

VILLAGE OF PALMETTO BAY
Minutes of the Regular Council Meeting of September 9, 2013
Village Hall Chambers
9705 East Hibiscus Street

1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

Mayor Shelley Stanczyk
 Vice Mayor John DuBois
 Council Member Patrick Fiore
 Council Member Tim Schaffer
 Council Member Joan Lindsay

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

Mayor Stanczyk called the meeting to order at 9:55 p.m. (This meeting followed the first Budget Hearing.)

Mayor Stanczyk asked the Council to consider moving Item 10A to be the next item on the Agenda. Councilwoman Lindsay moved the item forward. Seconded by Councilman Fiore. All voted in favor.

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN EDUCATION COMPACT WITH THE MIAMI-DADE COUNTY SCHOOL BOARD; FURTHER SUNSETTING THE EDUCATIONAL COMPACT ADVISORY BOARD; PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Mayor Shelley Stanczyk)

Councilman Fiore moved this item forward. Seconded by Councilwoman Lindsay.

School Board Member Dr. Larry Feldman, Chair of the Educational Compact Advisory Board Leanne Tellam, Advisory Board Member Pam Tabor, and Lubby Navarro, Office of Intergovernmental Affairs, Grants Administration and Community Engagement, were present.

School Board Member Dr. Feldman thanked the Council, the Committee, the Village Clerk, Mayor Stanczyk, and District Staff Member Lubby Navarro. He also expressed appreciation to Miami-Dade County School District Staff: Alex Martinez, Iraida Mendez-Cartaya, and Barbara Mendizabel. He expressed his pleasure with the Village's efforts, noting that this Compact will further enhance

communication between the schools and the Village, which, in turn, will enhance the quality of our local schools.

Chairperson Tellam expressed her gratitude toward all. She noted that communication is already facilitated due to this effort. She asked the Council to consider the future and provide a Committee that will monitor the terms of the Compact and act to further the efforts of the Educational Compact Committee.

Ms. Navarro, on behalf of Superintendent Alberto Carvalho, stated that the Miami-Dade County Public Schools are looking forward to working together with the Village. She stated that the goal is to improve the education system and improve student achievement. She thanked the members of the Committee for their dedication, recognized the leadership of Mrs. Tellam, and thanked the Village Clerk for her assistance.

Mrs. Tabor thanked staff and the members of the Committee. She noted that she learned a great deal from this experience and was pleased to be part of the effort. She asked the Council to vote to finalize the Compact.

Mayor Stanczyk remarked that the Village has already established a great relationship with Dr. Feldman and the School Board staff and is certain that the relationship will get stronger. She stated that a Committee will be formed in the near future to manage the compact. She called the question. All voted in favor. The Resolution passed unanimously (5-0.)

2. **PROCLAMATIONS, AWARDS, PRESENTATIONS:** None at this time.
3. **DECORUM STATEMENT:** Clerk Alexander read the following decorum statement: Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Village of Palmetto Bay Council shall be barred from further audience at this meeting before the Village of Palmetto Bay Council by the presiding officer, unless permission to continue or again address the council be granted by the majority vote of the council members.
4. **APPROVAL OF MINUTES**
 - A. Local Planning Agency Meeting of July 11, 2013
 - B. Regular Council Meeting of July 11, 2013
 - C. Special Council Meeting of August 7, 2013

Vice Mayor DuBois moved to approve the Minutes, as submitted. Seconded by Councilwoman Lindsay. All voted in favor. The Minutes were approved unanimously (5-0.)

5. **CONSENT AGENDA**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND RECREATION; APPROVING THE VILLAGE MANAGER'S RECOMMENDATION OF FAST-DRY COURTS, INC., AS THE MOST RESPONSIVE BIDDER IN PROVIDING SPECIFIED SERVICES FOR THE CORAL REEF PARK TENNIS/RACQUETBALL COURT RESURFACING PROJECT; AND, FURTHER AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE CONTRACT FOR SERVICES UNDER BID-2013-PR-005 WITH FAST-DRY COURTS, INC., FOR THE CORAL REEF PARK TENNIS/RACQUETBALL COURT RESURFACING PROJECT AT A COST OF \$36,390.00; PROVIDING AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND RECREATION; APPROVING THE VILLAGE MANAGER'S RECOMMENDATION OF TIP TOP ENTERPRISES INC. AS THE MOST RESPONSIVE BIDDER FOR THE LANDSCAPE/GROUNDS MAINTENANCE SERVICES; AND, FURTHER AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE CONTRACT FOR SERVICES UNDER RFP-2013-PR-002 TO TIP TOP ENTERPRISES INC., FOR THE LANDSCAPE/GROUND MAINTENANCE SERVICES AT A COST OF \$71,250; PROVIDING AN EFFECTIVE DATE.
- C. 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 CONTRACT WITH REP SERVICES, INC. FOR THE PURCHASE, DELIVERY AND INSTALLATION OF A PICNIC PAVILION AT PALMETTO BAY PARK; PIGGYBACKING UNDER THE CLAY COUNTY CONTRACT NO. 08/09-03; AND AUTHORIZING THE VILLAGE MANAGER TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$ 51,835.00; 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; APPROVING THE VILLAGE MANAGER'S RECOMMENDATION OF H&J ASPHALT INC. AS THE MOST RESPONSIVE BIDDER FOR THE CORAL REEF PARK PARKING LOT RENOVATIONS PROJECT; AND, FURTHER AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE CONTRACT FOR SERVICES UNDER BID NO. 2013-PR-004 TO H&J ASPHALT INC., FOR THE

CORAL REEF PARK PARKING LOT RENOVATIONS PROJECT AT A COST OF \$84,215.50; PROVIDING AN EFFECTIVE DATE.

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AGREEMENTS; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY FOR THE VILLAGE'S PARTICIPATION IN THE PARKING FINES REIMBURSEMENT PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.
- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE CLERK; CLARIFYING TERMS OF EMPLOYMENT WITH VILLAGE CLERK MEIGHAN ALEXANDER; PROVIDING AN EFFECTIVE DATE.
- G. 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 FIGUEREDO & BOUTSIS, P.A. IN THE AMOUNT OF \$29,878.49; PROVIDING AN EFFECTIVE DATE.

Councilman Schaffer moved to approve the Consent Agenda items. Seconded by Councilwoman Lindsay. All voted in favor. The Consent Agenda was unanimously approved (5-0.)

Vice Mayor DuBois moved to hear item 14A as the next item on the Agenda. Seconded by Councilman Fiore. All voted in favor.

