# VILLAGE OF PALMETTO BAY
## Minutes of the Local Planning Agency Meeting of July 11, 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. Mayor Stanczyk led the pledge of allegiance.

## 2. ORDINANCE FOR SECOND READING (PUBLIC HEARING)

A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING SECTIONS 30-70.5(b)(2) AND 30-70.6 OF THE LAND DEVELOPMENT CODE RELATING TO SINGLE-FAMILY DETACHED RESIDENTIAL DRIVEWAYS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Councilman Tim Schaffer].

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

Councilman Schaffer remarked that his report from first reading remains valid.

Director of Planning & Zoning Darby Delsalle provided staff report. He asked that the comments from this meeting be incorporated by reference at the Council Meeting to follow.

Councilwoman Lindsay asked if a new driveway is too close the neighbor, would the owners have to enter into a hold harmless agreement with their neighbors. Director Delsalle replied that they would be required to do so.

Councilwoman Lindsay asked if the setback was three, would staff still require the hold harmless. Director Delsalle stated it would be required if the aprons touched.

Councilwoman Lindsay moved to keep the setback at five feet. There was no second.

Mayor Stanczyk asked Councilman Schaffer if he would accept the modification as a friendly amendment. Councilman Schaffer stated that he would not.

Following brief comment, Director Delsalle noted that the proposed Ordinance would allow three entries, which could be one circular driveway and an additional driveway regardless of a corner lot property or not.

Councilwoman Lindsay stated that she did not support three cuts on the principal frontage. She moved to allow only two cuts on the principal frontage. There was no second.

Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: Anthony Gorman; Gary Pastorella, 6940 SW 142 Terrace; and James Wray. The public hearing was closed public hearing.

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

## 3. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 7:25 pm.

*Prepared and submitted by:*

_____

*Meighan J. Alexander, CMC*
*Village Clerk*

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

_____

*Shelley Stanczyk, Mayor*

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# VILLAGE OF PALMETTO BAY
## Minutes of the Regular Council Meeting of July 11, 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 7:27 p.m. Mayor Stanczyk led the pledge of allegiance.

## 2. PROCLAMATIONS, AWARDS, PRESENTATIONS

A. Miami Heat Day: Mr. Michael McCullough, Chief Marketing Officer for the Heat, and Michael Baiamonte, Public Address Voice for the Heat, were recognized by the Council. Mayor Stanczyk thanked Councilman Fiore for organizing this recognition. She and the Council congratulated the Miami Heat for their victory and presented the gentlemen with a Proclamation.

**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. Minutes of the Regular Council Meeting of June 3, 2013: Vice Mayor DuBois moved to approve the Minutes, as submitted. Seconded by Councilman Fiore. All voted in favor. The Minutes were approved.

## 5. 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 FIGUEREDO & BOUTSIS, P.A. IN THE AMOUNT OF $28,667.74; PROVIDING AN EFFECTIVE DATE.

Clerk Alexander reported that Vice Mayor DuBois had timely pulled this item from the Consent Agenda. Mayor Stanczyk advised that the item shall be heard as Item 10F.

Vice Mayor DuBois announced that he is removing item 14E from consideration. Manager Williams stated that he had spoken with the Vice Mayor concerning this matter.

## 6. REQUESTS, PETITIONS AND PUBLIC COMMENTS

Mayor Stanczyk announced that she had received requests to have public comments on item 14, so she would allow same.

The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace; Chuck Latshaw, 8825 SW 154 Terrace; Simon Ferro, Two S Biscayne Blvd., representing South Motors.

In response to Attorney Ferro's request for consideration of an August hearing, Manager Williams noted that August has historically been reserved as a month wherein no hearings are held due to summer vacations. Clerk Alexander concurred. Mayor Stanczyk remarked that the Village does not hold zoning hearings in July or August.

Public comment continued: Mary Pettit, Gary Pastorella, 6940 SW 142 Terrace; Anthony Gorman, 14140 SW 72 Avenue; John Gale, (address exempt, former judge).

## 7. VILLAGE MANAGER'S REPORT

Manager Williams introduced Major Greg Truitt.

A. Village Police Commander Report: Major Truitt provided staff report, noting that Officer Emilio Franco has been promoted and will now serve as a sergeant working in the Kendall District. He expressed that he was proud of Sergeant Franco and happy to have worked with him.

Major Truitt reminded the residents that Watch Orders are available for them. He also stated that helmets are provided free to children through the Village's Officer Friendly program. He concluded by noting that the Rad Kidz program has been ongoing with the Village's summer camp program.

