

**VILLAGE OF PALMETTO BAY  
MINUTES OF SEPTEMBER 10, 2007  
REGULAR COUNCIL MEETING**

Deering Estate Visitor's Center  
16701 SW 72 Avenue  
Palmetto Bay, FL 33157

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

Mayor Flinn called the meeting to order at 7:25 p.m. The following individuals were present:

Mayor Eugene P. Flinn, Jr.  
Vice Mayor Linda Robinson  
Councilman Ed Feller, M.D.  
Councilman Paul Neidhart  
Councilwoman Shelley Stanczyk

Staff present:  
Village Manager Ron E. Williams  
Village Attorney Eve A. Boutsis  
Village Clerk Meighan J. Rader

Mayor Flinn led the pledge of allegiance.

**II. PROCLAMATIONS, AWARDS, PRESENTATIONS**

**III. APPROVAL OF MINUTES**

- A. Minutes of the July 23, 2007 Special Council Meeting
- B. Minutes of August 6, 2007 Council Meeting
- C. Minutes of the September 5, 2007 Special Council Meeting

Vice Mayor Robinson moved to approve the Minutes. Seconded by Councilman Feller. All voted in favor. The Motion carried.

Mayor Flinn asked that the Ordinance concerning Parks User Fees be taken as the next item. Councilman Feller moved to hear the proposed Ordinance. Seconded by Vice Mayor Robinson. All voted in favor.

**IV. 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 PARKS AND RECREATION; ESTABLISHING FEES FOR ORGANIZED USERS, LEAGUES, SCHOOLS, AND PRIVATE GROUPS FOR THE USE OF

PARK FIELDS, PICNIC AREAS, PAVILION/GAZEBO, RECREATION BUILDING, AND OPEN FIELD SPACE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Manager Williams explained the item. He stated that staff is seeking to adopt a fair and equitable program. He noted the revision of the reduced rental fee for "off peak" hour use of the community building.

Attorney Boutsis advised that she did not have a legal report on the item at this time.

Mayor Flinn opened the public hearing.

Mr. Robert Orban, 15305 SW 80 Avenue, Board Member for the Palmetto Bay Broncos, provided historical information on the Broncos. He asserted that they utilize volunteers and do not receive a government subsidy for their organization. He stated his opposition.

Mayor Flinn asked the amount that each child is charged by the Broncos.

Mr. Orban stated that the Broncos charge \$140 per cheerleader and per football player.

Mayor Flinn noted that the Cutler Bay football league charges \$90.

Mr. Orban acknowledged that Broncos charge a higher fee as there is no government funding and they provide jerseys to the players.

Mayor Flinn stated that the Pinecrest league is also cheaper with no government funding. He asked if the parents are provided with the financial statement of the League and asked how referees are paid.

Mr. Orban stated that parents are provided with reports and the cost for referees is approximately \$1,200 on game days.

Mayor Flinn asked why cheerleaders would pay the same rate, as a referee is not required, nor is a dedicated field.

Mr. Orban noted that the charge is uniform for all.

Councilwoman Stanczyk suggested that playing free for five years while other leagues pay fees in other cities would be considered a subsidy of sorts.

Councilman Feller asked for information concerning the concession stand and the amount of funds made each year.

Mr. Orban stated that he was uncertain as to the amount of funds.

Councilman Feller asked if the organization is using one of the Village's buildings for concession without paying rent and other half for storage of Broncos' equipment.

Mr. Orban stated that the Broncos paid for the building to be constructed several years ago.

Mayor Flinn stated that he would like to see the plans for that building. Mr. Orban stated that he was unaware of the location of the plans.

Councilman Feller stated that the Village took over the entire park; the building currently holds no value.

The following spoke in opposition: Mr. Anthony Upshaw, 13836 SW 67 Place; Frank Gowin, 8700 SW 159 Street; Nicole Bassinger, 9200 SW 167 Terrace; Alexandra Markovich, 17550 SW 93 Avenue; Lisa Winkler 20221 SW 85 Court; Donna Turpin, 17608 SW 81 Court; Kristen Markovich, 17550 SW 93 Avenue; Yolaluis Perez-Padgett, 7901 SW 154 Terrace; Ashley Thomas, 15751 SW 88 Avenue; Miguel Nido, 14140 SW 69 Avenue; David Abercrombie, 8500 SW 147 Street; Mark Peterson (address removed due to public records exemption).

