

**VILLAGE OF PALMETTO BAY**  
**Minutes of the Regular Council Meeting of April 1, 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. 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. PROCLAMATIONS, AWARDS, PRESENTATIONS:**

- A. Earth Day Proclamation: Mayor Stanczyk and the Village Council presented Parks and Recreation Director Fanny Carmona-Gonzalez with a proclamation in honor of Earth Day.

**4. APPROVAL OF MINUTES**

- A. Minutes of the Local Planning Agency Meeting of February 25, 2013  
B. Minutes of the Special Council Meeting of February 25, 2013  
C. Minutes of the Regular Council Meeting of March 4, 2013

Vice Mayor DuBois moved to approve the Minutes, as submitted. Seconded by Councilman Fiore. 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 ATTORNEYS' FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR FIGUEREDO & BOUTSIS, P.A. IN THE AMOUNT OF \$15,787.95; 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; PROCLAIMING THE MONTH OF MARCH 2013, AND EVERY MARCH THEREAFTER, AS "BIKE 305 MONTH"; AND PROVIDING AN EFFECTIVE DATE.

Vice Mayor DuBois moved to approve the Consent Agenda. Seconded by Councilman Fiore. All voted in favor. The Resolutions passed unanimously.

## 6. REQUESTS, PETITIONS AND PUBLIC COMMENTS

The following individuals addressed the Council: Gary Pastorella, 6940 SW 142 Terrace; Rex Lehman, 17300 SW 87 Court; Steve Kreisher, 18201 SW 98 Avenue; Bev Gerald, 14271 SW 74 Court; and, David Singer, 8360 SW 154 Terrace.

## 7. VILLAGE MANAGER'S REPORT

- A. Village Commander Report: Manager Williams asked Commander Truitt to come forward. Commander Truitt provided information concerning the recent traffic enforcement.

Councilman Schaffer remarked that warnings were being provided for people speeding up to 10 mph over the speed limit. He suggested working toward zero tolerance, as he believed the Village of Pinecrest had such a policy.

Commander Truitt stated that the Miami-Dade County Police Department will not ticket individuals for speeds under 5 mph over the speed limit. He noted that he met with the resident who was concerned regarding the Old Cutler Bike Path area and will work with the County to have fiberglass piping installed to assist with this problem. Manager Williams asked the number of citations at that location. Commander Truitt noted that five were given during the week.

Mayor Stanczyk and Councilman Schaffer thanked the Commander for his responsive staff.

- B. Manager Williams provided information concerning the Miami-Dade County, Basin C water/sewer infrastructure project. He advised that the WASD was going to be coming to the next Committee of the Whole meeting on April 17<sup>th</sup> to give a full report.

- C. External Auditor's Report: Finance Director Desmond Chin provided staff report.

Mr. Mark Berenfeld, Auditor, provided an overview of the Comprehensive Annual Financial Report (CAFR). He announced that the Village received an unqualified opinion, which means a "clean" opinion, stating that the financial statements are in accordance with general financial principles. He advised that the report is available on the Village's website and he would be available to return to a future council meeting to answer any questions.

- D. Clerk Alexander provided an update of the calendar.

## 8. VILLAGE ATTORNEY'S REPORT

- A. March, 2013 Update: Attorney Boutsis advised the Council that her written report was available and provided a copy of Attorney General Pam Biondi's opinion, noting that Palmetto Bay is not required to allow a requestor to access the Village's database via attaching a hard drive device.

## 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 THE TREE ADVISORY BOARD, APPOINTING ONE MEMBER TO THE VILLAGE OF PALMETTO BAY TREE ADVISORY BOARD; AND, PROVIDING AN EFFECTIVE DATE.

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

Councilwoman Lindsay advised that while the Village had received applications from two well-qualified individuals, she nominated Henry Clifford, as she believes his expertise and experience from serving on the Board in the past will benefit this Committee that has many new members serving.

Councilwoman Lindsay moved to approve the nomination. Seconded by Vice Mayor DuBois. All voted in favor. Henry Clifford was unanimously appointed to serve on the Tree Advisory Board.

