

VILLAGE OF PALMETTO BAY
Minutes of the Council Meeting of September 12, 2011
(Immediately following Budget Hearing)
Village Hall Chambers
9705 East Hibiscus Street

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

Mayor Shelley Stanczyk
Vice Mayor Brian W. Pariser
Council Member Patrick Fiore
Council Member Howard Tendrich
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 9:15 p.m. Mayor Stanczyk asked all to join her in honoring the victims of 9/11 by pledging allegiance to the flag a second time (done previously in the Budget hearing.)

2. PROCLAMATIONS, AWARDS, PRESENTATIONS

- A. Recognition of Counselors in Training: Mayor Stanczyk and Parks and Recreation Director Fanny Carmona

3. APPROVAL OF MINUTES

- A. Minutes of the Regular Council Meeting of July 11, 2011
B. Minutes of the Special Council Meeting of August 15, 2011

Councilman Tendrich moved to approve the Minutes, as submitted. Seconded by Councilman Fiore. All voted in favor. The Minutes were approved unanimously (5-0.)

4. 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 \$19,166.61; PROVIDING AN EFFECTIVE DATE.

Mayor Stanczyk asked the Clerk if any Council member had pulled the consent item. The Clerk replied that no one had.

Councilman Fiore moved to approve the Consent Agenda. Seconded by Councilman Tendrich.

Mayor Stanczyk suggested hearing item 9C as the next item due to the visitors present. Councilwoman Lindsay suggested allowing the public the opportunity to speak first.

Vice Mayor Pariser moved to hear Item 9C after public comment. Seconded by Councilman Fiore. All voted in favor.

5. **REQUESTS, PETITIONS AND PUBLIC COMMENTS:** The following individuals addressed the Council: John DuBois, 17575 Old Cutler Road; Ed Feller, 7960 SW 144 Street; Arleen Feller, 7960 SW 144 Street; Marsha Matson, 9300 SW 180 Street; Don Petrine, 9491 SW 77 Place; and, Francisco Montana, 7150 SW 136 Street.

Attorney Boutsis advised the Village's procurement process includes provisions for protesting a bid and the comments from individuals speaking concerning a bid should not be construed as a bid protest.

Public comments continued: Nisa Sochin, 8080 SW 172 Terrace; Cary Sochin, 8080 SW 172 Terrace; and Beatriz Herrmann, 17251 SW 86 Avenue.

RESOLUTIONS:

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE GREEN CORRIDOR DISTRICT; AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF CUTLER BAY AND THE VILLAGE OF PALMETTO BAY, AND ANY OTHER INTERESTED MUNICIPALITIES; PURSUANT TO 163.01 THE "FLORIDA INTERLOCAL COOPERATION ACT OF 1969", TO ESTABLISH THE GREEN CORRIDOR DISTRICT AS A SEPARATE LEGAL ENTITY; TO FINANCE ENERGY RELATED "QUALIFIED IMPROVEMENTS" THROUGH VOLUNTARY ASSESSMENTS; TO ALLOW IMPROVED PROPERTY TO BE RETROFITTED WITH ENERGY RELATED QUALIFYING IMPROVEMENTS TO ALLEVIATE THE PROPERTY'S BURDEN FROM ENERGY CONSUMPTION; AND TO CREATE THE DISTRICT AS A MEANS OF IMPLEMENTING AND FINANCING A QUALIFYING IMPROVEMENT PROGRAM FOR ENERGY CONSERVATION AND EFFICIENCY IMPROVEMENTS WITHIN THE DISTRICT; PROVIDING AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk].

Mayor Stanczyk recognized Mayor Ed MacDougall, Town Manager Steven Alexander, and Rich Candia. Mayor MacDougall thanked the Council and explained the program. He noted that several cities may be joining together as a district with this program, including Pinecrest, South Miami (already joined), Coral Gables, Palmetto Bay, Cutler Bay, and Miami.

Attorney Boutsis noted that the program has three components: energy conservation and energy improvements, renewable energy improvements, and hurricane shutters. She advised that Cutler Bay went through a procurement process and entered into an Agreement with Ygreene. She explained that Cutler Bay Town Attorney Chad Friedman advised that his firm, Weiss, Serota, would serve as counsel for the District. Attorney Boutsis informed the Council that the Interlocal may be done via resolution, as the State allows this process.

Mayor MacDougall reported that Cutler Bay had provided a full presentation before the City of South Miami Council. He advised that the City of South Miami unanimously supported and passed legislation to be part of the compact.

Mayor Stanczyk remarked that the Village remains committed to establish a green corridor. She also noted that she met with Cutler Bay. She thanked Mayor MacDougall and Vice Mayor Pariser for their diligence.

Vice Mayor Pariser thanked Mayor MacDougall and Manager Alexander and congratulated Cutler Bay for investigating and presenting this concept. He stated that he had asked and received information regarding bonding capacity, liability, and indemnification and had met with the PACE representatives three times. He noted that the Clerk had taken minutes (available on the dais) of the recent meeting held on September 9th that addressed many of his questions. Vice Mayor Pariser stated that the third party agreement was revised to his satisfaction.

Manager Williams advised that detailed answers were provided and Vice Mayor Pariser stated he was satisfied with the answers. Vice Mayor Pariser continued by noted that repayment would be satisfied by taxes to the particular home owner.

Manager Alexander stated that the program has been very well-vetted and the financing is achieved through Barklay and Weiss Brothers. He noted that in response to concerns about the company being a “start-up”, this program has not been performed before; therefore, all companies would be “start-ups.”

Mayor MacDougall noted that the program would be an economic driver when you consider the amount of work involved in this type of construction. Manager Alexander advised that the program will put people who live here to work.

