

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, JUNE 6, 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 7:10 p.m. The following members of the Village Council were present:

Mayor Eugene Flinn
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 Luis Figueredo
Village Clerk Meighan Pier

Mayor Flinn asked Representative J.C. Planas to lead the pledge of allegiance.

II. PROCLAMATIONS, AWARDS, PRESENTATIONS

- A. Presentation to State Representative J.C. Planas: Mayor Flinn welcomed Representative JC Planas and thanked him for his assistance in improving the area by positively representing Palmetto Bay in the legislature. Representative Planas thanked the Council for their efforts and pledged to continue supporting the Village. Mayor Flinn presented the Representative with a key to the Village.
- B. Juvenile Diabetes Research Foundation – Presentation by Chuck Duncan - Board Member, Walk Captain and Team Captain of Miami-Dade Police Team; Paula Palm, Palmetto Bay/South Miami Pumpers Team Captain: Chuck Duncan thanked Community Services Director Ana Garcia and Paula Palm for their support. He presented the Village with a plaque. His daughter, Carly Duncan, who has juvenile diabetes, thanked all. Director Garcia thanked the Council and those who participated and continue to support this worthwhile cause.
- C. Presentation by Palmetto Bay Village Hall/Police Complex Committee – Item deferred by staff

- D. Palmer Trinity School Master Plan – Sean Murphy, Head of School: Mr. Murphy thanked the Council for giving him the opportunity to speak. He provided information concerning the proposed master plan for the school's recently acquired 33 acres. He noted that the majority of the property will remain green space and the flow of traffic would be modified to have vehicles enter from 184 Street. He announced that they will be holding a meeting with the neighbors on Wednesday night at 7 pm

Mayor Flinn suggested that Council members should not attend due to the possibility that the matter may come before the Council in the future as a quasi-judicial matter. He thanked Mr. Murphy for meeting with the neighbors.

III. APPROVAL OF MINUTES

- A. Minutes of the May 2, 2005 Council Meeting

Councilman Feller moved to approve. Seconded by Councilman Breder. All voted in favor. The Minutes were approved (5-0).

IV. VILLAGE MANAGER'S REPORT

- A. Mr. Scurr provided information concerning the recent legislative session. He advised that the Village will receive \$400,000 for stormwater, \$200,000 for Coral Reef Park and \$200,000 for Perrine Park. He noted that the request for \$100,000 for the Comprehensive Plan was not successful. He thanked the Council for their efforts in Tallahassee.

Olga Cadaval, Assistant to the Village Manager, added that the Village also received \$200,000 from the Land and Water Conservation Fund for C-100 acquisition.

Mr. Scurr provided a report, advising that the assessed value for ad valorem for 2005 is approximately \$2,300,000,000 and that properties are appreciating well. He noted that the maximum increase for residential homes is three percent. He reported that item X.C. is the first hearing of this matter. Mr. Scurr advised that the Village is finalizing its audit, noting that the Village saved \$1.8 million from last year's budget.

Mr. Scurr advised that staff is seeking deferral on the Bayside Park library item as the matter will be heard before a County committee on Wednesday. He noted that he will be meeting with individual members of the Council concerning priorities to incorporate into five year plan. He added that staff is updating its emergency management plans and is finalizing the newsletter and will include a hurricane preparedness insert. He advised that there will be an Ombudsman presentation at Coral Reef Park this Saturday from 10 until 1 pm,

the next Council meeting is on July 11th, zoning on Monday, June 13th. He concluded with a brief public safety report.

