

VILLAGE OF PALMETTO BAY  
Minutes of the Regular Council Meeting of Monday, July 13, 2009  
Deering Estate Visitor's Center  
16701 SW 72 Avenue

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

Mayor Eugene P. Flinn, Jr.  
Vice Mayor Brian W. Pariser  
Council Member Howard Tendrich  
Council Member Shelley Stanczyk

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

Mayor Flinn called the meeting to order at 7:00 p.m. Mayor Flinn led the pledge of allegiance

**2. PROCLAMATIONS, AWARDS, PRESENTATIONS:** None at this time.

**3. APPROVAL OF MINUTES**

- A. Minutes of the June 1, 2009 Regular Council Meeting
- B. Minutes of the June 29, 2009 Special Council Meeting

Councilman Tendrich moved to approve the Minutes as drafted. Seconded by Vice Mayor Pariser. All voted in favor. The Motion carried.

**4. CONSENT AGENDA**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; APPOINTING RICHARD L. DOODY, ESQ., TO SERVE AS A SPECIAL MASTER FOR CODE COMPLIANCE FOR THE VILLAGE FOR A PERIOD OF TWO (2) YEARS WITH TWO ADDITIONAL ONE (1) YEAR OPTIONS TO EXTEND; ESTABLISHING THE RATE OF PAY FOR SUCH POSITION; AND PROVIDING AN EFFECTIVE DATE.
- B. 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 FBM LAW OFFICES IN THE AMOUNT OF \$53,686.22; 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; ESTABLISHING FACILITY RENTAL RULES AND REGULATIONS AND A FACILITY RENTAL APPLICATION/AGREEMENT, SETTING FEES, TERMS AND CONDITIONS FOR COMMUNITY ROOM, AMPHITHEATRE AND GAZEBO RENTALS AT LUDOVICI PARK; AND PROVIDING FOR AN EFFECTIVE DATE.

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RESCINDING RESOLUTION 08-118; REQUESTING THE BOARD OF COUNTY COMMISSIONERS AND THE MPO TO DELAY ANY FURTHER STUDY RELATED TO CREATING A TOLL ROAD OF PART OF US HIGHWAY 1 THROUGHOUT MUNICIPALITIES CONTIGUOUS TO THE PROPOSED TOLL LANE AREAS, INCLUDING BUT NOT LIMITED TO PINECREST, PALMETTO BAY, CUTLER BAY, HOMESTEAD AND FLORIDA CITY, UNTIL SUCH TIME AS CONFIRMATION HAS BEEN RECEIVED FROM THE FEDERAL GOVERNMENT WITH REGARD TO THE FISCAL VIABILITY OF SUCH PROJECT; PROVIDING AN EFFECTIVE DATE. [Sponsored by Mayor Eugene P. Flinn, Jr.].

Clerk Rader advised that Vice Mayor Pariser timely requested to remove Item 4 B from the Consent Agenda.

Councilwoman Stanczyk moved to approve items 4 A, C, and D. Seconded by Councilman Tendrich. All voted in favor. The Motion carried unanimously (4-0).

## 5. REQUESTS, PETITIONS AND PUBLIC COMMENTS

Eric Tullberg, 7884 SW 179 Terrace, provided suggestions for including several sidewalks, a pedestrian bridge, and bike lanes. Mayor Flinn thanked him for his service on the bike/pedestrian master plan advisory committee.

## 6. VILLAGE MANAGER'S REPORT

- A. External Audit Financial Report – 2007-08 – Marcum Rachlin: Manager Williams introduced Jerry Chiocca of Marcum Rachlin. Manager Williams provided the Council with an update of the bridge in Coral Reef Park. He explained that a relationship exists between South Florida Water Management District (SFWMD) and the County with regard to the bridge. He advised that SFWMD has informed the Village that the County never transferred the bridge permit to the Village.

Mayor Flinn suggested that the Village should request for an expedited permit or suggest the County fund the much-needed project.

Manager Williams stated that he would advise the Council when the permit is transferred and Palmetto Bay is the clear owner of the bridge.