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO INVITATION TO BID NO. PR-2013-001; APPROVING THE VILLAGE MANAGER'S RECOMMENDATION OF BURKE CONSTRUCTION GROUP, INC. AS THE MOST RESPONSIVE BIDDER IN PROVIDING

CONSTRUCTION SERVICES FOR THE THALATTA ESTATE RENOVATION PROJECT; 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.

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

Manager Williams introduced Building Official Edward Silva. Mr. Silva provided staff report, advising that 27 firms attended the pre-bid meeting, five firms offered bids, and three were responsive. He noted that staff recommends negotiations with Burke Construction be approved.

Manager Williams added that this request is simply to authorize negotiations; final terms of the contract would return to Council for approval.

Vice Mayor DuBois asked for an explanation of the objective of the renovation.

Mr. Silva advised that renovations to the main house are necessary for the commercial use of the house. He further explained that there is an illegal addition that was constructed prior to the Village's purchase of the home that must be removed and renovations must occur at that site.

Councilman Schaffer asked if the building would be demolished and re-built. Mr. Silva stated that there is no intention to demolish; rather, there is some water infiltration, but this will be addressed during the renovation.

Vice Mayor DuBois asked the square footage of the area to be renovated. Mr. Silva stated that it was approximately 3,000 square feet; he would provide the exact number.

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

## **11. RESOLUTIONS REQUIRING PUBLIC HEARING**

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RESCINDING RESOLUTION 2012-73; CO-DESIGNATING SW 162 STREET BETWEEN SW 80 AVENUE AND SW 78 AVENUE IN HONOR OF KAELY CAMACHO; PROVIDING FOR INSTALLATION OF APPROPRIATE SIGNAGE; PROVIDING FOR AN EFFECTIVE DATE.

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

Clerk Alexander provided staff report, noting that the young lady who had passed had served the Village significantly in order to meet the requirements of the Ordinance.

Mayor Stanczyk opened the public hearing. Ms. Angela Camacho, 14301 SW 181 Street, mother of Kaely, stated that she had asked for the designation to be re-located near Southwood Middle School for the sake of the students. She is hopeful the designation will remind the children of the tragedy of this accident.

As no one else wished to speak, Mayor Stanczyk closed the public hearing.

Councilman Fiore expressed his support.

Mayor Stanczyk echoed his remarks, adding that Kaely is not forgotten. She called the question. All voted in favor. The Resolution was adopted unanimously (5-0.)

**12. ORDINANCES FOR FIRST READING:** None at this time.

**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 BUILDING PERMIT FEES; ADOPTING THE 2013 PERMIT FEE SCHEDULE FOR THE BUILDING DEPARTMENT; REPEALING THE 2008-2009 PERMIT FEE SCHEDULES FOR BUILDING PERMITS; PROVIDING FOR ORDINANCES IN CONFLICT; CODIFICATION; SEVERABILITY; AND AN EFFECTIVE DATE.

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

Mr. Silva provided staff report.

Attorney Boutsis advised there is one modification from first reading: the effective date. She explained that staff would like 45 days following adoption of the fee schedule in order to allow sufficient time to modify the forms and software program.

Councilman Fiore expressed his support, adding that he would be meeting with Mr. Silva and the Village Manager in the future to see what further reductions can be accomplished.

Councilman Schaffer echoed Councilman Fiore's remarks, adding that he would be supportive of establishing a sub-committee of the Council to meet with staff to review the fee schedule in order to reduce the burden upon taxpayers.

Vice Mayor DuBois concurred. He thanked the members of the advisory committee that were involved in this process.

Mayor Stanczyk thanked Mr. Silva. She stated that she would be in favor of a six-month status report. Discussion ensued.

Councilman Schaffer moved to direct staff to provide a six month status report following the enactment of the Ordinance. Seconded by Councilman Fiore. All voted in favor. The motion passed unanimously (5-0.)

Vice Mayor DuBois moved to approve the extension of time for enactment to be 45 days. Seconded by Councilman Fiore. All voted in favor (5-0.)

Councilman Schaffer moved to approve the Ordinance, as amended. Seconded by Vice Mayor DuBois. All voted in favor. The motion passed unanimously (5-0.)

