

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, JULY 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:

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 Eve A. Boutsis
Village Clerk Meighan Pier

Vice Mayor Robinson asked Chief Master Sergeant John H. Breslin to lead the pledge of allegiance.

II. PROCLAMATIONS, AWARDS, PRESENTATIONS

- A. Proclamation for Retiring Officer, Chief Master Sergeant John H. Breslin

Councilman Breder read the proclamation that was presented to Chief Master Sergeant John H. Breslin. The Council joined Councilman Breder and thanked Chief Master Sergeant on the eve of his retirement. Mayor Flinn gave him a lapel pin.

- B. Presentation of Key to the Village to Representative Julio Robaina

Mayor provided Representative Robaina with a Key to the Village, thanking him for his continued assistance to the Village. Representative Robaina thanked the Council.

- C. The Village's lobbyists, Ron Book, Kelly Malette, Larry Snow, and Robert Levy, thanked the Council for their confidence in their firm. Mr. Book stated that despite the veto of the \$100,000 appropriation for the Comprehensive Development Master Plan and funds for the Boundless Playground, the Village still had successful lobbying results. Mr. Book thanked Representatives Robaina and Planas for their continued support, crediting Mr. Scurr and the Council's leadership for making the difference.

Mr. Levy provided an update concerning insurance provision modifications and growth management.

Representative Robaina presented two \$200,000 checks. Both checks are earmarked for Parks – one for improvements at Coral Reef Park and one for land acquisition at Perrine Park. He thanked the Council for their diligent efforts and specifically thanked Parks Director Ana Garcia and Mr. Scurr for their hard work.

Mayor Flinn suggested taking the following Ordinance out of order:

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)

Mr. Scurr and Attorney Boutsis provided staff report.

Mayor Flinn opened the public hearing.

The following individuals addressed the Council: Mr. Ron Book, 2999 NE 191 Street, Penthouse Suite, Aventura, Florida; Eric Tullberg, 7884 SW 179 Terrace; and Steve Kriesher, 18201 SW 98 Avenue

Mayor Flinn closed the public hearing.

Mayor Flinn asked the point for determining distance.

Attorney Boutsis advised that the line is determined from the nearest point of entrance to the residency to the edge of the other property.

Mr. Scurr advised that the Village’s Policing Unit has been proactive in determining where these individuals are located.

Mayor Flinn asked how the landlord/tenant issue is addressed.

Attorney Boutsis advised that under County law, the landlord could be liable if they fail to perform criminal background check prior to renting; however, this Ordinance does not address the matter.

Councilman Breder asked if bus stops were considered, as children congregate at bus stops during the school year.

Mr. Scurr advised that the County is considering school bus stops and other municipalities have included all bus stops.

Following brief discussion, Councilman Neidhart moved to approve. Seconded by Councilman Feller. The Motion carried through roll, with Councilman Feller, Councilman Neidhart, Councilman Breder, Vice Mayor Robinson, and Mayor Flinn voting in support (5-0). Ordinance 05-05 was adopted.

III. APPROVAL OF MINUTES

A. Minutes of the June 6, 2005 Council Meeting

Mayor Flinn noted on the first page, two Scriveners errors: remove the word "Vice" in the pledge of allegiance line; and replace the word "Congressman" with "Representative". He also noted that on page 7, in his report concerning the line clearing ordinances, he requested the record to reflect that there were several incidents in the village, rather than the one specific example.

Councilman Feller moved to approve. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried (5-0).

IV. VILLAGE MANAGER'S REPORT

Comprehensive Development Master Plan: Mr. Scurr advised that responses to the Objectives, Recommendations and Comments Report are being drafted and the transmittal hearing shall be presented to the Council at a public hearing in the near future. Then, upon approval, the document would be transmitted to DCA in order to meet the October effective date.

Mr. Scurr continued his report by noting that the County had approved the Interlocal agreement for development of the library at the Bayside Park. He noted that staff is closely watching the progress of Tropical Storm Emily and was grateful that this past weekend preparedness was only "practice". Mr. Scurr advised that staff will be meeting with FPL representatives to finalize language for the line clearing ordinance. He noted that staff is working on a temporary signage ordinance and a resolution concerning pet etiquette will be offered for consideration this evening.

Commander Michael Mouring offered a brief public safety report. He thanked Lieutenant Debra Antonious for her service to the Village and introduced her replacement, Lieutenant Gregg Glasel.