Manager Williams provided a brief report concerning the Downtown Redevelopment Task Force ("DRTF"). He thanked the large group of property owners, professionals, and concerned residents who have been working diligently on this effort. He noted that

Communications Manager Bill Kress is working on the Village's web page to provide introductory information to the community. He noted that the Village is seeking additional participation, as well.

Building Official and Capital Projects Manager Ed Silva stated that the DRTF is attempting to formulate ideas to improve the commercial area/business sector in order to preserve and grow the ad valorem base.

Mayor Stanczyk thanked Manager Williams and Mr. Silva for their efforts. She stated that she believes the residents want good services and low taxes; the Village needs to improve the tax base to continue to do so.

Vice Mayor DuBois asked what are the top two or three issues that the DRTF would like to accomplish; what are the milestones; and, when will the DRTF conclude.

Mr. Silva stated that the DRTF is still in the "fact-finding" stage and is working on consensus. He noted that the focus is to protect the neighborhood and to segregate the downtown area while maintaining the quality of life.

Clerk Alexander provided an update of the calendar.

## 8. VILLAGE ATTORNEY'S REPORT

A. July, 2013 Update: Attorney Boutsis noted that her report was provided to the Council. Councilman Schaffer asked for information concerning the Village insurance coverage. Attorney Boutsis noted that the Florida Municipal Insurance Trust (FMIT) provides coverage to the Village at the maximum limit of $5,000,000. She advised that the attorneys for the FMIT review several types of claims in order to determine the validity and whether a claim should be paid.

Councilman Schaffer asked if Attorney Boutsis can discuss the insurance coverage with regard to the current litigation. Attorney Boutsis noted that the Village has settlement discussions ongoing; however, if there is a claim that would be covered by insurance, if there were to be a settlement, the settlement would have to be agreed to by the insurance valuation adjuster of the FMIT.

## 9. BOARD AND COMMITTEE REPORTS

A. Educational Compact Advisory Committee Report: Mayor Stanczyk introduced the Chair of the Committee: Leanne Tellam. Ms. Tellam introduced the members: Gretchen Goldstein, Pam Tabor, Karyn Cunningham, and Alexandra Flinn. Mayor Stanczyk thanked the Committee, announcing that the members worked very hard, met multiple times, working diligently on the Compact.

Ms. Tellam introduced School Board Member Dr. Larry Feldman, his Aide Erz Horvath, District Superintendent Alex Martinez, Lubby Navarro, and Assistant

Superintendent Iraida Cartaya, thanking them for their assistance and support. Ms. Tellam provided Committee report, adding that a strong public school system is a basis for democracy and also for our continued future. She noted that the Committee is asking for approval of the draft in order for Superintendent Alberto Carvalho to be able to present the matter to the School Board for approval at its September meeting.

Assistant Superintendent Cartaya-Mendez, on behalf of Superintendent Carvalho thanked the Village, adding that the Compact will strengthen the existing cooperative effort. She thanked the Committee and Ms. Navarro for their hard work.

School Board Member Dr. Feldman provided a brief report concerning the School Board and the future budget, noting that they will be reducing the millage rate. He thanked all for their dedication to this effort. He stated that the Compact will have a great effect on the schools and will allow a better relationship between the schools and the Village. Dr. Feldman commended the Council for their efforts. He thanked Ms. Tellam for her dedication and presented her with a ribbon for her outstanding citizenship.

Ms. Tellam thanked Dr. Feldman and also thanked Clerk Alexander for her assistance. Dr. Feldman also thanked Ms. Navarro for her service.

Ms. Tellam asked the Council to not sunset the Committee until the Compact is final.

Councilwoman Lindsay asked for the report to be corrected, as Page 2 indicated 2012, and it should read 2013. Ms. Tellam concurred.

Commissioner Schaffer moved to accept the draft Compact. Seconded by Vice Mayor DuBois. All voted in favor. The motion carried unanimously (5-0.)

## 10. RESOLUTIONS

A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, CERTIFYING AND DECLARING THE RESULTS OF THE SPECIAL MAIL BALLOT ELECTION OF JUNE 25, 2013; PROVIDING AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report.

Mayor Stanczyk asked what would occur if the Council did not vote in favor of certifying the election.

Attorney Boutsis advised that the Resolution was strictly administerial; the results are certified by the Miami-Dade County Elections Department.