Item 14 A. - Request for motion concerning settlement of litigation with Palmer Trinity School

Vice Mayor DuBois explained his item. He stated that the purpose was to seek a Council vote on the most recent settlement agreement concerning the litigation with Palmer Trinity School. He reported that the Council had previously met to review the settlement offer Palmer Trinity School made to the Village in July 2013. He noted that at the shade session, the Council achieved consensus for a response and provided a counter offer to the school subject to approval by the Council in a publically-held Meeting. He stated that he is seeking a vote on the final settlement offer proffered by Palmer Trinity School. He noted that the offers are online.

Attorney Boutsis reported that Palmer Trinity did not authorize her to release the initial offer, only the Village's counter offer and the recent/last offer are online.

Vice Mayor DuBois stated that a carefully prepared settlement offer needs to be considered. He asserted that the details of the offer would be incorporated into a comprehensive development agreement in order to insure that matters are not open to interpretation, but are clearly defined and understood by both parties.

Attorney Boutsis reviewed the history of the litigation. She explained that she is not privy to the School's theory on damages at this time. She stated that following receipt of the August 23, 2013 settlement agreement, she met with Attorneys Cleary and Price. She advised that the next steps would be for the Council to formulate the final settlement agreement and give direction as to drafting of a development agreement that will contain the provisions of the settlement agreement. She explained that the draft of the development agreement would return to Council and a quasi-judicial hearing would be held, meeting all provisions of the code, advertising and the like. Attorney Boutsis noted that while the last offer from Palmer indicates it is non-negotiable, she believes that the parties can still work together on acceptable terms. She reviewed the terms of the most recent offer.

Mr. Michael Baiamonte, Chairman of the Board of Trustees of Palmer Trinity, residing at 16340 SW 84 Place, was recognized. He stated that the Board has made the decision that it was time to move forward and directed the attorneys to draft the settlement, which resulted in a dialogue being had between the parties. He asserted that the School wishes to meet with all interested parties and work together to draft a development agreement. He concluded that the School intends to listen and engage in discussion with residents in order to settle the matter.

Attorney Boutsis noted that the Florida League of Cities Attorney Jeffrey Hochman was also present, should the Council have questions.

Mayor Stanczyk thanked Mr. Baiamonte for his remarks. Vice Mayor DuBois stated that while the Council has received many emails from the community, he is pleased that Palmer is willing to listen to their opinions.

Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; Stanley Kowlessar, 8360 SW 148 Drive; Gary Pastorella, 6940 SW 142 Terrace; Bev Gerald, 14271 SW 74 Court; Lloyd Hough, 182 Terrace; Henry Clifford, 8875 SW 171 Street; Howard Tendrich 16500 SW 74 Avenue; Brenda Storch, 7885 SW 179 Terrace; Helen Sandow, 8260 SW 151 Street; David Singer, 8360 SW 154 Street; Ed Bilabow, 17071 SW 85 Avenue; Robert Buzzelli, 17140 SW 86 Avenue; Andy Newman, 17474 SW 79 Court; David Zisman, 14135 Farmer Road; Stanley Kaplan 18220 SW 78 Place; Diane Jarvinen, 17120 SW 78 Avenue; and Tucker Gibbs, CCOCI attorney.

Councilman Fiore remarked that this matter should have been settled amicably years ago. He stated that for the past two years, he has asked the Council to end the litigation. He expressed his displeasure at the amount of funds spent on legal fees and the damage

done to the “fabric of this community.” He concluded that the future of the downtown redevelopment will also be affected by the actions taken by the Council in this matter.

Councilman Schaffer asserted that the Village needs to focus on the future and what is the best decision going forward. He asked Attorneys Price and Cleary if Palmer Trinity is willing to address the issues that the neighbors have expressed are important to their quality of life.

Attorney Stanley Price of the law firm Bilzin Sumberg, representing Palmer Trinity, stated that Palmer is prepared to discuss every issue. He explained that they will be meeting with staff to prepare a development agreement that will have to return to the Council for an affirmative vote prior to conducting a quasi-judicial hearing. He avowed that Palmer would rather not litigate and spend their money on attorney’s fees; the School would rather concentrate on moving forward. He claimed that Palmer has been treated unfairly in the past and that the conditions placed upon the school were improper; however, the School is willing to discuss every issue.

Mayor Stanczyk remarked that she did not feel Attorney Price’s “rhetoric” was appropriate. Attorney Price countered that rhetoric was directed at the school and the Mayor did not object.

Mayor Stanczyk stated that she wished to move toward a compromise.

Brief discussion ensued regarding whether the settlement was negotiable. Attorney Cleary stated that if the Council votes affirmatively on the settlement, the School is willing to meet with the neighbors to discuss the issues. He stated that if there is a challenge to this settlement, the settlement will be void. He encouraged the CCOCI representatives to meet with the School and help draft the development agreement.

Councilwoman Lindsay stated that removal of many of the conditions, such as the lights on the field and the traffic mitigation, makes this settlement agreement untenable for her.

Mayor Stanczyk remarked that the settlement offer seems to benefit Palmer Trinity, rather than assuaging concerns of the neighbors.

Attorney Boutsis asked the Council to vote to extend the meeting past midnight. She stated that the Council may wish to counter-offer.

Councilman Schaffer moved to extend the meeting until 1 am. Vice Mayor DuBois seconded. The matter passed (4 to 1, Mayor Stanczyk voting in opposition.)

Vice Mayor DuBois stated that the Council needs to address the primary issues. He opined that two major issues: lighting and the traffic study are of concern to the neighbors. He noted that there should be a formula to indicate protection for traffic issues as the student population increases.

Mayor Stanczyk opined that traffic calming addresses speeding, not traffic congestion. Mr. Baiamonte stated that the Mayor could use terminology that is acceptable to her.

Vice Mayor DuBois stated that it may not be appropriate to consider noise levels at this time, as he believes the Village needs to address noise levels at Thalatta Park. He also opined that a PA system may not be permitted under code. Mr. Baiamonte advised that the School does not intend to conduct any non-school related events. He asserted that the school would only be using lighting for "limited" events, under 100 per year.

Councilman Schaffer stated that using only 176 Street for delivery vehicles is a problem to the residents and he believes 184 Street is the better option. Mr. Baiamonte replied that the school will insure compliance with the village code concerning the hours permitted for delivery vehicles. He concurred with Councilman Schaffer's remarks.

Councilwoman Lindsay asked if the School had a plan for mitigating the traffic. Mr. Baiamonte stated that the school will reduce traffic in the neighborhood with their modifications.

Councilwoman Lindsay stated that the settlement stipulates that pick-up/drop off would be on 176 Street. She opined that the current plan increases traffic in the neighborhood. She asked if the School would be willing to submit their traffic study to the County for approval. Mr. Baiamonte stated they would not.