Mr. Jerry Chiocca provided highlights from the Village's financial statement. He advised that the Village is in excellent financial condition and that an "unqualified or

clean opinion,” which is the highest opinion that can be given, is Marcum Rachlin’s opinion. He offered several highlight, concluding that the Village’s financial condition is strong and that funds were managed well throughout the year. He noted that no compliance issue letters were offered and that no material weaknesses or deficiencies were noted. Additionally, he remarked that his firm found that internal controls were managed effectively. He thanked Manager Williams and Finance Director Desmond Chin for their assistance with the audit.

Mayor Flinn remarked that the audit produced is one of the most important reports provided to Council.

Mr. Chiocca reiterated that the audit was “unqualified.” He explained that this term means that his firm believes that all funds are managed appropriately and all procedures are done well - that is the highest level of assurance that an auditor can give. He congratulated the Council.

Vice Mayor Pariser commented that he spoke in detail with Finance Director Chin today and is very satisfied with the outcome of the audit.

Manager Williams stated that he believes there is no responsibility higher than the responsibility of caring for the public’s funds. He remarked that staff is moving forward with implementation of Enterprise Management Software following the private meeting held last year with the auditors wherein improvements to the financial systems were discussed.

**7. VILLAGE ATTORNEY’S REPORT**

- A. July Update: Attorney Boutsis provided a written update to Council.
- B. Request for Special Council Meeting – August 10, 2009: Attorney Boutsis asked the Council to schedule a Special Council Meeting on August 10<sup>th</sup> at 7 pm at Deering to continue the progress of the zoning ordinances. The Council concurred, adding an August 5<sup>th</sup> Committee of the Whole Meeting at 6 pm in the Community Room at the Library Park.

**8. BOARD AND COMMITTEE REPORTS:** None at this time.

**9. RESOLUTIONS**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AD VALOREM TAXES; DETERMINING THE PROPOSED MAXIMUM MILLAGE RATE AND SETTING THE DATES, TIME AND LOCATION FOR THE FIRST AND SECOND BUDGET HEARINGS FOR FY 2009-10; DIRECTING THE VILLAGE CLERK TO FILE SAID RESOLUTION WITH THE MIAMI-DADE COUNTY PROPERTY APPRAISER; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Seconded by Vice Mayor Pariser.

Manager Williams reported that the final assessment has been provided and the Village now has received a reasonable estimate of the State revenues. He stated that upon the final numbers, the current millage of 2.4476 will result in a \$664,000 reduction in revenue. He advised that the Village has paid the final mitigation payment, inclusive of the escrowed years and this year. Manager Williams noted that due to the loss in assessed values, the roll back rate is 2.6857, slightly above 2.4476, in order to break even in terms of revenue.

Following brief discussion, Manager Williams advised the Council that the rate set this evening would be the absolute maximum.

Vice Mayor Pariser remarked that he was hopeful that the Village residents would experience substantial tax relief with the reduction of mitigation. He asked the percentage of property owners that have the 3% "Save our Homes."

Director Chin advised that approximately 6,000 residents out of the 8,641 homes in Palmetto Bay have "Save our Homes" – or approximately 75%. He clarified that 2.447 is the suggested rate, with 2.4476 being the current rate.

Following brief discussion, Councilman Tendrich moved to approve the Resolution with 2.447 being the maximum millage rate. Seconded by Vice Mayor Pariser. All voted in favor. The Motion carried (4-0).

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO VILLAGE OF PALMETTO BAY ENTRANCE MONUMENTS; APPROVING THE SELECTION OF ACOLITE AND CLAUDE UNITED SIGNS CO. INC., TO PROVIDE CONSTRUCTION SERVICES FOR ENTRANCE MONUMENTS; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER AND APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$92,500.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Seconded by Vice Mayor Pariser.

Manager Williams reported that the Department of Public Works and Tom Grabowski and Associates compiled specifications for the proposed entryway signs. He advised that the lowest, most responsive bid was received from Acolite and Claude United Signs.