Clerk Alexander advised that the Election had been canvassed by a County Commissioner, a County Court Judge, and the Supervisor of Elections of Miami-Dade County.

Mayor Stanczyk called the question. All voted in favor. The Resolution carried unanimously (5-0).

B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AD VALOREM TAXES; ESTABLISHING THE PROPOSED MAXIMUM MILLAGE RATE AND SETTING THE DATES, TIMES AND LOCATION FOR THE FIRST AND SECOND BUDGET HEARINGS FOR FY 2013-2014; FURTHER DIRECTING THE VILLAGE CLERK TO FILE SAID RESOLUTION WITH THE MIAMI-DADE COUNTY PROPERTY APPRAISER; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Finance Director Desmond Chin advised that following consideration of the budget, the millage is proposed for the same rate as the prior year. He noted that the Resolution also sets the public hearing dates, as required by Truth in Millage (TRIM) laws.

Manager Williams stated that the dates do not (and are not permitted to) conflict with the budget hearings of the School Board and the County. He stated that the Village Council should adopt a maximum millage that may be reduced, if desired, during the September hearings, but may not be increased.

Mayor Stanczyk called the question. All in favor. All voted in favor. The Resolution carried unanimously (5-0).

C. 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 TABOR CONSTRUCTION CORP. AS THE MOST RESPONSIVE BIDDER FOR THE CORAL REEF PARK PEDESTRIAN BRIDGE RENOVATION PROJECT; AND, FURTHER AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE CONTRACT FOR CONSTRUCTION SERVICES UNDER BID-2013-PR-003 TO TABOR CONSTRUCTION CORP., FOR THE CORAL REEF

PARK PEDESTRIAN BRIDGE RENOVATION PROJECT AT A COST OF $43,920.00; PROVIDING AN EFFECTIVE DATE.

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

Manager Williams provided staff report. He stated that this item is a safety issue, seeking to provide significant repairs and is part of the Capital Improvement Program budget.

Councilman Fiore remarked that the sooner this project is completed, the better.

Mayor Stanczyk called the question. All voted in favor. The Resolution carried unanimously (5-0).

D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS & RECREATION AND RESPONSE TO RFP-2013-PR-002; APPROVING THE VILLAGE MANAGER'S RECOMMENDATION OF TIP TOP ENTERPRISES, INC. AS THE MOST RESPONSIVE BIDDER IN PROVIDING LANDSCAPE/GROUND MAINTENANCE SERVICES FOR ALL VILLAGE PARKS; AND FURTHER AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO CONTRACT NEGOTIATIONS; WITH SUBSEQUENT RECOMMENDATION FOR AWARD CONTINGENT UPON TERMS AND CONDITIONS AGREEABLE BY BOTH PARTIES AND FINAL APPROVAL BY THE VILLAGE COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Manager Williams provided staff report, adding that this firm had worked for the Village in the past and this procurement action is for the function of grass maintenance in all of the parks.

Mayor Stanczyk called the question. All voted in favor. The Resolution carried unanimously (5-0).

E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ADMINISTRATION; DIRECTING THE VILLAGE MANAGER TO DEVELOP A REQUEST FOR PROPOSALS FOR PUBLIC OPINION SURVEY SERVICES; PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Shelley Stanczyk)

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

Manager Williams stated that if the Council directs staff, a procurement document will be drafted following meetings with individual Council members in order to define a scope of services. He advised that approval of this item will not require expenditure of funds; rather staff will identify the scope and prepare the procurement action.

Mayor Stanczyk stated that she had discussed the importance of conducting these surveys with staff and the process has been successful in the Village of Pinecrest.

Mayor Stanczyk called the question. All voted in favor. The Resolution carried unanimously (5-0).

F. 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 $28,667.74; PROVIDING AN EFFECTIVE DATE.

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

Vice Mayor DuBois remarked that he had noticed the invoices included 16 hours for two sessions regarding the Village's insurance policy concerning the Palmer Trinity litigation.

Attorney Boutsis noted that she would rather not discuss this matter, as it concerns attorney-client privilege information.

Vice Mayor DuBois stated that he understood. He remarked that the bill is slightly under $30,000; however, as a large portion is associated with Palmer Trinity despite having insurance counsel. He noted that large expenditures should not be on the consent agenda.

Mayor Stanczyk called the question. All voted in favor. The Resolution carried unanimously (5-0).