Attorney Price stated that the traffic study was approved by the Village's traffic engineer. Councilwoman Lindsay remarked that the County stated that the application doesn't meet the traffic concurrency guidelines and the number of trips exceed the levels of acceptable service.

Attorney Price asked the date of the plan from which Councilwoman Lindsay was referring. Councilwoman Lindsay stated that plan was dated 2007. Attorney Price advised that the Village approved the 2008 plan and the independent traffic engineer consultant approved the plan.

Attorney Boutsis advised that she and Attorney Hochman would be meeting with Attorneys Price and Cleary to draft the development agreement. Attorney Price stated that he would seek participation of other groups within the Village. He stated that Attorneys Gibbs and Kuehne would coordinate a meeting with the community.

Mayor Stanczyk remarked that there needs to be a meeting with the residents in a comfortable surrounding, not just with attorneys. Attorney Price asked the Mayor if she would be willing to assist with the effort.

Vice Mayor DuBois stated that there is a motion pending. He moved to approve the desired action.

Councilwoman Lindsay moved to re-consider her early vote to extend the meeting past midnight. Mayor Stanczyk passed the gavel to Vice Mayor in order for her to second the motion. The motion failed (2 to 3, Vice Mayor DuBois, Councilman Fiore, and Councilman Schaffer opposed.)

Vice Mayor DuBois moved to approve the settlement that has been proposed, subject to striking the language that any third-party appeal shall be deemed to terminate the offer. Seconded by Councilman Fiore. Mayor Stanczyk called the question. The motion carried (3 to 2, Mayor Stanczyk and Councilwoman Lindsay opposed.)

6. REQUESTS, PETITIONS AND PUBLIC COMMENTS: The following individuals addressed the Council:

Gary Pastorella, 6940 SW 142 Terrace, began to express his disapproval of the Council. Councilman Fiore moved to bar Mr. Pastorella from continuing his statement. Seconded by Vice Mayor DuBois. The motion passed (3 to 1, Mayor Stanczyk opposed; Councilwoman Lindsay briefly left the room.)

Ms. Bev Gerald, 14271 SW 74 Court, began to speak and was told that her issue was the subject of Item 11, a public hearing item; and Mr. Eric Tullberg, 7884 SW 179 Terrace.

7. VILLAGE MANAGER'S REPORT

Manager Williams reported that Item 10B will be withdrawn due to issues with the contractor. He reported that during the summer break, he had authorized several expenses in accordance with the Ordinances:

- Village Attorney Bill: \$24,346.26
- Village Hall Elevator Repairs: \$14,896.03
- Palmetto Bay Park Restroom Renovations: \$24,629.40
- Skate Park Fence: \$12,690

Councilwoman Lindsay asked the Manager to include where the money would be coming from with Item 10B, when the item returns to Council, as she believed \$180,000 was the budgeted amount. Manager Williams agreed.

8. VILLAGE ATTORNEY'S REPORT

- A. September, 2013 Update: Attorney Boutsis provided her written report, noting that she was available to answer any questions.

9. BOARD AND COMMITTEE REPORTS: None at this time.

10. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND

RECREATION; APPROVING THE VILLAGE MANAGER'S RECOMMENDATION OF GOLDEN FENCE CO., AS THE MOST RESPONSIVE BIDDER IN PROVIDING SPECIFIED SERVICES FOR THE CORAL REEF PARK AND PALMETTO BAY PARK BATTING CAGE(S) PROJECT; AND, FURTHER AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE CONTRACT FOR SERVICES UNDER BID-2013-PR-006 WITH GOLDEN FENCE CO., FOR THE CORAL REEF PARK AND PALMETTO BAY PARK BATTING CAGE(S) PROJECT AT A COST OF \$195,508.35; PROVIDING AN EFFECTIVE DATE. (withdrawn)

Manager Williams withdrew this item from consideration at this time.

11. RESOLUTIONS REQUIRING PUBLIC HEARING

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING SUB-SECTION 5.1(C) AND (H) OF THE VILLAGE CHARTER; TO MODIFY THE ELECTION DATES TO HOLD ELECTIONS ON THE SAME DAY AS THE STATE PRIMARY ELECTIONS, AND RUN-OFF ELECTIONS ON THE FIRST TUESDAY OF NOVEMBER, WITH SWEARING IN ON THE FIRST MONDAY OF DECEMBER; AND REMOVING THE PROHIBITION ON HOLDING MEETINGS BETWEEN ELECTION AND SWEARING IN; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO ELECTORS OF THE PROPOSED AMENDMENTS TO THE VILLAGE CHARTER; PROVIDING FOR A SPECIAL MAIL-BALLOT ELECTION TO BE CONDUCTED ON JANUARY 28, 2014; PROVIDING FOR COPIES OF THE CHARTER AMENDMENTS BE AVAILABLE FOR PUBLIC INSPECTION; PROVIDING FOR THE VILLAGE CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS TO PLACE THE CHARTER AMENDMENTS ON THE BALLOT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

Mayor Stanczyk advised that she would be asking for a motion to adjourn, after the public hearing was opened on this item.

Councilman Schaffer moved this item forward. Seconded by Councilman Fiore.

The following individuals addressed the Council: Peter England, 7620 SW 171 Street; and Eric Tullberg, 7884 SW 179 Terrace.

Mayor Stanczyk closed the public hearing.

Clerk Alexander asked the Council to defer the remaining items on the Agenda to September 17, 2013, per Council's availability. Councilman Fiore moved to

defer to September 17, 2013. Seconded by Vice Mayor DuBois. All voted in favor. The motion carried unanimously (5-0.)

Vice Mayor DuBois moved to adjourn the meeting. Seconded by Councilman Schaffer. All voted in favor. The meeting was adjourned at 12:43 am.

(The below listed items were deferred to the meeting of September 17, 2013.)