As a public hearing is required, Councilman Schaffer moved to reconsider until following public comment. Seconded by Vice Mayor DuBois. All voted in favor. The motion passed unanimously (5-0.)

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

Vice Mayor DuBois moved to adopt the Ordinance, as amended. Seconded by Councilman Schaffer. The Ordinance was adopted unanimously, following roll call vote: Mayor Stanczyk: Yes; Vice Mayor DuBois: Yes; Councilman Fiore: Yes; Councilman Schaffer: Yes; Councilwoman Lindsay: Yes.

#### **14. OTHER BUSINESS**

- A. Revision to Ordinances generally referred to as "Neighborhood Protection Ordinances" – Councilman Tim Schaffer

Councilman Schaffer stated that this matter was previously discussed at a Committee of the Whole Meeting. He advised that he does not intend to repeal the ordinances, rather he wishes to make the grandfathering aspect clear. He noted that the Council has stated that non-residential facilities in residential neighborhoods, including Village parks, that were permitted and part of a site plan prior to the NPO being approved should be permitted to be re-built. Councilman Schaffer concluded by asking for a review of the ordinances to see if

changes need to be made to insure that the Council's promise of grandfathering is clear.

Mayor Stanczyk asked the Village Attorney for her opinion.

Attorney Boutsis advised that staff could review the ordinances to see if clarification is required.

Director Planning & Zoning Darby Delsalle stated that if there is some ambiguity, staff can revise.

Councilman Fiore expressed his support, adding that he wishes for all to be treated equally.

Councilwoman Lindsay opined that all should be treated fairly, not only non-residential properties, but residential properties, as well.

Councilman Schaffer concurred.

Discussion ensued.

Attorney Boutsis remarked that she believes the Ordinance that should be reviewed is the Ordinance that governs non-conforming standards.

Vice Mayor DuBois stated that he was not aware of this item coming forward, and would like to include his "Other Business" item into this discussion.

Councilman Fiore moved to approve the desired action.

Councilwoman Lindsay opined that in order to accomplish what the Councilman wishes, staff should review the non-conforming standards.

Attorney Boutsis concurred, adding the Section is 30-10.4 of the village code, which would concern the residential and non-residential non-conforming code.

Following discussion, Councilman Fiore revised his motion to direct staff and the Village Attorney to review Section 30-10.4, as to non-conforming uses, in order to clarify the issue for non-residential uses. Seconded by Vice Mayor DuBois.

Councilwoman Lindsay remarked that she does not object to the concept, except that residential properties are excluded. She suggested that Councilman Schaffer discuss the matter with staff for clarity.

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

B. Drafting of Neighborhood Protection-Civil Rights Ordinance – Vice Mayor John DuBois

Vice Mayor DuBois stated that he was in favor of adding the residential properties when reviewing the standard of Section 30-10.4 for both residential and non-residential use. Seconded by Councilman Fiore.

Following brief comment, Mayor Stanczyk called the question. The motion passed unanimously (5 - 0.)

C. Release of 3<sup>rd</sup> DCA Palmer Trinity litigation attorney-client sessions – Vice Mayor John DuBois

Vice Mayor DuBois stated that the Council had previously discussed this matter; however, he is concerned with the Palmer Trinity cases.

Councilman Fiore remarked that former Council member Howard Tendrich raised this matter the year prior and now the Vice Mayor is raising the matter. He stated that cases that only pertain to zoning are concluded and should be disclosed.

Attorney Boutsis advised that all litigation matters has been incorporated into the civil litigation for damages. She explained that each time there was a court ruling, the complaint was modified and that the Village is facing a 5<sup>th</sup> amended complaint wherein every appeal and decision has been incorporated into the current litigation.

Councilman Schaffer asked if the litigation that began in 2008 is concluded. Attorney Boutsis replied that the matter is clearly incorporated into the civil litigation.

Following brief discussion, Vice Mayor DuBois asked for clarification regarding whether the claims are connected. Attorney Boutsis replied affirmatively. Vice Mayor DuBois withdrew his item.