## 11. RESOLUTIONS REQUIRING PUBLIC HEARING

A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE ART-IN-PUBLIC PLACES (AIPP) PROGRAM, ACCEPTING THE RECOMMENDATION FROM THE AIPP ADVISORY BOARD TO APPROVE THE PUBLIC ART WORK ENTITLED "THE GATHERING" AS DESIGNED BY MICHAEL MCLAUGHLIN AND MODIFIED BY THE AIPP BOARD, TO INSTALL PUBLIC ART WITHIN THE PLAZA AREA OF VILLAGE HALL, LOCATED AT 9705 EAST HIBISCUS STREET;

AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO CONTRACT NEGOTIATIONS TO PURCHASE THE PUBLIC ART WHICH SHALL BE PAID THROUGH THE ART-IN-PUBLIC PLACES FUND IN AN AMOUNT NOT TO EXCEED $45,000; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Manager Williams stated that this item is being again presented for consideration, as staff wished to be clear: the Council has the option to select any of the three recommendations and the funding for this is from the AIPP fund.

Councilwoman Lindsay stated that the sample did not appear to be the artist's work that was presented for consideration; however, she believed it was of high quality.

Mr. Michael McLaughlin, bronze sculpture from Connecticut, and Ms. Dana Pezoldt of the Art in Public Places Board were recognized.

Director of Planning & Zoning Darby Delsalle noted that there were 40 responses initially. The Board reviewed the submittals and asked four to present; the Board narrowed the field to three of the top quality artists.

Ms. Pezoldt noted that the artist agreed to come before the Council and has provided an allegorical representation. She noted that the artist is very flexible and willing to work with the Village.

Councilman Fiore noted that the AIPP Board works very hard, using their expertise. He stated that he is in favor of approving the Board's recommendation. He suggested that the Village consider our veterans and some type of art work that honors the men and women who served our country for future pieces.

Councilwoman Lindsay asked if there is a way to allow the public to view the art work. Clerk Alexander advised that the three proposals were on line with the Village's agenda.

Mayor Stanczyk opened the public hearing. Mr. Eric Tullberg, 7884 SW 179 Terrace, addressed the Council.

The public hearing was closed.

Vice Mayor DuBois moved to select the artwork with the pelican-type bird and the mangrove tree. Councilman Fiore seconded. All voted in favor. The motion carried unanimously (5-0.)

## 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 REPAIRS OR CONSTRUCTION FROM THE PROGRAM; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

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

Director Delsalle provided staff report.

Mayor Stanczyk asked if there would be single family homes in the proposed downtown area. Director Delsalle stated that the Task Force is in the fact-finding stage; therefore, he did not know the answer of the question.

Vice Mayor DuBois asked if a contractor built a condominium building where the project exceeded $750,000; however, each unit was valued at under $750,000, would the project be subject to the fee. Director Delsalle advised that the project would be bound by the fee.

Vice Mayor DuBois stated that he did not believe residential properties should be taxed in this manner. He remarked that he would like to expand this Ordinance to include all residential properties, including multi-family residential.

Director Delsalle stated that this type of amendment will require the matter to return to first reading.

Mayor Stanczyk stated that this is not a tax; rather, the fee is an effort to make this community excel. She gave several examples of how this type of program has been successful in other cities, such as Austin, Texas, and West Palm Beach, Florida. She opined that revising the Ordinance will limit the success of this program in the Village. She added that none of the funds are included in the general budget; it is all for art.

Councilman Schaffer asked how much money was generated from single family homes in excess of $750K. Mayor Stanczyk stated that $7,400 was generated last year and the previous year, no money was received.

Vice Mayor DuBois stated that he is concerned that condominium homeowners will be paying the cost, as the builder will increase the cost of a condo to cover the cost of the tax.

Councilman Fiore stated that he will second the motion to amend, as he believes that government taxes and fees should apply to all, not just some.

Vice Mayor DuBois re-stated that the motion is to exclude all residential properties. The Motion passed (3 to 2, Mayor Stanczyk and Councilwoman Lindsay opposed.)

Clerk Alexander advised that the matter, when revised, will return to the Council on first reading at the September meeting.

B. 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 LAW ON OCTOBER 1, 2013; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report. She noted that this matter is in response to recent legislation and the next item is a companion Ordinance.

Mayor Stanczyk called the question. All voted in favor. The Resolution carried unanimously (5-0).

C. 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 Fiore.

Attorney Boutsis provided staff report. She stated that this is a companion piece due to the new law; and she had prepared this ordinance pending the Governor's execution of the new law.

Mayor Stanczyk called the question. All voted in favor. The Resolution carried unanimously (5-0).