Mr. Warren Lovely, 15323 SW 74 Place, spoke in favor of the Ordinance.

Mayor Flinn closed the public hearing.

Councilman Feller remarked that this is not a park user fee; rather, any person can use any portion of the park. He stated that the Village wants to insure good service and keep the parks in good condition. He noted that the recreation facilities are not only for athletics, but also for seniors and other groups – for everyone. Councilman Feller explained that many groups use the facilities and he had suggested that fees would start after the conclusion of the Fall season.

Mayor Flinn stated that he would accept a motion. He also advised the Council that Pinecrest staff had suggested a user fee of \$20 and their Council reduced the fee to \$10.

Councilman Neidhart concurred with Councilman Feller and noted that he did not believe registration would decrease with a \$15 per child fee.

Councilwoman Stanczyk opined that groups that use the park in an extensive manner need to consider the use of the park. She noted that the large majority of parks throughout Miami-Dade charge fees. She stated that \$15 is a reasonable fee. She expressed her appreciation to all who attended.

Vice Mayor Robinson stated that the Village is concerned with the budget and is also concerned with the condition of the parks.

Attorney Boutsis stated that on Page 3, line 8, staff recommends adding the language, "in lieu of field rental reservations."

Discussion ensued.

Attorney Boutsis also suggested that on Page 3 under League and Youth Organization Fee that at the end of line 10, "Each service non-profit youth group organization, such as the boys and girls scout shall be charged 10% fee per registered participant of annual registrations dues to participate in recreational room rentals at Village parks."

Councilman Feller suggested that with the small number of service-based non-for-profit groups, the Council may wish to their discretionary funds to assist with room rental.

Mayor Flinn remarked that there are several fees already in place, such as fees for having birthday parties, using the community room in general, Westminster softball girls, Westminster Soccer, Palmetto High School baseball, YMCA youth soccer, and the JCC. He noted that several of these organizations are non-profit groups as well. He stated that the Village should lower the taxes for the residents. Mayor Flinn remarked that he is willing to adjust the fees; however, if the Village should reduce the fee to \$10 to be in line with other cities, he would accept that.

Councilman Feller moved to modify the Ordinance with the language "In lieu of field rental." Seconded by Vice Mayor Robinson. All voted in favor.

Councilman Feller moved that the fees be assessed in January 1, 2008. Seconded by Councilman Neidhart.

Councilman Feller revised his motion to state that fees would be prescribed against an organization that has not gone through registration as of the date of passage of this proposed ordinance. He stated that the intent would be to not impose a fee that has already completed their registration for the Fall/Winter season. Councilman Neidhart seconded. All voted in favor.

Councilman Feller moved the amended Ordinance. Seconded by Councilwoman Stanczyk.

Vice Mayor Robinson moved to amend the proposed ordinance to make the fee \$10 rather than \$15. Mayor Flinn seconded the motion. The motion fails 2 to 3.

A roll call vote was taken on the revised Ordinance, as follows: Mayor Flinn: yes; Vice Mayor Robinson: yes; Councilman Feller: yes; Councilman Neidhart: yes; and, Councilwoman Stanczyk: yes.

The Council took a brief recess at 9:10 p.m. The meeting re-convened at 9:27 p.m.

**IV. VILLAGE MANAGER'S REPORT:** None at this time.

**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 \$28,923.64; PROVIDING AN EFFECTIVE DATE.

B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATED TO GRANTS; APPROVING THE GRANT AGREEMENT WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE RECREATIONAL TRAILS PROGRAM IN THE AMOUNT OF \$94,296.45; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE VILLAGE; AND PROVIDING AN EFFECTIVE DATE.

Councilman Neidhart moved to approve the Consent Agenda. Seconded by Councilman Neidhart. All voted in favor. The Resolutions passed unanimously.

**VIII. RESOLUTIONS**

A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATED TO CONTRACTS; APPROVING THE THIRD ADDENDUM TO THE EXISTING CONTRACT WITH RECREATIONAL DESIGN & CONSTRUCTION, INC. TO PROVIDE DESIGN-BUILD SERVICES FOR THE PALMETTO BAY PARK PROJECT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN ADDENDUM FOR \$131,389; AND PROVIDING AN EFFECTIVE DATE.

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

Manager Williams provided staff report. He explained that the Village remains approximately \$50,000 ahead in available funds.