Mayor Flinn expressed that he was happy that the Village is moving out of the "bricks and mortar phase." He thanked former Council Member Paul Neidhart for championing this project.

Following brief discussion, all voted in favor of the Resolution. The Resolution passed unanimously (4-0).

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LITIGATION; PROVIDING AUTHORIZATION FOR THE VILLAGE TO JOIN THE CITY OF WESTON IN ITS LITIGATION TO CHALLENGE THE CONSTITUTIONALITY OF THE GROWTH MANAGEMENT ACT ENACTED UNDER SENATE BILL 360; PROVIDING AN EFFECTIVE DATE. [Sponsored by Mayor Eugene P. Flinn, Jr.]

Councilman Tendrich moved this item forward. Seconded by Councilwoman Stanczyk.

Attorney Boutsis provided staff report, noting that Weston and several other cities have filed suit to challenge Senate Bill 360. She advised that Palmetto Bay may join this challenge by sharing attorney's fees for a flat fee of \$2,500. She reported that Mayor Flinn sponsored this Resolution and she reviewed the lawsuit and recommends supporting the communities with this joint opposition.

Mayor Flinn asserted that the Council has been unanimous in opposition to this Senate Bill. He stated that including Cutler Bay's matter of security cameras in this law violates the single subject rule and legislatively prohibited a local government from legislating their town. He stated that the matter is simply not appropriate legislation. He concluded that joining with the other municipalities to fight for home rule is appropriate.

Following brief discussion, the Resolution passed unanimously (4-0.)

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RESPECTFULLY REQUESTING THAT MIAMI-DADE COUNTY CO-DESIGNATE THE PORTION OF SW 152 STREET THAT FALLS WITHIN THE BOUNDARIES OF THE VILLAGE OF PALMETTO BAY, ESTENTIALLY FROM OLD CUTLER ROAD EAST TO SW 67 AVENUE AS "WARRIOR WAY"; PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Mayor Eugene P. Flinn, Jr.)

Councilman Tendrich moved this item forward. Seconded by Councilwoman Stanczyk.

Manager Williams provided staff report, noting that this request is an appropriate recognition to those children that have been working so hard. He added that SW 152 Street is a County-owned roadway.

Mayor Flinn concurred, adding that this recognition is more than just noting athletic success, as this is an outstanding school. He noted that their girls' softball team also plays at Palmetto Bay Park and it is appropriate to recognize our schools for all their achievements.

All voted in favor of the Resolution (4-0.)

- E. 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 FBM LAW OFFICES IN THE AMOUNT OF \$53,686.22; PROVIDING AN EFFECTIVE DATE.

Councilwoman Stanczyk moved this matter forward. Seconded by Vice Mayor Pariser.

Attorney Boutsis noted that her billing is detailed and this is probably is the largest bill that the Village has received.

Vice Mayor Pariser remarked that the public and the Council should be aware that part of the function of the Village Attorney's office is to defend Village's decision.

Following brief discussion, all voted in favor of the Resolution (4-0.)

10. **RESOLUTIONS REQUIRING PUBLIC HEARING:** None at this time.

11. **ORDINANCES FOR FIRST READING**

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING CHAPTER 30, DIVISION 60 ENTITLED "GENERAL REGULATIONS" BY ADOPTING SECTIONS 30-60.10 AND 30-60.11 RELATING TO DEMOLITION AND CONSTRUCTION FENCING REQUIREMENTS; REQUIRING FENCING OF CONSTRUCTION AND DEMOLITION SITES; REQUIRING SITE MANAGEMENT PLANS FOR CONSTRUCTION AND/OR DEMOLITION ACTIVITIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Councilman Tendrich moved this item forward. Seconded by Councilwoman Stanczyk.

Attorney Boutsis stated that this Ordinance includes a new provision to be added to the Land Development Code relating to demolition and construction fencing requirements.

Vice Mayor Pariser asked if the Ordinance covers commercial and residential.

Attorney Boutsis replied that it covered both.