D. 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 this matter is administerial. She advised that, recently, she was provided information concerning laws that prohibit a "blanket" peddler prohibition.

Manager Williams noted that if this matter is adopted, residents can call the police if someone sees suspicious people at their doors or a peddler won't leave when you ask them to cease their sales pitch.

Attorney Boutsis concurred.

Mayor Stanczyk called the question. All voted in favor. The Resolution carried unanimously (5-0).

## 13. 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 ZONING; AMENDING SECTIONS 30-70.5(b)(2) AND 30-70.6 OF THE LAND DEVELOPMENT CODE RELATING TO SINGLE-FAMILY DETACHED RESIDENTIAL DRIVEWAYS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Councilman Tim Schaffer].

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

Mayor Stanczyk noted that this matter was discussed at the meeting of the Local Planning Agency.

Councilman Schaffer moved to incorporate all previous staff reports, public and Council remarks. Seconded by Vice Mayor DuBois. All voted in favor. The Motion carried (5-0.)

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

Mayor Stanczyk called the question. The Ordinance was adopted (3-2), following roll call vote: Vice Mayor DuBois: Yes; Councilman Fiore: Yes; Councilman Schaffer: Yes; Councilwoman Lindsay: No; and, Mayor Stanczyk: No.

B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA AMENDING ORDINANCE NO. 07-25 ENTITLED "AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE'S STREET SIGN REPLACEMENT PROGRAM; AUTHORIZING THE CITY MANAGER TO EXECUTE A FINANCE AGREEMENT WITH REGIONS BANK; PROVIDING FOR A TWO MILLION FIVE HUNDRED THOUSAND DOLLAR TAX EXEMPT LOAN UNDER A 12 YEAR AMORTIZATION TERM, AT 3.90 PERCENT FIXED INTEREST RATE; DEDICATING CITT FUNDS FOR FINANCING THE LOAN; PROVIDING FOR ORDINANCES IN CONFLICT; CODIFICATION, SEVERABILITY AND EFFECTIVE DATE." TO PROVIDE FOR ADDITIONAL PROJECTS; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Finance Director Chin advised that this matter is not a new loan; rather, the loan was approved in 2007 for the renovation of the street signs, which have been installed. He noted that the signs were re-designed to be only on two corners. He stated that due to the substantial savings, staff needs to amend the ordinance to be permitted to use the rest of the loan for other CITT-approved projects.

Manager Williams added that the debt service is paid through the CITT revenue source.

Vice Mayor DuBois asked for clarification regarding whether it is a new loan or a modification of the existing loan.

Director Chin replied that the original loan was dedicated specifically for street signs. The proposed Resolution would expand the terms to use the funding for any lawful purpose under CITT guidelines.

Mayor Stanczyk opened the public hearing. Mr. Eric Tullberg, 7884 SW 179 Terrace, addressed the Council.

Vice Mayor DuBois asked if the taxpayer dollars were being utilized.

Director Chin noted that the loan repayment is funded through CITT funds, not from ad valorem funds. He explained that when the Village receives CITT funding each year, staff allocates the principal and interest on this loan from those funds.

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

## 14. OTHER BUSINESS

The following items were presented by Vice Mayor DuBois:

A. Motion to approve expenditure to have Village Manager contract outside legal counsel to review certain charter amendments (the 2 or 3 questionable ones including from the last election) and the one from a previous election requiring 75% approval of neighbors within a 2000' radius to vote for private school expansion.

Mayor Stanczyk suggested that Council discuss and then open the matter for public comment.

Vice Mayor DuBois opined that the Village may have future school expansions and he has heard from some that it is difficult to obtain voter approval from a 2,000 foot radius. He remarked that the charter provision may not be constitutionally sound. He suggested that, in an effort to avoid future litigation, the Village should have a constitutional lawyer provide an opinion that the Village could rely on to avoid future litigation.

Mayor Stanczyk asked what the Vice Mayor is hoping to accomplish. Vice Mayor DuBois stated that if an expert believes the provision is not constitutional, the Village may wish to refrain from defending a lawsuit on this type of case.

Councilman Fiore noted that the attorney for Alexander Montessori School had suggested that legal action may be imminent if the election failed, which it did. He stated that if an expert's opinion saves the Village from future lawsuits, then it is worth investigating.

Attorney Boutsis stated that a second opinion could be considered; however, the language is facially constitutional. She suggested that Council may wish to see if Alexander Montessori will be suing prior to seeking an opinion.