Lieutenant Glasel thanked the Commander and the Council and expressed his pleasure at being appointed to Palmetto Bay.

Mr. Scurr advised that there will be a regular Council Meeting on Monday, August 1st, a Zoning Hearing on August 8th, staff will be scheduling a Committee of the Whole Meeting in the near future, and staff is suggesting scheduling the budget hearings for September 14 and September 26.

Mayor Flinn suggested moving the zoning hearing to September, if possible. Mr. Scurr advised that he would check what items are pending.

V. VILLAGE ATTORNEY'S REPORT

Attorney Boutsis advised that she would like to schedule an attorney-client session concerning the Pastorella v. OCPC matter. Council agreed to schedule the meeting for August 1st at 6:00 p.m. at the Deering Estate Visitor's Center prior to the Regular Council Meeting.

A five-minute recess was taken.

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 \$18,685.80; PROVIDING AN EFFECTIVE DATE.
- B. 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 ON JURISDICTIONAL STREETS MAINTAINED BY THE VILLAGE, WITHIN ITS VILLAGE BOUNDARIES; AND PROVIDING FOR AN EFFECTIVE DATE.
- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, NOTIFYING THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA AND THE DIRECTOR OF THE MIAMI-DADE COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT (DERM) AS REQUIRED BY SECTION 24-61 OF THE MIAMI-DADE COUNTY CODE; THAT THE VILLAGE REQUESTS EXEMPTION FROM INCLUSION IN THE COUNTY'S STORMWATER UTILITY; COMMITTING TO ESTABLISH A STORMWATER UTILITY WITHIN THE MUNICIPAL BOUNDARIES OF THE VILLAGE IN ACCORDANCE WITH SECTION 403.0893(1) (2) OR (3), FLORIDA STATUTES; AUTHORIZING THE VILLAGE MANAGER TO NEGOTIATE

AN INTERLOCAL AGREEMENT WITH THE COUNTY FOR THE COLLECTION OF THE VILLAGE'S STORMWATER UTILITY FEES; AND PROVIDING FOR AN EFFECTIVE DATE.

- D. 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 ENHANCE THE MUCH-USED PLAYGROUND AREA AT CORAL REEF PARK; DISBURSING AN AMOUNT NOT TO EXCEED \$88,504.40; AND PROVIDING FOR AN EFFECTIVE DATE.
- 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 CERO'S FENCE FOR THE PURCHASE AND INSTALLATION OF PERIMETER/SAFETY FENCING AT THE C-100/BAYFRONT PARK; DISBURSING AN AMOUNT NOT TO EXCEED \$11,490; AND PROVIDING FOR AN EFFECTIVE DATE.
- F. 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. FOR THE BOUNDLESS PLAYGROUND AT PERRINE PARK; DISBURSING AN AMOUNT NOT TO EXCEED \$158,498.10; AND PROVIDING FOR AN EFFECTIVE DATE.
- G. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; APPROVING A CONTRACT WITH BERMELLO-AJAMIL & PARTNERS, INC. TO PROVIDE ARCHITECTURAL SERVICES FOR THE PERRINE PARK COMPLEX AND PERRINE WAYSIDE PARK IN AN AMOUNT NOT TO EXCEED \$171,930; AND PROVIDING AN EFFECTIVE DATE.

Councilman Feller moved to approve the Consent Agenda items. Seconded by Councilman Neidhart. All voted in favor. Resolutions 05-48 through 05-54 were adopted unanimously (5-0).

VIII. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AD VALOREM TAXES; DETERMINING THE PROPOSED MAXIMUM MILLAGE RATE AND SETTING THE DATES, TIME AND LOCATION FOR THE FIRST AND SECOND BUDGET HEARINGS FOR FY 2005-06; DIRECTING THE VILLAGE CLERK TO FILE SAID RESOLUTION

WITH THE MIAMI-DADE COUNTY PROPERTY APPRAISER; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Mr. Scurr provided staff report. He stated that staff recommends setting the maximum millage rate at the current rate.

Mr. Alfredo Acin, Finance Director, advised if the Council adopted this resolution, during the September budget hearings, the Council could lower or adopt the current rate.

Following brief discussion, Councilman Neidhart called the question. All in favor of adoption (5-0). Resolution 05-55 was approved.

