

VILLAGE OF PALMETTO BAY
Minutes of the Special Council Meeting of February 16, 2016
Village Hall Chambers
9705 East Hibiscus Street

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

Mayor Eugene Flinn
Council Member Tim Schaffer
Council Member Karyn Cunningham
Council Member Larissa Siegel Lara

Staff present:
Village Manager Edward Silva
Village Attorney Dexter W. Lehtinen and Attorney Claudio Riedi
Village Clerk Meighan J. Alexander

Mayor Flinn called the meeting to order at 7:10 p.m. He asked the Scouts of Troop 127 to lead the pledge of allegiance.

- 2. DECORUM STATEMENT:** Any person making impertinent or slanderous remarks, or who becomes boisterous, while addressing the Council may be barred from further appearance before the Council by the Mayor, unless permission to continue or again address the Council is granted by a majority vote of the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be allowed in the Council meeting. Persons exiting the Council meeting shall do so quietly. All cellular telephones and beepers are to be silenced during the meeting.

- 3. REQUESTS, PETITIONS AND PUBLIC COMMENTS:** None at this time.

4. ORDINANCE FOR FIRST READING

- A. AN ORDINANCE OF THE VILLAGE OF PALMETTO BAY FLORIDA, MODIFYING CHAPTER 16 "ENVIRONMENT" BY CREATING ARTICLE V "EXPANDED POLYSTYRENE "STYROFOAM" FOOD SERVICE ARTICLES" AND PROVIDING FOR LEGISLATIVE INTENT, DEFINITIONS, PROHIBITIONS OF SALE OR USE BY VILLAGE CONTRACTORS AND SPECIAL EVENT PERMITTEES, AND EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn and Councilwoman Karyn Cunningham)

Mayor Flinn stated that this matter would prohibit vendors from using Styrofoam in parks. He remarked that this issue is positive for environmental stewardship.

Councilwoman Cunningham stated that legislation is pending in the State; and, if cities do not have regulations in place prior to March, there may be nothing to be done.

Councilman Schaffer stated that he is not comfortable with creating a law that limits contractors.

Councilwoman Cunningham explained that the State legislation would prevent cities from stopping the use of Styrofoam.

Following brief remarks, Councilwoman Siegel Lara expressed that she is comfortable passing ordinances for the “greater good”. She said while she personally does not purchase Styrofoam, if she is renting Thalatta Estate, would her vendor be able to use Styrofoam? Mayor Flinn responded that they would not be able to use it.

Councilwoman Siegel Lara asked if a block party would also be prohibited from using Styrofoam. Clerk Alexander stated that the Ordinance is specific to Village property and events.

Councilwoman Siegel Lara moved to remove reference to Special Events.

Attorney Riedi clarified the motion would be to strike the reference to Special Events at lines 29-30, 39-40, and 44, 45, and 46. The motion was seconded by Councilwoman Cunningham. All voted in favor of the amendment (4-0.)

Mayor Flinn called the question to approve the Ordinance, as amended. All voted in favor (4-0.) The matter will be noticed for second reading/public hearing.

5. OTHER BUSINESS

- A. Consideration of appointment to Administrative Advisory Committee: Councilwoman Cunningham recommended Mr. Anthony Musto. The Council concurred.
- B. Manager Silva and Attorney Lehtinen discussed the recent activity that has occurred within the City of Coral Gables concerning the FPL property and mosquitos. It was explained that the City has enacted an emergency ordinance of an “extra-territorial” nature with regard to the resolving what the City believes is a mosquito infestation in the FPL property, which is outside of Coral Gables’ limits. Attorney Lehtinen noted that the City’s ordinance indicates it would be a criminal action and imposes a sentence of two months or longer, once the violation has been determined.

Mayor Flinn asked if Palmetto Bay was provided a courtesy notice. Attorney Lehtinen stated that we had not.

Attorney Lehtinen advised that municipal boundaries have significance under Charter and State Statutes that specifically prohibit extra-territorial action. He stated that the Coral Gables' action subjects Village residents to illegal threats and improper invasion by Officers outside of Palmetto Bay's municipal limits. He explained several options: 1. Do nothing; 2. Discuss the matter with Coral Gables, without triggering the Statutory dispute resolution process (a lengthy process); 3. Initiate the dispute resolution process (without lawsuit); 4. Ask Coral Gables to rescind its ordinance; and 5. File a lawsuit. Attorney Lehtinen stated that he is confident that the Village will prevail in a declaratory judgment action, declaring the extra-territorial action to be null and void.

Following brief remarks, Manager Silva indicated that he would like Attorney Lehtinen to contact Coral Gables and allow them the opportunity to correct the unlawful ordinance.

Councilwoman Cunningham advised that she had spoken to Councilwoman Slesnick and Keone of Coral Gables and expressed that the Village was dismayed about the lack of communication from their City. She stated that she believed the action was well-intended to rid the mosquito problem. Attorney Lehtinen concurred that the action was well-intended; however, the City's action is not lawful.

Councilwoman Siegel Lara asked what the Village is doing in response to the recent outbreak of the Zika virus. Manager Silva stated that the Village has stepped up its own code enforcement and has been in contact with the County regarding various properties throughout the Village, including the FPL site.

Councilman Schaffer suggested that the Village consider filing a lawsuit against the City.

Manager Silva announced that on February 22 at 9 am, staff will be joining a tour that Coral Gables had arranged at the FPL Site. The Council directed the Clerk to notice this meeting so that the Council members can attend.

Following brief remarks, Attorney Lehtinen requested that the Council consider passing a Motion, approving a Resolution that requests the City Commission of Coral Gables to repeal the extra-territorial aspect of the ordinance concerning mosquito infestation or, in the alternative, request the City not enforce this aspect of the Coral Gables Ordinance. He stated that should Coral Gables fail to do so no later than February 24, 2016; otherwise, the Village Attorney shall be directed to file a declaratory lawsuit indicating that the City's powers within Palmetto Bay are null and void.

Mayor Flinn stated that the Council would empower the Village Attorney to take all legal action necessary to protect the legal interest of the Village, including, but not limited to filing a lawsuit.

Councilwoman Siegel Lara moved to approve the Resolution. Seconded by Councilman Schaffer. All voted in favor. The motion passed unanimously (4-0.)

6. NEXT MEETING AND ADJOURNMENT

The meeting adjourned at 8:10 pm.

Prepared and submitted by:



*Meighan J. Alexander, CMC
Village Clerk*

Approved by the Village Council on this 4th day of April, 2016.



Eugene Flinn, Mayor

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