The following individuals addressed the Council: Gary Pastorella, 6940 SW 142 Terrace; Leanne Tellam, 14625 SW 83 Avenue.

Mayor Stanczyk asked which provisions of the Charter would the Vice Mayor be seeking legal review. Vice Mayor DuBois replied that there are 11 recent amendments; however, he is open to waiting until a lawsuit is brought.

The public comments continued, with the following individuals coming forward: David Singer, 8360 SW 154 Terrace; Stanley Kowlessar, 8360 SW 148 Drive; Rex Lehman, 17300 SW 87 Court; David Zisman, 14135 Farmer Road; Eric Tullberg, 7884 SW 179 Terrace; Bev Gerald, 14271 SW 74 Court; Stewart Guthrie, 6960 SW 144 Street; Walter Guthrie, 6960 SW 144 Street; Rich Cruzan, 17501 SW 92 Avenue; Betty Pegram, 18121 SW 82 Avenue; Doug Chumbley, 7480 SW 159 Terrace; Carol Exposito, 7700 SW 178 Street; and Pam Reid, 7201 SW Mitchell Drive.

Vice Mayor DuBois moved to amend his original motion to state, "Review all 11 charter amendments and the ones from the previous election, after the first lawsuit is filed against the village on any of the amendments." Councilman Fiore seconded, adding there is no need to expend funds at this time, as there is no pending lawsuit.

Following brief comment, Councilwoman Lindsay reviewed the entire list of Charter Amendments. She asserted that the amendments were neither contentious nor controversial.

Mayor Stanczyk remarked that the majority of the amendments are similar to those that exist in other cities throughout Florida.

Vice Mayor DuBois stated that all amendments could be reviewed and an attorney would quickly rule out those that are non-controversial.

Mayor Stanczyk remarked that the Council members are not supporting to will of our voters.

Councilwoman Lindsay provided the history of the charter amendment in 2009. She stated that signatures were collected and every precinct voted in favor of it. She opined that to suggest an attorney review is required is not appropriate, as the Village Attorney had reviewed them and made the determination. Councilwoman Lindsay noted that out of the Village's $24 million budget, only $480,000 is for legal services. She remarked that the motion should not be passed.

Mayor Stanczyk called the question. The motion failed (2 to 3: Mayor Stanczyk, Councilman Schaffer, and Councilwoman Lindsay opposed.)

B. Motion to release shade session transcripts for Palmer Trinity relating to the 3rd DCA case – Vice Mayor John DuBois

Vice Mayor DuBois stated that it has been previously discussed, the Palmer Trinity litigation matter in the 3rd District Court of Appeals is adjudicated; and, although discussion concerning whether the case was combined and intertwined was considered, the Florida Attorney General did not issue an opinion. He moved to release the shade session transcripts as related to the 3rd DCA case in the Palmer Trinity litigation.

Councilman Fiore stated that he, along with former Councilman Howard Tendrich, had advocated releasing the transcripts.

Councilwoman Lindsay provided the history of the litigation since 2008. She asserted that the Council has an obligation to protect the village residents. She noted that the Council that met for shade sessions understood that the comments and discussions would be confidential until conclusion of the cases. Councilwoman Lindsay opined that counsel for Palmer Trinity may take the information released and file a sixth amendment. She concluded that the Council needs to work with the school in a positive manner and releasing the transcripts does not benefit the residents.

Councilman Schaffer remarked that this is a difficult matter and he has attended the shade sessions and felt he had previously received inaccurate information about the case that he repeated it in his campaign.

Councilwoman Lindsay cautioned the Councilman, noting that once settlement discussions are revealed, the opponent will be privy to the position being taken.

Mayor Stanczyk quoted the Florida Statute with regard to shade sessions. She stated that she poled several cities and many were incredulous at the thought of releasing the transcripts early.

The following individuals addressed the Council: Rich Cruzan; Stewart Guthrie; Rex Lehman; Gary Pastorella; Leanne Tellam; David Singer; Bev Gerald; Douglas Chumbley.

Brief discussion ensued.

Attorney Boutsis advised that no final decision may be made at any shade session; any vote on settlement must be done publicly.

Mayor Stanczyk called the question on the motion to open the transcripts of the 3rd DCA case relating to the Palmer Trinity litigation. Councilman Fiore seconded Vice Mayor DuBois' motion. The Motion passed (3 to 2: Mayor Stanczyk and Councilwoman Lindsay opposed.) Mayor Stanczyk made a remark in opposition. Councilman Schaffer asked the Mayor to refrain from further comment.