V. VILLAGE ATTORNEY'S REPORT: Attorney Figueredo did not offer a report at this time.

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 NAGIN GALLOP FIGUEREDO, P.A. IN THE AMOUNT OF \$9,268.50; PROVIDING AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATTORNEY'S FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR NAGIN GALLOP FIGUEREDO, P.A. IN THE AMOUNT OF \$23,173.27; PROVIDING AN EFFECTIVE DATE.
- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PROGRAM; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MUNICIPALITIES AND AGENCIES NAMED AS CO-PERMITTEES IN NPDES PERMIT NO.FLS000003. THIS AGREEMENT PROVIDES FOR PERFORMANCE OF PROFESSIONAL ENGINEERING AND INSPECTION SERVICES BETWEEN ALL CO-PERMITTEES FOR CONTROL OF POLLUTANT DISCHARGES BETWEEN SHARED MUNICIPAL STORM SEWER SYSTEMS; AND PROVIDING FOR AN EFFECTIVE DATE.
- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LOBBYING THE FLORIDA LEGISLATURE TO AMEND LEGISLATION RELATING TO TRESPASS IN PUBLIC PARKS BY SEXUAL OFFENDERS IN ORDER TO PROVIDE FURTHER PROTECTION TO FLORIDA'S MINOR CHILDREN BY MAKING THE CONVICTION FOR TRESPASS WITHIN A SCHOOL SAFETY ZONE" A FELONY; AND SEEKING SUPPORT FROM ALL NEIGHBORING COMMUNITIES WITH THIS INITIATIVE; PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn)

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; APPROVING A CONTRACT WITH WOLFBERG ALVAREZ AND PARTNERS TO PROVIDE ARCHITECTURAL SERVICES FOR THE BAYSIDE PARK AND LIBRARY FACILITY LOCATED AT 17641 OLD CUTLER ROAD IN AN AMOUNT NOT TO EXCEED \$126,000; AND PROVIDING AN EFFECTIVE DATE. **(ITEM TO BE DEFERRED.)**

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AN EXISTING OPEN PURCHASE ORDER WITH WEEKLEY ASPHALT PAVING, INC. FOR \$300,000 TO RESURFACE PUBLIC ROADWAYS WITHIN THE VILLAGE OF PALMETTO BAY; AUTHORIZING AN INCREASE TO THE EXISTING PURCHASE ORDER ALLOCATED TO ROADWAY RESURFACING; AUTHORIZING THE VILLAGE MANAGER TO INCREASE SAID PURCHASE ORDER IN AN AMOUNT NOT TO EXCEED \$9,104.00; AND PROVIDING FOR AN EFFECTIVE DATE.

- G. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, CALLING ON THE MIAMI-DADE BOARD OF COUNTY COMMISSIONERS TO OPPOSE ANY EXTENSION TO THE URBAN DEVELOPMENT BOUNDARY AT THE PRESENT TIME, TO ENCOURAGE INFILL DEVELOPMENT AND ADHERENCE TO THE COUNTY DEVELOPMENT MASTER PLAN AS CURRENTLY ADOPTED, INCLUDING THE ADOPTED 2003 EVALUATION AND APPRAISAL REPORT; PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn)

Councilman Breder moved to waive the deadline to remove items from the Consent Agenda and have Item G discussed under “Resolutions”. Seconded by Vice Mayor Robinson. Following discussion, all voted in favor (5-0). The Motion carried.

Councilman Neidhart moved to adopt the Consent Agenda items. Seconded by Councilman Feller. Resolutions 05-38 through 05-42 were approved unanimously (5-0).

VIII. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO DRAINAGE IMPROVEMENT PROJECTS IN VARIOUS AREAS WITHIN THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO CONTRACT WITH CIVIL WORKS, INC.

TO PERFORM DRAIN SYSTEM DESIGN SERVICES FOR SW 86TH AVENUE NEAR SW 182ND TERRACE, SW 75TH AVENUE BETWEEN SW 138TH STREET AND SW 139TH STREET, SW 77TH AVENUE BETWEEN SW 138TH AND SW 139TH STREET AND SW 88TH AVENUE AND 153RD TERRACE AND TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$42,140.00 ON THESE PROJECTS THAT WILL SUBSTANTIALLY IMPROVE THE DRAINAGE CONDITIONS WITHIN THE VILLAGE OF PALMETTO BAY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Director of Public Works, Ron Williams, advised that the adoption of the Resolution would begin the implementation of the Stormwater Master Plan.