Councilman Feller remarked that three items remain: storage, fence for softball fields and batting cages expansion. He remarked that the cost for the storage building seems excessive, as it appears to be a large garage, with the cost at almost \$200 per square foot. He acknowledged that it is necessary, but seems costly.

Manager Williams stated that the structure must be designed, permitted and built and he had negotiated the cost with the site contractor. It is critical to the park in order to open in November.

Councilman Feller asked staff to see if temporary fencing could be used, as he would like to insure that the fields could be used for other activities and does not believe that would happen if they were fenced.

Manager Williams stated that staff could do so.

Councilman Feller suggested that permanent fencing could be installed at the border of the Boundless playground. He also remarked that the Village should first see if the batting cages will generate revenue; perhaps only building two and then see how popular they become.

Manager Williams remarked that the "must do" item is the storage facility.

Vice Mayor Robinson concurred.

Councilwoman Stanczyk asked how disruptive the construction may be to the park if it were done following the opening of the park.

Mr. Joe Cerrone from RDC was recognized. He stated that batting cages are not difficult to build; however, some economy is gained by doing it now. He stated that they would have to modify lighting and re-locate pathway to fit them in. He suggested preparing the design now and deferring construction. He noted that it would be disruptive to have to come back later and add to the project.

Councilman Neidhart concurred that the storage facility seems too expensive. He asked if the storage facility is attached to the community building.

Mr. Cerrone stated that it is a free standing building with an expensive metal roof, approximately 10 feet from the community building.

Community Services Director Ana Garcia noted that permanent fencing was considered because of the storage and labor and maintenance of temporary fencing. She stated that there is room for YMCA youth soccer.

Discussion ensued. Councilman Feller moved to defer consideration of the fencing and batting cages until further information is provided. He suggested

scheduling a special council meeting on the night of the Budget Hearing. Seconded by Councilman Neidhart. All voted in favor.

**IX. RESOLUTIONS REQUIRING PUBLIC HEARING**

**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 ZONING; AMENDING ORDINANCE NO. 06-06 ADOPTED MAY 1, 2006, ENTITLED "FRANJO TRIANGLE & U.S. 1 ISLAND ZONING DISTRICT" (FT&I); PROVIDING FOR PARKING REQUIREMENTS RELIEF PURSUANT TO A VARIANCE PROCESS AFTER PUBLIC HEARING; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Director Weintraub provided staff report.

Mayor Flinn expressed his opposition to variance.

Director Weintraub explained that under a Mixed Use District, there is a percentage where the opportunity can be taken for a percentage of parking to be on-site and within 500 feet of development. She noted that it is currently a 60/40 percent split and if the developer wishes to have a 55/45 split, there is no means by which the Village can consider the request. She stated that this ordinance allows the developer to request public hearing.

Discussion ensued.

A roll call vote was taken on the Ordinance, as follows: Mayor Flinn: no; Vice Mayor Robinson: yes; Councilman Feller: yes; Councilman Neidhart: yes; and, Councilwoman Stanczyk: yes. The Ordinance passed on first reading (4-1) and shall be heard for second reading/public hearing on October 1<sup>st</sup>.

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, CREATING CHAPTER 7 RELATING TO BURGLAR ALARMS; DELETING SECTION 14-19 THROUGH 14-28 OF THE VILLAGE CODE; PROVIDING FOR ALARM PERMITTING, PERMITTING FEES AND FINES FOR NON-COMPLIANCE, ISSUANCE OF FALSE ALARM REPORTS AND APPEALS OF FALSE ALARM REPORTS; AMENDING THE REGISTRATION PERIOD AND REGISTRATION REQUIREMENT, MODIFYING THE FEE SCHEDULE FOR PERMITTING AND FALSE ALARMS; AND CLARIFYING RESPONSIBILITIES AS TO REPORTING

FALSE ALARMS; AND PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Finance Director Desmond Chin provided staff report.

Attorney Boutsis stated that the previous Ordinance has been modified to accommodate village needs.

Director Chin stated that there would be a fine for non-registration if the police respond to your home for an alarm and you are not registered.

All voted in favor. The proposed Ordinance shall be heard on second reading/public hearing on October 1<sup>st</sup>.

## **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 BUILDING PERMIT FEES; CREATING A BUILDING PERMIT FEE IN ACCORDANCE WITH SECTION 4.3(A)(5) OF THE VILLAGE CHARTER; SPECIFICALLY REPEALING THE MIAMI-DADE COUNTY BUILDING PERMIT FEE SCHEDULE; PROVIDING FOR ORDINANCES IN CONFLICT.