12. ORDINANCES FOR FIRST READING

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING DIVISION 30-160, "ART IN PUBLIC PLACES"; MODIFYING SECTION 30-160.7, TO EXEMPT ~~SINGLE FAMILY HOME~~ RESIDENTIAL REPAIRS AND OR CONSTRUCTION FROM THE PROGRAM; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

13. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

- A. AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC COMMENTS DURING MEETINGS OF THE VILLAGE COUNCIL; REVISING SECTION 2.47 ENTITLED "ORDER OF BUSINESS" AND SECTION 2.50 ENTITLED "COUNCIL MEETING AGENDA ITEMS" TO ENSURE COMPLIANCE WITH SECTION 286.0114, FLORIDA STATUTES, WHICH PROVISION BECOMES EFFECTIVE ON OCTOBER 1, 2013; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.
- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC COMMENTS; AMENDING ARTICLE VIII OF CHAPTER 2, ENTITLED "BOARDS AND COMMITTEES, GENERALLY"; REQUIRING ALL SCHEDULED BOARD AND COMMITTEE MEETING TO PROVIDE FOR PUBLIC COMMENT PERIOD AT THE BEGINNING OF EVERY MEETING CONSISTENT WITH SECTION 286.0114, FLORIDA STATUTES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.
- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO REPEAL THE LANGUAGE OF SECTION 27-89 OF THE VILLAGE'S CODE ENTITLED "PEDDLING PROHIBITED"; AND REPLACING IT WITH "NOTICE ON PREMISES THAT UNINVITED VENDORS, SOLICITORS, PEDDLERS, ETC. ARE NOT WANTED; AND PROVIDING PENALTIES;

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

Prepared and submitted by:

*Meighan J. Alexander, CMC
Village Clerk*

Adopted by the Village Council on this ____ day of October, 2013.

Shelley Stanczyk, 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.

VILLAGE OF PALMETTO BAY
Minutes of the Special Council Meeting
First Budget Hearing of September 9, 2013
Village Hall Chambers
9705 East Hibiscus Street

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

Mayor Shelley Stanczyk
Vice Mayor John DuBois
Council Member Patrick Fiore
Council Member Tim Schaffer
Council Member Joan Lindsay

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

Mayor Stanczyk called the meeting to order at 7:05 p.m.

2. **VILLAGE ATTORNEY'S REPORT:** Attorney Boutsis advised the Council concerning the proper procedures for the budget hearing.

3. **VILLAGE MANAGER'S REPORT**

4. **ORDINANCES FOR FIRST READING / PUBLIC HEARINGS REQUIRED**

A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, OF MIAMI-DADE FLORIDA, ADOPTING THE TENTATIVE MILLAGE RATE OF THE VILLAGE FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2013, THROUGH SEPTEMBER 30, 2014, PURSUANT TO SECTION 200.065, FLORIDA STATUTES; PROVIDING FOR NOTICE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor DuBois moved this item forward. Seconded by Councilman Fiore.

Village Manager Ron Williams provided staff report. He stated that the balanced budget provides a high level of service, while keeping the millage rate the same. He reported that the Village is an 11-year old government and it is time to focus on economic development, as the commercial area has not grown.

Manager Williams reviewed the revenues and explained the tax dollar distribution. He explained the history of the ad valorem values over five years. He noted that with regard to General Fund Revenue and Expenditures, the Village spends less than it brings in consistently.

Building Official and Capital Projects Manager Ed Silva was recognized and provided a presentation concerning the Downtown Redevelopment Task Force (DRTF.) He thanked the 40+ members of the DRTF who assisted in the effort. He explained that the purpose of the DRTF is to assist in finding a solution in the commercial sector of the Village in order to reduce the residential tax burden by providing opportunities for local businesses to succeed. Members of the DRTF, Mr. David Zisman and Mr. Stanley Stanczyk, were recognized and expressed their support and their desire to listen to all suggestions.

Following brief comment, Mayor Stanczyk opened the public hearing on the millage rate. The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; and Tonya Rubin, 14500 SW 88 Avenue. Mayor Stanczyk closed the public hearing.

Councilman Schaffer moved to table the Ordinance concerning the millage. Seconded by Vice Mayor DuBois. All voted in favor.

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY OF MIAMI DADE COUNTY, FLORIDA, APPROVING AND ADOPTING THE PROPOSED BUDGET FOR THE VILLAGE FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014; PROVIDING FOR EXPENDITURE OF FUNDS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Schaffer moved this item forward. Seconded by Vice Mayor DuBois.

Manager Williams thanked the Council for noting a scrivener's error in rounding.

Attorney Boutsis asked the Council to incorporate the Manager's report by reference.

Vice Mayor DuBois moved to incorporate the Manager's Report, including the DRTF report, into this discussion. Seconded by Councilwoman Lindsay. All voted in favor.

Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: Howard Tendrich, 16500 SW 74 Avenue; Oscar Fonseca, 14250 SW 72 Avenue; Linda Robinson, 15605 SW 77 Court; Sheila Frazer, 9305 SW 181 Street; David Singer, 8360 SW 154 Terrace; Anthony Gorman, 14140 SW 72 Avenue; Carol Vega, 8845 SW 178 Terrace; Eric Tullberg, 7884 SW 179 Terrace; Gary Pastorella, 6940 SW 142 Terrace; Henry Clifford, 8875 SW 171 Street; Julie LaVoie, 7461 SW 175 Street; and Rex Lehman, 17300 SW 87 Court.

Councilman Schaffer asked if funds had been set aside for the water themed-element and soccer fields. Manager Williams noted they were marked "To Be

Determined,” as there had been discussion for those items, but no determined the source of the funding.

Councilman Fiore suggested moving the soccer fields’ dollars to reserves, as he believed \$500,000 for fields was excessive. He opined that the funds set aside for the DRTF are also problematic.

Manager Williams stated that \$1.6 million is available; however, each procurement item returns to the Council for final approval. He clarified that authorizing an item in the budget requires further action to expend the funds.

Vice Mayor DuBois stated that the general fund is showing projects being funded by reserves and until the issue of depreciating assets is addressed, he will not agree to spend the funds.

Manager Williams asserted that staff is not opposed to having specific dollars set aside for depreciation of assets; however, there are significant reserves to consider that will address depreciation. He stated that the Council may wish to consider a policy as to what our reserve level should be. He opined that the spending of reserves must be done through a systematic policy direction.

Vice Mayor DuBois stated that there are several funds classified as reserves.

Manager Williams stated that, initially, \$2.75 million was reserved as a rainy-day fund with no commitment as to spending. He noted that those funds increased to \$2.7 million due to investments.

Vice Mayor DuBois stated that a policy should be created, based upon a baseline number established by the Council. He stated that terms used to define reserves must be carefully chosen. He opined that the Council may have difficulty knowing the funds in reserves, if they don’t know the extent of the disrepair of the capital items. He suggested an analysis be performed and until one is perform, he does not feel comfortable taking funds from reserves.

Councilwoman Lindsay remarked that she would like to see capital funds spent for security cameras at the parks.

Village Policing Commander Gregory Truitt was recognized. Commander Truitt advised that cameras are a deterrent if the criminals know they are there. He stated that staff is installing signs warning people to leave their valuables out of site.

Parks and Recreation Director Fanny Carmona-Gonzalez stated that staff is currently working on installing security cameras, as part of the operating budget.

Councilwoman Lindsay asked if the budget includes funding to help with the appearance of US-1 and Old Cutler Road.

