

**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.

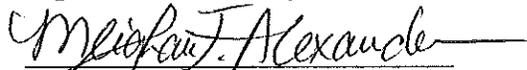
Following brief comments, Vice Mayor DuBois reiterated his motion: Release the shade session transcript for the two cases only after a settlement agreement has been ratified by the Council. Seconded by Councilman Schaffer. The motion failed (2 to 3, Mayor Stanczyk, Councilman Fiore, and Councilwoman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

  
Meghan J. Alexander, CMC  
Village Clerk

Adopted by the Village Council on this 9<sup>th</sup> 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.