Following brief discussion, Attorney Figueredo advised that the contract is legally substantial.

Councilman Feller called the question. All voted in favor. Resolution 05-43 was adopted unanimously (5-0).

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, CALLING ON THE MIAMI-DADE BOARD OF COUNTY COMMISSIONERS TO OPPOSE ANY EXTENSION TO THE URBAN DEVELOPMENT BOUNDARY AT THE PRESENT TIME, TO ENCOURAGE INFILL DEVELOPMENT AND ADHERENCE TO THE COUNTY DEVELOPMENT MASTER PLAN AS CURRENTLY ADOPTED, INCLUDING THE ADOPTED 2003 EVALUATION AND APPRAISAL REPORT; PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn)

Councilman Breder provided a brief explanation of the matter. He stated that he is currently uncertain of ramifications of this issue. He advised that he had received two phone calls from concerned residents and supports opposition to the movement.

Mayor Flinn allowed public comment. The following individuals spoke in favor of the proposed Resolution: Warren Lovely, 15323 SW 74 Place, and Bev Gerald, 14271 SW 74 Court.

Resident Ed Swakon, 7501 SW 174 Street, spoke in opposition to the matter.

Attorney Neisen Kasdin on behalf of the Builder's Association began to present his opposition, but was asked to cease his discussion. A brief recess

was taken. Attorney Kasdin thanked the Council for their time, acknowledging that he did not register as a lobbyist on this matter.

Mayor Flinn closed public comment.

Councilman Feller expressed his support. He noted that the Council only can control what is within the Village's border.

Mayor Flinn concurred.

Councilman Neidhart moved to approve. Seconded by Councilman Feller. The Motion carried (4-1), with Councilman Breder being opposed. Resolution 05-44 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, CREATING CHAPTER ____ OF THE CODE OF ORDINANCES OF THE VILLAGE OF PALMETTO BAY, ENTITLED "SEX OFFENDER RESIDENCY PROHIBITION," PROVIDING FOR A PROHIBITION FROM SEX OFFENDERS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES FROM LIVING WITHIN 2,500 FEET OF SPECIFIED LOCATIONS WITHIN THE VILLAGE OF PALMETTO BAY; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn)

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

Mayor Flinn introduced this item and briefly explained the proposed Ordinance.

Attorney Figueredo provided his opinion, adding that the proposed Ordinance was drafted to be consistent with the most recent appellate decision.

Councilman Breder asked for clarification concerning the definition of a "park" and a "playground".

Attorney Figueredo advised that the intention is to incorporate areas where children are likely to be congregating.

Councilman Breder moved to amend the ordinance to include the words "or public park". Seconded by Councilman Neidhart. All voted in favor.

Vice Mayor Robinson moved to pass the proposed Ordinance on first reading. Seconded by Councilman Breder. A roll call vote was taken 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 ADOPTING CHAPTER ___ ENTITLED "VEGETATION," TO PROTECT THE DELIVERY OF UTILITY SERVICES ESTABLISHING A VIOLATION FOR INTERFERENCE WITH A UTILITY SERVICE; ESTABLISHING A REMEDY TO ADDRESS A SITUATION WHEREIN A PROPERTY OWNER(S), THEIR TENANT AND/OR AGENT(S) INTERFERES WITH OR IMPEDES THE RIGHT OR ABILITY OF A UTILITY TO ENTER PRIVATE PROPERTY FOR THE PURPOSE OF PRUNING OR REMOVING TREES, PLANTS OR PALMS WHICH ARE INTERFERING WITH THE DELIVERY OF UTILITY SERVICES, WHEN DEEMED NECESSARY TO DO SO TO ENSURE THE SAFE AND RELIABLE DELIVERY OF UTILITY SERVICES; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn)

Vice Mayor Robinson moved this matter. Seconded by Councilman Neidhart.