Manager Williams stated that staff is considering whether it is feasible to assume this responsibility. He explained that Public Works Director Corrice Patterson has met with Florida Department of Transportation (FDOT) representatives to determine the cost to the Village. He advised that FDOT would enter into an agreement and credit the Village for work performed; however, there will be a gap that the Village would have to cover.

Director Patterson advised that in the Village of Pinecrest, Pinecrest spends \$10,900 to supplement the excess maintenance that FDOT does not reimburse. She advised that the same process could be done with Old Cutler Road.

Councilwoman Lindsay asked if the same agreement would be done with the County. Manager Williams advised that the agreement is slightly more complex, as there is a revenue base associated with the revenue the County collects.

Councilwoman Lindsay asked the audience to raise their hands if they would like the Village to use tax dollars to enhance US-1. (Approximately half the audience raised their hands.)

Councilman Schaffer asked if the figure on page 42 was accurate - \$415,000 would be taken from reserves. Finance Director Desmond Chin noted that the estimate was prepared in mid-June; actually, the Budget to Actuals report indicates that \$1,000,000 will be returned to reserves.

Councilman Schaffer asked for clarification. Director Chin noted that for the estimated versus proposed for 2013, the Village will be under budget by \$1.7 million.

Councilman Schaffer asked if that meant that for two years, with \$996,000 out of reserves for 2013, and \$1 million into reserves, the Village will experience a "break even." Director Chin stated that it would – the Village will be refunding the \$996,000 from last year with \$1 million this year.

Vice Mayor DuBois stated that with regard to the DRTF, staff should consider a government grant or private investment to improve infrastructure, as he is not in favor of putting "tax payer dollars at risk."

Manager Williams stated that the DRTF is a private/public partnership. He stated that the infrastructure on public rights-of-way will encourage development within the Village. He opined that the Village has not received private investment dollars, because the Village has not spent any money to encourage development.

Following brief discussion, Manager Williams asserted that the purpose of the DRTF is to encourage and support the business community by investing in public right-of-way infrastructure improvements that will encourage commercial investment. Brief discussion ensued.

Attorney Boutsis stated that the Council may make motions to modify the budget; however, the final vote on the budget may not be held until the Council has approved the Ordinance concerning the millage.

Councilwoman Lindsay moved to table the budget discussion. Seconded by Councilman Schaffer. All voted in favor.

Councilman Schaffer moved to re-open the Ordinance concerning the millage. Seconded by Councilwoman Lindsay. All voted in favor.

Councilman Schaffer moved to approve the Ordinance concerning the millage on first reading. Seconded by Councilwoman Lindsay. All voted in favor. The Ordinance passed first reading unanimously (5-0.)

Councilwoman Lindsay moved to re-open the budget. Seconded by Councilman Schaffer. All voted in favor.

Councilwoman Lindsay moved to remove Item P24, the Bermuda turf soccer fields. Manager Williams stated that the TBD's are not funded. Attorney Boutsis stated that those items would be considered at the Capital Improvement Projects (CIP) hearing.

Vice Mayor DuBois moved to remove the \$1 million DRTF item. Seconded by Councilman Fiore. The motion failed (2 to 3, Mayor Stanczyk, Councilman Schaffer, and Councilwoman Lindsay being opposed.)

Vice Mayor DuBois moved to remove the \$480,000 capital transfer from the General Fund. Seconded by Councilman Fiore. The motion passed (3 to 2, Mayor Stanczyk and Councilwoman Lindsay opposed.)

Vice Mayor DuBois moved to remove \$996,779 of expenses that exceed revenue in the General Fund Operating Account. Seconded by Councilman Fiore. The motion passed (3 to 2, Mayor Stanczyk and Councilwoman Lindsay opposed.)

Vice Mayor DuBois moved that the police department budget not be reduced in order to balance the budget.

Manager Williams stated that the Vice Mayor's motions have eliminated a vehicle, eliminated the refurbishment of the playground at Palmetto Bay Park, eliminated the gutter system at the Quad at Palmetto Bay Park, and stopped repairs to the damaged arch at Ludovici Park. He noted that if the Council approves the motion to not reduce police, the Village will be closing some parks, as parks is the only viable source to reduce in order to re-coup general fund dollars.

Mayor Stanczyk asked if layoffs would be necessary. Manager Williams replied that the Director would have to lay off a parks manager and many part-timers.

Manager Williams asserted that Director Chin indicated that the budget will be balanced; and, if the Council removes \$1 million from a budget that it is not required to do, and does not allow reduction in the police budget, parks must close.

Councilman Fiore seconded the Vice Mayor's previous motion.

Vice Mayor DuBois asked for clarification concerning the \$1.6 million remaining from the final street sign loan. Manager Williams stated that it can be used in accordance with CITT standards. Discussion ensued as to whether the \$1.6 million could be used for the DRTF project. Manager Williams and Director Chin indicated that the funds were specifically allocated by the Council for infrastructure projects, not to subsidize the DRTF.

Councilwoman Lindsay asked if the \$1.2 million in line W-40 was sufficient.

Manager Williams stated that the Council can remove capital dollars and not fund park repairs. He added that such action would effectively close parks.

Vice Mayor DuBois stated that this budget will return for final reading with the amendments and the Manager can indicate where the \$996,779 can be allocated without cutting services.

Mayor Stanczyk called the question. The motion passed (3 to 2, Mayor Stanczyk and Councilwoman Lindsay opposed.)

Councilman Schaffer moved to reconsider allocating the \$1 million for DRTF. Seconded by Vice Mayor DuBois.

Councilman Schaffer stated that the funds come from two areas: W-40 and W-41-DRTF and traffic infrastructure. He expressed that he does not wish to reduce the parks budget and if there are sufficient funds, then the projects should be funded.

Manager Williams noted that with the \$1.6 million, the project can define the scope, but it must be related to CITT-approved projects, such as traffic calming and roadways. He explained that "soft costs", such as a financial analysis to provide a report concerning a potential development, would not be allowed under CITT.

Councilman Schaffer confirmed that line W40 would be only for infrastructure. He asked about the \$480,000.

Manager Williams noted that lines P21, P23, P28, and P31 make up that expenditure.

Vice Mayor DuBois remarked that perhaps the amount spend on studies could be reduced.

Councilman Schaffer asserted that he has no intention of eliminating park projects.

Following brief discussion, the Council voted on the motion to reconsider. The motion carried (4 to 1, Vice Mayor DuBois opposed.)

Councilman Schaffer moved to remove the \$1 million line item for the DRTF. The matter failed (2 to 3, Mayor Stanczyk, Councilwoman Lindsay and Councilman Schaffer voting in opposition - \$1 million line item remains.)