IX. RESOLUTIONS REQUIRING PUBLIC HEARING

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO REAL PROPERTY; RELEASING AN INTEREST IN CERTAIN REAL PROPERTY AND ABANDONING A RIGHT-OF-WAY FOR AN ALLEY LOCATED BETWEEN S.W. 166 STREET AND S.W. 167 STREET AND INTERSECTING OLD CUTLER ROAD; PROVIDING FOR REVERTER OF TITLE TO ADJACENT PROPERTY OWNERS; PROVIDING AN EFFECTIVE DATE.

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

Mr. Ron Williams, Public Works Director, provided staff report. Mr. Williams explained that the alleyway in question is no longer being used as easement for utilities.

Mayor Flinn opened the public hearing

Eric Tullberg, 7884 SW 179 Terrace, asked that the bicycle path be protected.

Mayor Flinn closed the public hearing.

Councilman Breder remarked that the bicycle path fronts Old Cutler and will not be affected. He stated that abandoning this alley would return it to the tax roll.

Councilman Feller called the question. A roll call vote was taken as follows: Councilman Feller: Yes; Councilman Neidhart: Yes; Councilman Breder: Yes; Vice Mayor Robinson: Yes; and, Mayor Flinn: Yes. The Motion carried (5-0). Resolution 05-56 was approved.

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 *AD VALOREM* TAXATION; PROVIDING AN *AD VALOREM* TAX BREAK TO QUALIFIED INDIVIDUALS OVER THE AGE OF 65, WITH AN ANNUAL INCOME UNDER \$20,000 AND HOMESTEAD RESIDENCE WITHIN VILLAGE LIMITS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn)

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

Mr. Scurr provided staff report. He stated that Palmetto Bay has approximately 155 eligible applicants, resulting in an annual revenue loss of approximately \$9,500.

Attorney Boutsis advised that the proposed Ordinance is legally appropriate.

Councilman Feller asked for clarification as to what is considered "income".

Attorney Boutsis advised that the State Constitution dictates the maximum income level and income is inclusive of all income, including social security.

Mayor Flinn remarked that the threshold seems low, as cost of living should be considered.

Councilman Breder asked for clarification concerning the revenue loss.

Mr. Acin advised that the County Appraiser's office provided the figures to Village staff. He explained that the County has this procedure in place.

A resident, Mr. Bruce Barton, 15290 SW 82 Avenue, offered information, stating that the calculated income does not include social security, unless your income is such that social security is taxable.

Vice Mayor Robinson moved to approve the proposed Ordinance on first reading. Seconded by Councilman Neidhart. All voted in favor. 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, 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 Feller moved this item. Seconded by Vice Mayor Robinson.

Mr. Acin provided staff report.

Mayor Flinn opened the matter for public hearing.

Arlene Feller, 7960 SW 144 St, addressed the Council.

Mayor Flinn closed the public hearing.

A roll call vote was taken as follows: Councilman Feller: Yes; Councilman Neidhart: Yes; Councilman Breder: Yes; Vice Mayor Robinson: Yes; and, Mayor Flinn: Yes. The Motion carried (5-0). Ordinance 05-06 was adopted.

XII. OTHER BUSINESS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; REQUESTING PET OWNERS' COURTESY TO NEIGHBORS; PROVIDING AN EFFECTIVE DATE.

Mr. Scurr advised that this matter concerns pet owners acting courteously toward their neighbors.

Councilman Feller added that the County Ordinance only concerns public right-of-way, and this Resolution is just intended to ask for consideration of others to their neighbors.

Councilman Feller moved to add this matter to the Agenda. Seconded by Councilman Neidhart. All voted in favor. The Motion carried (5-0).

Councilman Feller moved to approve this Resolution. Seconded by Councilman Neidhart. All voted in favor. Resolution 05-57 was approved unanimously (5-0).

XIII. REQUESTS, PETITIONS AND PUBLIC COMMENTS: None at this time.

XIV. MAYOR AND COUNCIL COMMENTS

- A. Mayor Flinn thanked staff for their efforts during the recent storm. He expressed his happiness at noticing that neighbors were helping others without power. Vice Mayor Robinson concurred.

- B. Councilman Neidhart suggested that residents clear their yards and trim their trees year round, rather than during storm season as to do so allows for efficient removal of debris.
- C. Councilman Feller remarked that the legislature should consider allocating funding to bury power lines. He thanked the Police Department for their excellent emergency response times.

XV. NEXT MEETING AND ADJOURNMENT: The Meeting was officially adjourned at 9:10 pm.

Prepared and submitted by:

*Meighan J. Pier, CMC
Village Clerk*

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