Vice Mayor DuBois withdrew the remaining discussion items from the Agenda:

C. Motion to release all shade session transcripts for all cases that currently exist.
D. Resolution to prohibit Palmetto Bay from engaging in shade sessions (requiring all meetings to be held in Sunshine).
E. Motion directing the Village Manager to rescind letter sent to the owners of 8950 SW 152nd building dated June 24, 2013 (Sontag's building that was the former village hall).

## 15. COUNCIL COMMENTS

Councilman Schaffer began discussion concerning emails he received regarding assisting with lost and found pets.

Councilman Fiore interjected a Point of Order, stating that the spouse of the Councilwoman Lindsay made a "negative gesture." He moved to bar that individual from further meetings. (No second was received.)

Councilman Schaffer returned to his comment, asking staff to consider expanding the Village's assistance with the pet lost and found issue, noting that some residents have volunteered to help out.

Manager Williams stated that he will meet with the Councilman, together with the Village Clerk through her IT expertise. He noted that the Vice Mayor had reached out to other cities and staff will attempt to have a collaborative effort.

Mayor Stanczyk stated that she had spoken with Mr. Kress about increasing the scope of the pet lost and found page.

Manager Williams stated that staff is interested in assisting; however, the Village is doing more than most other cities in its efforts.

Vice Mayor DuBois remarked that disparaging comments do not affect him. He stated that some may assert that he received funds from Palmer Trinity; however, most of his campaign contributions came from his own personal funds; however a minor contribution of $250 was made by an attorney who had worked on the case, which is insignificant to his decision-making.

## 16. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 11:35 pm.

*Prepared and submitted by:*

_____

*Meighan J. Alexander, CMC*

*Village Clerk*

*Adopted by the Village Council on this ____ day of September, 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 August 7, 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 6:35 p.m. Mayor Stanczyk congratulated Gregory Truitt, Policing Unit Commander, for his promotion to Major and asked him to lead the pledge of allegiance.

Vice Mayor DuBois stated that he had a minor amendment to his request, that is, he would like to release shade session transcripts after the settlement is received.

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. REQUESTS, PETITIONS AND PUBLIC COMMENTS

Vice Mayor DuBois stated that he had requested a motion to release shade transcripts; however, he would like to clarify the motion to specify the time of release would be after settlement has been achieved with the other parties.

Ms. Helen Sandow, 8260 SW 151 Street, asked for further clarification.

Vice Mayor DuBois stated that he was specifically clarifying the timing of the release to be after settlement has been agreed upon.

Attorney Boutsis suggested deferring public comments until all have been informed of the Vice Mayor's intent.

Councilman Fiore moved to defer public comments until after the item is discussed and prior to the vote. Seconded by Vice Mayor DuBois. All voted in favor. The motion carried unanimously (5-0.)

## 4. VILLAGE ATTORNEY REPORT

A. Announcement of Attorney-Client Session (to immediately follow this meeting): Attorney Boutsis announced the following:

> The Village Attorney advises the Mayor and Village Council that counsel representing the Village in defense of those certain legal actions styled: *Palmer Trinity Private School v. Village of Palmetto Bay;* Circuit Court Case No.: 08-28977 CA 30, and *Palmer Trinity v. Village of Palmetto Bay under Circuit Court* case no. 10-34016 CA 20,; and desires advice from the Village Council regarding litigation strategy and/or settlement.
>
> The meeting is to be held at approximately 6:30 p.m., on Wednesday, August 7, 2013. The Mayor Shelley Stanczyk, Vice Mayor John DuBois, Councilman Patrick Fiore, Councilman Tim Schaffer, Councilwoman Joan Lindsay, and the Village Manager Ron E. Williams shall meet in private with the Village Attorney Eve Boutsis, of Figueredo & Boutsis, P.A., and Jeffrey Hochman of Johnson Anselmo, et.al at the Village of Palmetto Bay, 9705 E. Hibiscus Street, Palmetto Bay, Florida, first floor conference room. A certified court reporter shall record the time and termination of the session, all discussions and proceedings that occur, the names of all persons present at any time during the session and the names of all persons speaking. The transcript shall be made part of the public records upon conclusion of the litigation.

## 5. PUBLIC COMMENT/OTHER BUSINESS

A. Release all shade session transcripts for all cases that are currently active – Vice Mayor John DuBois

Vice Mayor DuBois stated that his suggestion and amendment is to release the transcripts upon Council approving the settlement agreement for the active cases. He stated that the Shores case has been settled and Palmer Trinity is pending.