Vice Mayor Pariser asked if partial demolition is included.

Attorney Boutsis replied that if there is a way for an individual to access the property, then the Ordinance would apply.

Mayor Flinn stated that the matter seems to be logical from a safety standpoint.

Vice Mayor Pariser asked if the ordinance would apply if someone's yard is fenced. Attorney Boutsis responded affirmatively.

Councilwoman Stanczyk suggested including language to suspend the rule during a period of disaster repair. Attorney Boutsis stated that she would modify the ordinance for second reading.

Mayor Flinn called the question. The matter passed (3-1, Vice Mayor Pariser opposed.)

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AMENDING CHAPTER 15 ENTITLED WATER CONSERVATION AND EMERGENCY WATER RESTRICTION ENFORCEMENT; AMENDING THE VIOLATION/CITATION FEE SCHEDULE FOR WATER VIOLATIONS, REDUCING THE VIOLATION FEE SCHEDULE FOR FIRST, SECOND AND THIRD OFFENSES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Vice-Mayor Brian W. Pariser and Council Person Howard Tendrich].

Vice Mayor Pariser moved this item forward. Seconded by Councilman Tendrich.

Attorney Boutsis provided staff report, noting that following the last Committee of the Whole meeting, discussed ensued concerning the fee schedules for water violations.

Mayor Flinn noted that he is not opposed to reducing the fine; however, the Village has been asked by South Florida Water Management District to enforce water restrictions. He remarked that there has been more than sufficient notice concerning the restrictions and that the burden of enforcement of this program should not fall upon the general tax payer. He asked the Council members to withdraw the item and bring it to a Committee of the Whole meeting for further discussion.

Following brief comment, Vice Mayor Pariser and Councilman Tendrich agreed to withdraw the item and instructed staff to agenda the matter for the next Committee of the Whole meeting.

**12. ORDINANCES FOR SECOND READING AND PUBLIC HEARING**

**13. OTHER BUSINESS**

- Vice Mayor Pariser congratulated Commander Gregory Truitt for the excellent response time of the Village's policing unit. Brief discussion ensued regarding the force's commitment to alleviating traffic concerns.

- Mayor Flinn stated that he would like the Council's support regarding a neglected home at 153 Street and 85 Avenue as this matter will be heard before the Unsafe Structures Board on July 15. He asserted that all are entitled to live in a nice neighborhood and the neighbors have been very patient.

Following brief discussion, Manager Williams advised that Village staff would be present at the hearing.

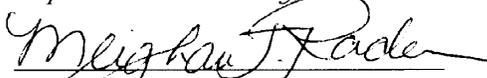
#### 14. COUNCIL COMMENTS

Councilman Tendrich reported that he attended a rain barrel seminar at the Deering Estate Visitors Center (conducted by the University of Florida). He stated that the next seminar is August 8<sup>th</sup> and he encouraged all to attend and learn about the importance of water conservation. He noted that the United States uses 150 gallons of water per person, as opposed to 50 per person in England. Mayor Flinn concurred, adding that the program was a very educational one. He stated that Palmetto Bay is the first municipality to have the rain barrel demonstration located within their Village Hall. He also encouraged all to attend the classes and learn about the program.

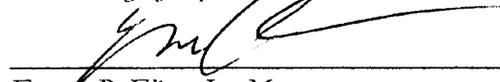
#### 15. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 8:50 pm.

*Prepared and submitted by:*

  
Meghan J. Rader, CMC  
Village Clerk

*Adopted by the Village Council on  
this 14<sup>th</sup> day of September, 2009.*

  
Eugene P. Flinn, Jr., Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW. WHILE THE FLORIDA STATUTES DO NOT REQUIRE TAPE RECORDINGS, TO THE EXTENT THAT TAPE RECORDINGS ARE MADE, THE TAPES MAY BE REQUESTED FROM THE VILLAGE CLERK FOR REVIEW AND/OR COPYING. THE VILLAGE OF PALMETTO BAY CAN NOT GUARANTEE QUALITY OF ANY RECORDING.