Councilman Schaffer moved to reconsider the removal of the \$480,000 capital transfer from the general fund. Seconded by Councilman Fiore. The motion carried (4 to 1, Vice Mayor DuBois opposed.)

Councilman Schaffer moved to remove the \$480,000 capital transfer from the general fund. The matter failed (2 to 3, Mayor Stanczyk, Councilwoman Lindsay and Councilman Schaffer voting in opposition - \$480,000 capital transfer remains.)

Councilman Schaffer moved to reconsider the motion to remove the \$996,779 of expenses that exceed revenue in the general fund operating account. Seconded by Councilman Fiore. The motion carried (4 to 1, Vice Mayor DuBois opposed.)

Councilman Schaffer motion to remove the \$996,779 of expenses that exceed revenue in the general fund operating account. The matter failed (2 to 3, Mayor Stanczyk, Councilwoman Lindsay and Councilman Schaffer voting in opposition - \$996,779 remains.)

Councilman Schaffer explained that in order for Director Chin to close the budget, staff pulls from reserves; however, reserves will not be needed. He noted that Council will hold the manager accountable should the Council need to use the reserve funds.

Mayor Stanczyk called the question on the budget as a whole. The motion failed (2 to 3, Vice Mayor DuBois, Councilman Fiore, and Councilman Schaffer opposed.)

Attorney Boutsis advised that the failure of the budget would indicate that it cannot move forward.

Councilman Schaffer moved to reconsider the budget. Seconded by Councilwoman Lindsay. The motion carried (4 to 1, Vice Mayor DuBois opposed.)

Mayor Stanczyk called the question on the budget. The budget passed on first reading (4 to 1, Vice Mayor DuBois opposed.)

5. **NEXT MEETING AND ADJOURNMENT:** The meeting was adjourned at 9:40 p.m.

Prepared and submitted by:

*Meighan J. Alexander, CMC
Village Clerk*

Adopted by the Village Council on this ____ day of October, 2013.

Shelley Stanczyk, 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.

VILLAGE OF PALMETTO BAY
Minutes of the Special Council Meeting
Items deferred to date certain of September 17, 2013
Village Hall Chambers
9705 East Hibiscus Street

1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

Mayor Shelley Stanczyk
Vice Mayor John DuBois
Council Member Patrick Fiore
Council Member Tim Schaffer
Council Member Joan Lindsay

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

Mayor Stanczyk called the meeting to order at 7:05 p.m. She led the pledge of allegiance.

- 2. DECORUM STATEMENT:** Clerk Alexander read the following decorum statement: Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Village of Palmetto Bay Council shall be barred from further audience at this meeting before the Village of Palmetto Bay Council by the presiding officer, unless permission to continue or again address the council be granted by the majority vote of the council members.

3. RESOLUTIONS REQUIRING PUBLIC HEARING

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING SUB-SECTION 5.1(C) AND (H) OF THE VILLAGE CHARTER; TO MODIFY THE ELECTION DATES TO HOLD ELECTIONS ON THE SAME DAY AS THE STATE PRIMARY ELECTIONS, AND RUN-OFF ELECTIONS ON THE FIRST TUESDAY OF NOVEMBER, WITH SWEARING IN ON THE FIRST MONDAY OF DECEMBER; AND REMOVING THE PROHIBITION ON HOLDING MEETINGS BETWEEN ELECTION AND SWEARING IN; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO ELECTORS OF THE PROPOSED AMENDMENTS TO THE VILLAGE CHARTER; PROVIDING FOR A SPECIAL MAIL-BALLOT ELECTION TO BE CONDUCTED ON JANUARY 28, 2014; PROVIDING FOR COPIES OF THE CHARTER AMENDMENTS BE AVAILABLE FOR PUBLIC INSPECTION; PROVIDING FOR THE VILLAGE CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF

ELECTIONS TO PLACE THE CHARTER AMENDMENTS ON THE BALLOT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

Vice Mayor DuBois moved this item forward. Seconded by Councilman Fiore.

Attorney Boutsis provided staff report.

Councilman Fiore stated that the most recent run-off election had difficulties due to the holiday that caused delay in forwarding absentee ballots. He opined that the cost of the run-off elections is also excessive at approximately \$60,000. He noted that the Village used to conduct its election cycle in the same manner he is suggesting: general election at the State primary, run-off election, if needed, at the State general election. Councilman Fiore noted that in the past two election cycles, voter participation in the run-off was less than the general election: at approximately 25% for run-off. He reported that his proposal would not change the term of the Council, as the swearing in would remain the same date. He opined that having the proposed cycle would coincide with the County, increase voter participation, and insure that the Absentee Ballots are timely received by voters.

Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: Susan Ludovici, 7790 SW 176 Street; Eric Tullberg, 7884 SW 179 Terrace; Bev Gerald, 14271 SW 74 Court; Warren Lovely, 15323 SW 74 Place; Rex Lehman, 17300 SW 87 Court; Steve Kreisher, 18201 SW 98 Avenue; Peter England, 7620 SW 171 Street; Richard Blake, 16041 SW 80 Avenue; Chet England, 15300 SW 80 Avenue; Diane Garginin, 17120 SW 78 Avenue; Chuck Latshaw, 8825 SW 154 Terrace; Gary Pastorella, 6940 SW 142 Terrace; Richard Duncan, 8700 SW 149 Terrace; Stanley Kowlessar, 8360 SW 148 Drive; Jerry Templer, 8120 SW 182 Street; and Jacqueline Caproon, 8285 SW 164 terrace.

Councilman Schaffer asked the Clerk to provide information concerning voter turn-out in the last election.

Clerk Alexander replied that the turn-out was approximately 62% in the general election; 25% in the run off.

Vice Mayor DuBois remarked that voter apathy is a problem; however, Palmetto Bay has a higher voter turnout than most cities. He asserted that in terms of maximizing voter participation, the general election is best; second best is the primary; and third is run-off election. He noted that there are different philosophies as to what is the best strategy for encouraging voter participation. He opined that he previously made the recommendation that plurality voting with a minimum percentage threshold would be optimal; however, in lieu of that, a single date with plurality voting is acceptable. He stated that he is not opposed to asking voters what they would like to do; however, he believed the Council

resolved the run-off difficulties by mandating a three week period between general and run-off.

Councilwoman Lindsay remarked that she understands the concerns that some expressed regarding delay in receiving a ballot; however, the Council extended the time frame to address those issues.

Mayor Stanczyk provided research concerning voter turn-out and stated that if this matter were to be presented to the voters, it should be raised at the next election, as many individuals may ignore their mail and voter turn-out on mail ballot elections is limited.