D. Establishment of a Financial Advisory Committee – Vice Mayor John DuBois

Vice Mayor DuBois explained that he would like a Financial Advisory Committee to be established to assist with the auditor selection process; review of expenditure of funds that require Council approval; assist with the review and/or preparation of the budget; and setting of fees and discretionary taxes.

Councilman Schaffer asked if the Committee would be comprised of citizens only or Councilmembers, as well.

Vice Mayor DuBois advised that by state law, the Council must be part of the auditor selection committee.

Manager Williams stated that while he and the Finance Director would support effort by the council to obtain additional financial information, some items of this matter must be considered, such as delegating of the responsibility to establish fees. He noted, also, that the preparation of the budget is the role of the administration, and a committee may review the draft, but not prepare.

Councilman Fiore concurred with the Manager, asking that staff work with Vice Mayor DuBois.

Councilwoman Lindsay stated that having a committee of citizens tell the Manager how to prepare the budget is not appropriate. She suggested that members of the public attend the public meetings and participate. She further opined that citizens should not be doing the job of the paid administration and the people on the committee are not responsible to the voters, the Council is. She concluded that the Council should not shirk its responsibility.

Councilwoman Lindsay urged the members of the Council to bring these matters forth at a Committee of the Whole meeting, rather than "Other Business."

Mayor Stanczyk expressed that she is not supportive of this type of committee and concurred with Councilwoman Lindsay's remarks.

Following discussion, Vice Mayor DuBois stated that he would discuss this matter further with staff and raise the issue at the next Committee of the Whole meeting.

E. Solicitation of proposals for Village Attorney Services – Vice Mayor John DuBois

Vice Mayor DuBois stated that he had raised this issue previously and he would like to receive proposals from attorneys in order to compare and contrast to see if what the Village has is sufficient or if there is an opportunity for better services for the residents of Palmetto Bay.

Councilman Schaffer asked if Attorney Boutsis would be permitted to provide her proposal and asked who would be reviewing the proposals received.

Mayor Stanczyk stated that the procurement process is a lengthy one; she asked the Manager to verify this.

Manager Williams stated that the Council would benefit from a lengthy advertising period in order to receive the best response. He requested individual

communication with each Council member in order to gather descriptions of what the Council is seeking.

Councilwoman Lindsay stated that she was opposed to this procurement activity.

Councilman Fiore reminded the Council that when Attorney Boutsis gave correct legal advice in the Palmer Trinity matter and many on the Council did not listen to her advice.

Mayor Stanczyk expressed her concern with the litigation in Palmer Trinity and how the matter is approaching settlement. She opined that Attorney Boutsis is the only continuing force that understands the resolution today and her institutional knowledge is important.

Councilman Schaffer opined that the Vice Mayor is not asking for resignation or expressing lack of confidence in Attorney Boutsis, rather, a review of our legal department is appropriate and Attorney Boutsis should be part of the process.

Mayor Stanczyk direct staff to begin a procurement action of hiring a village attorney.

Vice Mayor DuBois stated that this matter is about having a competitive bid process for a contract, which is the standard in the Village for most contracts. He opined that the Village has a responsibility to solicit and it will not damage any settlement process due to Attorney Boutsis' institutional knowledge. He stated that soliciting for a municipal attorney is not unique to Palmetto Bay.

Following brief discussion, Manager Williams suggested possibly re-negotiate her contract and place a finite term with finite compensation into the document. He stated that the contract is open-ended and, perhaps, it can be defined more clearly.

Vice Mayor DuBois stated that the Village should issue a procurement document similar to the existing agreement.

Vice Mayor DuBois moved to direct staff to issue a notice soliciting proposals to begin the procurement action of hiring a Village Attorney. Seconded by Councilman Fiore. The motion passed (3-2, Mayor Stanczyk and Councilwoman Lindsay opposed.)

15. **COUNCIL COMMENTS:** None at this time.

16. **NEXT MEETING AND ADJOURNMENT**

The Meeting adjourned at 9:50 pm.

*Prepared and submitted by:*

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*Meighan J. Alexander, CMC  
Village Clerk*

*Adopted by the Village Council on this \_\_\_\_\_ day of May, 2013.*

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*Shelley Stanczyk, Mayor*

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