HEARING

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACCEPTING THE FINAL PLAT OF ESTEVEZ VILLA, THE SAME BEING A REPLAT OF LOT 4, BLOCK 1, OF "SPANISH VILLAS" IN THE NORTHEAST ¼ OF SECTION 23, TOWNSHIP 55 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 96 AT PAGE 16 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

Mr. Ron Williams, Director of Public Works, noted that the plat was revised to include ingress/egress on Old Cutler Road. He advised that staff recommends approval.

Mayor Flinn opened the public hearing at 8:15 p.m. No one desired audience; therefore, the public hearing was closed.

A Motion to adopt the proposed Resolution was made by Councilman Neidhart. Seconded by Vice Mayor Robinson. All voted in favor. Resolution 04-41 was adopted unanimously (5-0).

X. ORDINANCES FOR FIRST READING AND EMERGENCY ORDINANCES

- A. AN ORDINANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING ORDINANCE 03-13, THE FY 2003-04 BUDGET, REFLECTING SUPPLEMENTAL REVENUES RECEIVED BY THE VILLAGE FOR PARKS AND BUILDING AND PERMITTING FEES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Mr. Scurr provided staff report.

Following discussion, Attorney Gallop advised that this action is consistent with the Village charter.

Councilman Neidhart moved to approve on first reading. Seconded by Councilman Feller. All voted in favor of the foregoing Motion. The Motion carried unanimously (5-0).

XI. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

- A. AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE COUNCIL; AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES

OF THE VILLAGE OF PALMETTO BAY RELATING TO THE VILLAGE COUNCIL MEETING AND AGENDA PROCEDURES; RULES OF ORDER, ORDER OF BUSINESS, MINUTES OF MEETINGS; AND PROCESS FOR CREATION OF COMMITTEES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Following discussion concerning the notice of this matter, Councilman Breder moved to defer. Seconded by Councilman Neidhart. All voted in favor. The Motion carried (5-0).

XII. OTHER BUSINESS

- A. Attorney Gallop asked Council for direction as to whether the Village wishes to provide a “comfort letter” to the Palmetto Bay Village Center.

Mr. Scurr noted that accessory uses may not exceed 15% and staff would track same.

Mayor Flinn asked whether the uses as defined by Section 33-284.30 are not sufficient and why a letter from the Village would be necessary.

Attorney Jerry Proctor, representing the Palmetto Bay Village Center, stated that the uses requested are accessory, not “stand-alone” uses, and are dependent and concurrent upon other tenants.

Mayor Flinn asked Attorney Gallop whether this letter would restrict the Council’s ability when making any zoning decisions with regard to this project.

Attorney Gallop replied that there is one office park district in the Village, although granting this correspondence would establish a policy of providing comfort letters when requested by others. He added that principal uses would still be required for 85% of the property.

Mr. Scott Silver of Grouper Financial provided information with regard to the accessory use tenants.

Following discussion, it was noted that the Village would be permitted to review the matter in five years.

Councilman Neidhart moved to approve providing the correspondence. Seconded by Councilman Breder. Following discussion regarding narrowing the review date, the motion passed 4-1 with Mayor Flinn voting in the opposition.

XIII. REQUESTS, PETITIONS AND PUBLIC COMMENTS

- A. Mr. Ed Ludovici suggested including address of property with plat approval.
- B. Ms. Aida Crusan, 17501 SW 92 Avenue, suggested the Village adopt an ordinance governing the color a house may be painted.
- C. Mr. Antonio Martinez, 15747 SW 84 Place, Mr. Vernon Richardson, 14122 SW 110 Avenue, and Mr. Henry Clifford, 8875 SW 179 Street, suggested that the racquetball courts remain at Coral Reef Park.
- D. Mr. Gabriel Bifano, 7371 SW 156 Street, asked for explanation concerning the “closed door meeting” regarding the Old Cutler Presbyterian case.

Attorney Gallop provided explanation with regard to exceptions to the Sunshine Law, specifically attorney/client meetings to address pending/current litigation.

- E. Ms. Marsha Matson, 9300 SW 180 Street, asked for explanation regarding Attorney Gallop’s billing statement.

Attorney Gallop explained the billing.

Ms. Matson asked all to attend a gala for the attorneys who provided their services on the mitigation issue.

XIV. MAYOR AND COUNCIL COMMENTS

- A. Vice Mayor Robinson suggested that Village purchase a table for the Gene Stearns gala. She assured the audience that the Parks Master Plan is currently being drafted and there have been no decisions made with regard to removing any racquetball courts.
- B. Councilman Feller concurred with regard to the racquetball courts. He added that the Parks are intended to be used for all, not just the residents.
- C. Mayor Flinn noted that he enjoyed the golf tournament for Howard Drive ACT two Sundays ago. He expressed his gratitude to Nurse Smith and encouraged all to take the CPR course and to be positive neighbors.

XV. NEXT MEETING AND ADJOURNMENT

Councilman Feller moved to adjourn. Seconded by Councilman Breder. All voted in favor. The meeting was adjourned at 9:51 p.m.

Prepared and submitted by:

Meighan J. Pier
Village Clerk

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

Eugene P. Flinn, Jr., Mayor