Mayor Stanczyk called the question. The motion failed (3 to 2, Mayor Stanczyk, Vice Mayor DuBois, and Councilwoman Lindsay opposed.)

4. ORDINANCES FOR FIRST READING

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING DIVISION 30-160, "ART IN PUBLIC PLACES"; MODIFYING SECTION 30-160.7, TO EXEMPT ~~SINGLE-FAMILY HOME~~ RESIDENTIAL REPAIRS AND OR CONSTRUCTION FROM THE PROGRAM; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

Councilman Schaffer moved this item forward. Seconded by Vice Mayor DuBois.

Councilman Fiore stated that he is only seeking fairness on this matter.

Attorney Boutsis advised that this matter had to return for a second-first reading due to substantial changes.

Mayor Stanczyk expressed her support for the program, adding that art installed as a result of the program benefits the Village and a very small amount of funds is collected from developers.

Director of Planning & Zoning Darby Delsalle provided staff report, advising that the residential component would be exempt, if this item passes.

Councilwoman Lindsay stated that she was in agreement initially; however, she was supportive of exempting only single family homes, not all residential units.

Vice Mayor DuBois stated that he was the one who initially specifically added non-single family homes to the exemption. He stated that the residential component exemption is appropriate as even though a builder may put

condominiums in a building, the condominiums cost are far less than purchasing a single family home. He opined that the purchaser of the condominium is less likely to be able to afford the fee that will be passed to them by the contractor.

Councilwoman Lindsay moved to modify the ordinance to return the language: "To exempt single family home repairs or construction from the program". Councilman Fiore second.

Mayor Stanczyk asked if the fee is charged for individual units of a development. Attorney Boutsis replied that the fee was part of the cost of a development, not individual units.

Following brief discussion, Mayor Stanczyk called the question on the amendment. All voted in favor.

Mayor Stanczyk called the question on the Ordinance, as amended. All voted in favor, as follows, following roll call vote: Councilman Schaffer: Yes; Councilwoman Lindsay: Yes; Vice Mayor DuBois: Yes; Mayor Stanczyk: Yes; and, Councilman Fiore: Yes.

5. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

- A. AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC COMMENTS DURING MEETINGS OF THE VILLAGE COUNCIL; REVISING SECTION 2.47 ENTITLED "ORDER OF BUSINESS" AND SECTION 2.50 ENTITLED "COUNCIL MEETING AGENDA ITEMS" TO ENSURE COMPLIANCE WITH SECTION 286.0114, FLORIDA STATUTES, WHICH PROVISION BECOMES EFFECTIVE ON OCTOBER 1, 2013; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Vice Mayor DuBois moved this item forward. Seconded by Councilwoman Lindsay.

Mayor Stanczyk remarked that this would result in the Village being in compliance with the change in the Florida Statute.

Attorney Boutsis concurred, adding that this matter is a companion item to the item below.

Mayor Stanczyk opened the public hearing. No one wished to speak. The public hearing was closed.

The Ordinance was adopted (5-0), following roll call vote: Councilwoman Lindsay: Yes; Mayor Stanczyk: Yes; Vice Mayor DuBois: Yes; Councilman Fiore: Yes; and Councilman Schaffer: Yes.

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC COMMENTS; AMENDING ARTICLE VIII OF CHAPTER 2, ENTITLED "BOARDS AND COMMITTEES, GENERALLY"; REQUIRING ALL SCHEDULED BOARD AND COMMITTEE MEETING TO PROVIDE FOR PUBLIC COMMENT PERIOD AT THE BEGINNING OF EVERY MEETING CONSISTENT WITH SECTION 286.0114, FLORIDA STATUTES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Vice Mayor DuBois moved this item forward. Seconded by Councilman Schaffer.

Mayor Stanczyk remarked that this noted – second reading on similar ordinance, mandated by state statute.

Mayor Stanczyk opened the public hearing. Stanley Kowlessar, 8360 SW 148 Drive, addressed the Council.

The Ordinance was adopted (5-0), following roll call vote: Mayor Stanczyk: Yes; Vice Mayor DuBois: Yes; Councilman Fiore: Yes; and Councilman Schaffer: Yes; and Councilwoman Lindsay: Yes.

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO REPEAL THE LANGUAGE OF SECTION 27-89 OF THE VILLAGE'S CODE ENTITLED "PEDDLING PROHIBITED"; AND REPLACING IT WITH "NOTICE ON PREMISES THAT UNINVITED VENDORS, SOLICITORS, PEDDLERS, ETC. ARE NOT WANTED; AND PROVIDING PENALTIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Vice Mayor DuBois moved this item forward. Seconded by Councilman Schaffer.

Attorney Boutsis advised that the Miami-Dade County Code was updated and door-to-door solicitation may not be banned outright by municipalities. She noted; however, that a homeowner may place a no-solicitation sign on their property.

Mayor Stanczyk opened the public hearing. No one wished to be heard. The hearing was closed.

The Ordinance was adopted (5-0), following roll call vote: Vice Mayor DuBois: Yes; Councilman Fiore: Yes; and Councilman Schaffer: Yes; Councilwoman Lindsay: Yes; and, Mayor Stanczyk: Yes;

6. OTHER BUSINESS

- A. Discussion concerning annual evaluations of Charter Officers – Vice Mayor John DuBois: Vice Mayor DuBois deferred this matter.
- B. Conditions for release of shade session transcripts – Councilman Patrick Fiore stated that as settlement has been reached with Palmer, and a quasi-judicial hearing will be scheduled, the Village's role is concluded. He asked the Village Attorney to read the Attorney General's opinion. Attorney Boutsis did.

Mayor Stanczyk stated that the opinion concerns that no charge could be brought against those who would vote to release, rather than an opinion as to whether the shade session transcripts should be released.

Attorney Boutsis advised that the Attorney General opinion was sought in response to members of the Council being concerned about violating the Statutes. She noted that the transcripts are not confidential, rather they are exempt from disclosure; and, if the Council votes to release the exemption, the Council is able to do so without violating the law.

Mayor Stanczyk remarked that releasing the transcripts early does not benefit the residents. She expressed that the transcripts should be released when the litigation is over.

Councilman Schaffer asked if the shade session transcripts would be released immediately, if Councilman Fiore's desired action is approved. Attorney Boutsis replied that the transcripts would be released after the quasi-judicial hearing.

Councilman Fiore stated the two conditions: once the settlement is reached; and, upon approval of the hearing concerning site plan modifications.

Councilman Fiore moved to approve his directed action. Seconded by Vice Mayor DuBois.