Mayor Stanczyk stated that the Shores matter requires a quasi-judicial hearing in order to conclude.

Attorney Boutsis concurred, adding that there is a settlement, but the matter is not complete until all terms have been complied with. She stated that the true conclusion of the matter would be when the Court issues a dismissal.

Vice Mayor DuBois stated that he would like for the transcripts to be public following settlement, as the Council will have agreed publicly to same.

Manager Williams noted that at this juncture, the Village does not the final scenario from Shores on its project. He added that while the Council agreed to settlement and there are signed settlement documents, the Court has not concluded the matter.

Attorney Boutsis remarked that Shores will be seeking an extension of time, as the developer is not ready to bring the plans forward yet.

Councilwoman Lindsay asserted that the Council must be open to listening to the public at a quasi-judicial hearing and make the determination based upon competent substantial evidence.

Attorney Boutsis stated that the plans must be presented through an advertised process for a quasi-judicial hearing; and, if the plan passes, the settlement is final.

Following brief comment, Councilwoman Lindsay asked if the matter was concluded following the zoning hearing. Attorney Boutsis replied that the matter is concluded when the Court issues final judgment, after the zoning hearing.

Vice Mayor DuBois asserted that once settlement is approved, the Council's discussion is concluded with regard to litigation, as the negotiations would have concluded.

Councilwoman Lindsay asked the purpose of releasing early. She stated that if the Council agrees to a settlement in a public hearing, then holds a quasi-judicial hearing to allow the opportunity to discuss the provisions of the settlement package and the public can address their concerns, there should not be any urgency to release until the zoning hearing has been concluded.

Councilman Fiore asked the appeal time for a vote of the Council. Attorney Boutsis replied that the time for an aggrieved party to appeal is 30 days.

Attorney Boutsis added that if the settlement is approved and the zoning hearing is concluded, the parties can petition the Court immediately for dismissal. There could possibly be a separate lawsuit following the decision received at the quasi-judicial hearing; however, if the Village complies with the terms of the settlement agreement, the pending litigation would be concluded.

Mayor Stanczyk suggested releasing at the time the judge rules on the dismissal.

Attorney Boutsis cautioned the Council that if the transcripts are released early, Council will not be permitted to freely discuss the matter, as the quasi-judicial hearing will be pending.

Councilwoman Lindsay remarked that Shores is pending their application. She stated that the Council agreed to review the matter, but did not agree to accept their application "carte blanche." She acknowledged that the Vice Mayor has good intentions, but the legal process should be followed.

Vice Mayor DuBois stated that he was trying to encourage a beneficial settlement and he believes that Councilman Schaffer would like to be able to release this information for the public's edification. He asserted that the Council should provide exact information to the public and the way to do so is by providing them the full transcripts.

Mayor Stanczyk opened the matter for public comment. The following individuals addressed the Council: Jerry Templar, 8112 SW 182 Street; Anthony Gorman, 14140 SW 72 Avenue; David Singer; 8360 SW 154 Terrace; David Zisman, 14135 Farmer Road; Gary Pastorella, 6940 SW 142 Terrace; Glen Faulk, 7890 SW 156 Street; Andy Newman, 17474 SW 74 Court; Horka Harvey, 14270 SW 92 Avenue; Sheila Fraizer, 9305 SW 181 Street; Bev Gerald, 14271 SW 74 Court; Henry Clifford, 8875 SW 171 Street; and, Warren Lovely, 15323 SW 74 Place.

Councilman Fiore suggested deferring the matter until further information is received as to the timing of the conclusion of the matters. He addressed Mayor Stanczyk and voice his opposition to comments made in her newsletter. He additionally objected to the Mayor's allowing the decorum rule to be violated.

Following brief comments, Vice Mayor DuBois reiterated his motion: Release the shade session transcript for the two cases only after a settlement agreement has been ratified by the Council. Seconded by Councilman Schaffer. The motion failed (2 to 3, Mayor Stanczyk, Councilman Fiore, and Councilwoman Lindsay opposed.)

Vice Mayor DuBois stated that he is removing his original motion, in addition to the amendment.

## 6. ADJOURNMENT

The Meeting was officially adjourned at 7:55 pm.

*Prepared and submitted by:*

_____

*Meighan J. Alexander, CMC*
*Village Clerk*

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

_____

*Shelley Stanczyk, Mayor*

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