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

Building Official Ed Silva provided staff report.

Councilman Feller asked if satellite dishes remain permitted.

Mr. Silva stated that there is a fee included, not for Direct TV; however.

Mayor Flinn asked if Ham Radio was allowed.

Mr. Silva responded that it was. He stated that those antennas have to be reviewed from a structural point of view as there is electrical

Mayor Flinn opened the public hearing.

Mr. Eric Tullberg, 7884 SW 179 Terrace, suggested TV antennas need to be included and should be separated from cell antennas.

Mayor Flinn closed the public hearing.

A roll call vote was taken on the Ordinance, as follows: Mayor Flinn: yes; Vice Mayor Robinson: yes; Councilman Feller: yes; Councilman Neidhart: yes; and, Councilwoman Stanczyk: yes. The Ordinance adopted (5-0).

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE'S CODE OF ORDINANCES, CHAPTER 30 ENTITLED "ZONING;" CREATING DIVISION 100, ENTITLED "ENVIRONMENTAL REGULATIONS;" WHICH DIVISION SHALL BE PART OF THE VILLAGE'S LAND DEVELOPMENT CODE; PROVIDING FOR ORDINANCES IN CONFLICT; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.

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

Director Weintraub provided staff report. She noted that on Page 19, the language for mulching should be change from "shall" to "should" and include 3" of mulch "as appropriate".

Mayor Flinn opened the public hearing.

James Woodard, 17001 SW 90 Avenue and Stewart Guthrie, 6960 SW 144 Street, provided comments and asked for deferral, as the proposed Ordinance is extensive.

Mayor Flinn closed the public hearing.

Director Weintraub noted that the proposed Ordinance was drafted with assistance from experts with accepted landscape principals. She stated that the Village needs a minimum set of criteria.

Following discussion, Councilwoman Stanczyk moved to defer the item to the September 24<sup>th</sup> Special Council meeting. Seconded by Vice Mayor Robinson. All voted in favor. The Motion carried.

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE'S CODE OF ORDINANCES, CHAPTER 30 ENTITLED "ZONING;" CREATING DIVISION 140, ENTITLED "ADULT ENTERTAINMENT;" WHICH DIVISION SHALL BE PART OF THE VILLAGE'S LAND DEVELOPMENT CODE; PROVIDING FOR ORDINANCES IN CONFLICT; CODIFICATION; SEVERABILITY; AND AN EFFECTIVE DATE.

Vice Mayor Robinson moved this item forward. Seconded by Councilwoman Stanczyk.

Attorney Boutsis provided staff report.

Mayor Flinn opened the public hearing.

Mr. Stanley Kowlessar, 8360 SW 148 Drive, spoke in opposition.

Mayor Flinn closed the public hearing.

Attorney Boutsis remarked that if the Village does not regulate the locations of these establishments, they may be permitted throughout the Village.

A roll call vote was taken on the Ordinance, as follows: Mayor Flinn: yes; Vice Mayor Robinson: yes; Councilman Feller: yes; Councilman Neidhart: yes; and, Councilwoman Stanczyk: yes. The Ordinance adopted (5-0).

## **XII. REQUESTS, PETITIONS AND PUBLIC COMMENTS**

The following individuals addressed the Council: Arlene Feller, 7960 SW 144 Street; Stanley Kowlessar, 8360 SW 148 Drive; Warren Lovely, 15323 SW 74 Place; Steve Kreisher, 18201 SW 98 Avenue, and Miguel Lino, 14140 SW 69 Avenue.

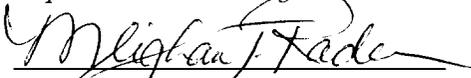
**XIII. MAYOR AND COUNCIL COMMENTS:** None at this time.

**XIV. OTHER BUSINESS:** None at this time.

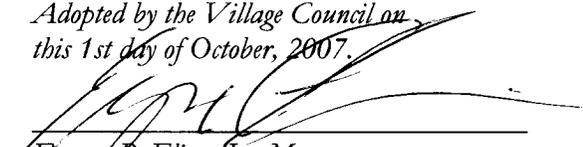
## **XV. NEXT MEETING AND ADJOURNMENT**

The Meeting was officially adjourned at 11:00 pm.

*Prepared and submitted by:*

  
Meighan J. Rader, CMC  
Village Clerk

*Adopted by the Village Council on  
this 1st day of October, 2007.*

  
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.