Vice Mayor DuBois remarked that the statutes provide an exception to the rule of transparency when litigation is ongoing. He stated that the Village has the right to stop the non-transparency and release the exemption, even if it exposes this prior to settlement. He noted that in this case, the Village has given its settlement offer and the need to protect the strategy of litigation is not an issue. He concurred with Councilman Fiore's directed action.

Attorney Boutsis cautioned that if the hearing concerning the site plan modification should go awry, the litigation will continue. Vice Mayor DuBois stated that the directed action confirms that release of the exemption would not occur until following approval of the site plan modification.

Mayor Stanczyk stated that there could be a problem with third party intervention. Attorney Boutsis advised that the language concerning third party intervention was removed from the settlement agreement.

Councilwoman Lindsay stated that the Village has been in litigation for many years and there should be no need to release the exemption until the appeal period has concluded following the quasi-judicial hearing. She noted that she had received emails opposing the release of the shade session transcripts early. She asked Mr. Michael Baiamonte (present in the audience, Chairman of the Board of Trustee for Palmer Trinity School) whether he would release his confidential attorney client notes, if Palmetto Bay releases its notes. (Mr. Baiamonte did not respond.)

Mayor Stanczyk expressed her disapproval with members of the audience being disrespectful. She stated that the litigation is concluded when the judge dismisses the case.

Vice Mayor DuBois and Councilman Schaffer expressed their disappointment at members of the Council directing comments to or questioning members of the public in the audience.

Councilman Schaffer moved to include the release shade sessions of the Shores Litigation. Councilman Fiore second. Clerk Alexander asked the Councilmen to clarify that their motion included the release under the same two conditions. The Councilmen concurred.

Attorney Boutsis provided clarification, noting that Shores would also be returning for a quasi-judicial hearing on a site plan modification.

The motion passed (3-2), following roll call vote: Councilwoman Lindsay: No; Vice Mayor DuBois: Yes; Mayor Stanczyk: No; Councilman Fiore: Yes; and Councilman Schaffer: Yes.

Vice Mayor DuBois moved to include that the sessions would not be released until after an additional 30 days following approval at the site plan modification hearing, when the matter would no longer be eligible for appeal. Seconded by Councilwoman Lindsay. The motion passed (4-1), following roll call vote: Vice Mayor DuBois: Yes; Mayor Stanczyk: No; Councilman Fiore: Yes; Councilman Schaffer: Yes; and Councilwoman Lindsay: Yes.

Councilman Schaffer moved to release the Shores and Palmer Trinity shade session transcripts immediately. Seconded by Vice Mayor DuBois.

Attorney Boutsis stated that the motion would have to be to include striking the original motion and striking the amendment (30 day waiting period.) Councilman Schaffer so moved. Seconded by Vice Mayor DuBois.

Councilman Fiore stated that while he understands Councilman Schaffer's frustration, the Council needs to move forward.

Vice Mayor DuBois asked Councilman Schaffer to clarify the reasons behind this motion.

Councilman Schaffer stated that he believes residents should know why the Council is voting the way they are voting. He opined that all should be able to talk about the matters. Attorney Boutsis cautioned the Council that they should not be communicating with anyone concerning the site plan, as it will be the subject of a future quasi-judicial hearing.

Vice Mayor DuBois stated that the Village should not take this risk, as the Shores Development may take years to re-submit its site plan.

Vice Mayor DuBois called the question. The motion passed (4-1), following roll call vote: Vice Mayor DuBois: Yes; Mayor Stanczyk: Yes; Councilman Fiore: Yes; Councilman Schaffer: No; and Councilwoman Lindsay: Yes.

Mayor Stanczyk suggested opening the matter to public comment. Vice Mayor DuBois objected and moved to not permit public comment. Seconded by Councilman Fiore. The motion passed (3-2, Mayor Stanczyk and Councilwoman Lindsay opposed.)

Mayor Stanczyk called the question on the previous motion. The motion passed (4-1), following roll call vote: Vice Mayor DuBois: Yes; Councilman Fiore: Yes; Councilman Schaffer: Yes; Councilwoman Lindsay: Yes; and Mayor Stanczyk: No.

7. COUNCIL COMMENTS

Vice Mayor DuBois raised the matter concerning voting dates. He stated that, inadvertently, some incorrect information regarding the number of voters that frequented the general versus the run-off was provided.

Councilwoman Lindsay stated that it is difficult to do an analysis to determine which date is better for voters. She concluded that the goal is to have the maximum number of residents participate.

Mayor Stanczyk stated that the August primary is not the largest turnout.

Vice Mayor DuBois stated that it makes intuitive sense to believe the August turnout would be second best, ahead of the Regular Palmetto Bay election in November.

8. NEXT MEETING AND ADJOURNMENT: The Meeting adjourned at 9:30 p.m.

Prepared and submitted by:

*Meighan J. Alexander, CMC
Village Clerk*

Adopted by the Village Council on this ____ day of October, 2013.

Shelley Stanczyk, 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.

VILLAGE OF PALMETTO BAY
Minutes of the Special Council Meeting of September 17, 2013
Village Hall Chambers
9705 East Hibiscus Street

1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

Mayor Shelley Stanczyk
Vice Mayor John DuBois
Council Member Patrick Fiore
Council Member Tim Schaffer
Council Member Joan Lindsay

Staff present:

Village Manager Ron E. Williams
Village Attorney Eve A. Boutsis
Village Clerk Meighan J. Alexander

Mayor Stanczyk called the meeting to order at 9:35 p.m.

2. RESOLUTION

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO APPLY FOR AND ACCEPT A HIGHWAY BEAUTIFICATION GRANT, AND ENTER INTO A HIGHWAY BEAUTIFICATION COUNCIL GRANT, LANDSCAPE CONSTRUCTION, AND MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION; FURTHER AUTHORIZING THE VILLAGE MANAGER TO EXECUTE DOCUMENTS NECESSARY TO EFFECTUATE THE INTENT AND PURPOSE OF THIS RESOLUTION AND PROVIDING FOR AN EFFECTIVE DATE.

Councilwoman Lindsay moved this item forward. Seconded by Councilman Fiore.

Manager Williams provided staff report, stating that this grant requires a 50/50 match, which would be \$45,000 from the Village for beautification of US-1.

Following brief discussion, Councilman Schaffer asked if the project would include Old Cutler Road. Manager Williams advised that Old Cutler Road is maintained by Miami-Dade County. This grant is from the State.

Mayor Stanczyk called the question. The Resolution passed unanimously (5-0.)

3. **ADJOURNMENT:** The meeting was adjourned at 9:35 p.m.

Prepared and submitted by:

*Meighan J. Alexander, CMC
Village Clerk*

Adopted by the Village Council on this _____ day of October, 2013.

Shelley Stanczyk, 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.