Mayor Flinn provided a report, stating that there have recently been incidences wherein Village residences lost power during a storm due to a homeowner's refusal to allow FPL access for the trimming of trees. He stated that this ordinance was modeled after the Coral Gables' version.

Director Williams added that community awareness is important.

Councilman Breder asked if this ordinance addresses other obstructions to the right-of-way.

Mayor Flinn advised that he will discuss the ordinance with FPL concerning strengthening the language to include other items, rather than just "vegetation".

Councilman Feller advised that he would be meeting with FPL next week.

All voted in favor of passing the ordinance on first reading, through roll call vote as follows: Councilman Feller, Councilman Neidhart, Councilman Breder, Vice Mayor Robinson, and Mayor Flinn voting in the affirmative. The Motion carried (5-0).

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING ORDINANCE NUMBERS 03-13 AND 04-03; AMENDING THE VILLAGE'S BUDGET FOR THE 2003-2004 FISCAL YEAR; AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THIS ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Councilman Neidhart moved this item. Seconded by Councilman Breder.

Finance Director Alfredo Acin provided a report. He noted that the purpose was to move funds from the general government budget to police services, as positive variances existed. He explained that Miami-Dade County had adjusted its original figures to include items previously not included in the police budget. He advised that the Ordinance would not affect the total budget; rather it gives the manager the authority to move funds.

Following brief discussion, Councilman Feller called the question. All voted in favor of passing the ordinance on first reading, through roll call vote 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

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

Mr. Scurr provided staff report, advising that the ordinance allows two weekend garage sales per year per resident and allows special circumstances to be approved by manager. He noted that the ordinance includes allowing organizations to also be permitted have garage sales.

Mayor Flinn opened the public hearing at 8:45 p.m.

The following individuals addressed the Council: Mrs. Dottie Barton, 15290 SW 82 Ave; Mr. John Petit, 15395 SW 89 Court; and Mrs. Judy Jones, 14760 SW 79 Court.

Mayor Flinn closed public hearing at 8:50 p.m.

Following discussion, Councilman Feller moved to adopt the proposed Ordinance. Seconded by Vice Mayor Robinson. All voted in favor of passing the ordinance on first reading, through roll call vote 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 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.

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

Mr. Scurr provided staff report.

The public hearing was opened. No one desired to be heard from the audience.

Following discussion, Councilman Feller moved to adopt the proposed Ordinance. Seconded by Councilman Breder. All voted in favor of passing the ordinance on first reading, through roll call vote as follows: Councilman Feller, Councilman Neidhart, Councilman Breder, Vice Mayor Robinson, and Mayor Flinn voting in the affirmative. The Motion carried (5-0).

XII. REQUESTS, PETITIONS AND PUBLIC COMMENTS

The following individuals addressed the Council: Chuck Latshaw and Erick Tulberg, 7884 SW 179 Terrace.

XIII. MAYOR AND COUNCIL COMMENTS

- A. Councilman Neidhart stated that the library contract for architects should be expedited. Councilman Feller concurred. He suggested that the Council discuss the matter at the next Committee of the Whole meeting. Following brief discussion, Mr. Scurr advised that he would re-negotiate the contract with Wolfberg Alvarez and schedule a Special Council meeting to approve.

XIV. OTHER BUSINESS: None at this time.

XV. NEXT MEETING AND ADJOURNMENT: The Meeting was officially adjourned at 9:20 pm.

Prepared and submitted by:

*Meighan J. Pier, CMC
Village Clerk*

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

Eugene P. Flinn, Jr., Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW. WHILE THE FLORIDA STATUTES DO NOT REQUIRE TAPE RECORDINGS, TO THE EXTENT THAT TAPE RECORDINGS ARE MADE, THE TAPES MAY BE REQUESTED FROM THE VILLAGE CLERK FOR REVIEW AND/OR COPYING. THE VILLAGE OF PALMETTO BAY CAN NOT GUARANTEE QUALITY OF ANY RECORDING.