Vice Mayor Pariser remarked that the carbon credits that could be realized could be a valuable asset in the future. He thanked the counsel for Cutler Bay for renegotiating the agreement to be a one to one split.

Councilman Tendrich asked if Cutler Bay had met the principals of YGreene.

Manager Alexander advised that he had visited their headquarters and spoke with their references. He added that YGreene has teamed up with Weiss Brothers, one of the largest landowners and biggest companies in Florida, and Barklays International.

Councilman Tendrich asked why the homeowner would not receive the carbon credits.

Manager Alexander explained that each homeowner would have a penny, for example, but if you gathered the credits put all the pennies together in a district, you would have a large amount.

Councilman Tendrich noted that the nominal fee to YGreene should be specified.

Manager Alexander stated that there would be some application fees for the homeowner; the entire cost of the program, with the exception of the district staff (he and the town attorney), would be paid for by YGreene. He added that the training of the local vendors would also be conducted by YGreene.

Councilman Tendrich asked if the company would be required to use “made by America” products. Mayor MacDougall stated that the Board of Directors for the District would insure that American products would be used.

Councilman Tendrich expressed that he is not in favor of automatic renewals in municipal contracts.

Manager Alexander noted that if the District is currently working with a grant, and it is important to have consistency.

Councilman Fiore asked if the program was voluntary. Mayor MacDougall said it was voluntary.

Councilman Fiore stated that while the program is tax neutral, creates jobs, and assists businesses, he believes it should be done via ordinance.

Mayor MacDougall advised that Cutler Bay’s legal counsel stated that a resolution is legal and appropriate. He added that South Miami entered into the interlocal via resolution. Attorney Boutsis concurred, adding that the Statutes allow either a resolution or an ordinance.

Mayor Stanczyk stated that she is supportive of this green element.

Vice Mayor Pariser moved this item forward. No one seconded the motion. The matter failed for lack of second.

Councilman Fiore stated that he would be supportive of the matter if it were an ordinance. Council members Lindsay and Tendrich concurred.

6. VILLAGE MANAGER’S REPORT

Manager Williams thanked Parks Director Fanny Carmona and her staff for their commitment to ensuring that all residents and guests have a great time at our Parks. He announced that Palmetto Bay has been recognized as a Playful City USA city. Manager

Williams thanked the Council for allowing him to proceed with installing the foul ball netting.

Manager Williams reported on the Third Quarter Budget to Actuals, noting that the trend remains at 3% below and while the Village anticipates the revisions due to the FPL franchise fee modification, the budget will still be “relatively flat.”

Manager Williams reported that he has been working with the Clerk’s office concerning the management of the voting machine. He noted that the Clerk’s Department has been working with the vendor in order to insure that the system is configured properly for use. He advised that the mechanism is ready to use; however, he would like the opportunity to discuss how to best implement the system and provide a demonstration.

Clerk Alexander provided a report on the calendar.

7. VILLAGE ATTORNEY’S REPORT

A. August, 2011 Update: Attorney Boutsis advised that her written report is available.

8. BOARD AND COMMITTEE REPORTS

9. RESOLUTIONS

A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE HISTORIC PRESERVATION ADVISORY BOARD, APPOINTING TWO (2) MEMBERS TO THE VILLAGE OF PALMETTO BAY HISTORIC PRESERVATION ADVISORY BOARD; AND, PROVIDING AN EFFECTIVE DATE.

Councilman Tendrich moved the item forward. Seconded by Councilwoman Lindsay.

Councilwoman Lindsay thanked the four people who applied: Jason Johnson, Susan Manns, Juan Alayo, and Christopher Hutchins. She gave her nomination: Christopher Hutchins.

Vice Mayor Pariser thanked those who participated. He nominated Juan Alayo.

Councilman Tendrich moved to approve the nominations. Seconded by Councilwoman Lindsay. All voted in favor. The motion passed (5 to 0.)

B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CONTRACTS; APPROVING THE SELECTION OF HUGH MCCALLUM, INC., TO PROVIDE INFORMATION TECHNOLOGY PROFESSIONAL SERVICES; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A CONTRACT

FOR SERVICES NOT TO EXCEED \$45,000; AND PROVIDING AN EFFECTIVE DATE.

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

Manager Williams noted that the contract is budgeted and appropriate.

Clerk Alexander provided staff report.

Councilman Tendrich disclosed that Mr. McCallum had worked for him in the past, performing small technology adjustments and trouble-shooting. Clerk Alexander advised that Mr. McCallum disclosed this matter in his proposal, also.

Attorney Boutsis opined that Mr. McCallum's agreement with Councilman Tendrich poses no conflict.

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

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; AUTHORIZING AN AWARD PURSUANT TO RFP#2011-PR-002 FOR THE MANAGEMENT AND OPERATIONS OF THE CORAL REEF PARK TENNIS CENTER, TO FRIENDS OF MIAMI TENNIS, INC. AS THE MOST RESPONSIVE PROPOSER; AND FURTHER AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE GOVERNING AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

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

Manager Williams provided staff report, explaining that the selection committee was made of well-experienced individuals. He stated that staff's recommendation is provided.

Councilman Tendrich remarked that Friends of Miami tennis performed well; however, he has received some information and, if accurate, the Council should consider continuing to use Friends of Miami temporarily, but re-bidding the process due to the uncertainty.

Manager Williams remarked that while he was not aware of information provided to Councilman Tendrich, he knows that the Clerk received numerous requests for public information from proposers. He noted that the Clerk provided the bid protest process, in addition to responding to the public records requests made.

Attorney Boutsis concurred that the bid protest information was provided and not followed.

Vice Mayor Pariser stated that he was taken aback by some of the comments provided this evening from the competitors. He asked how tabling the process would affect the program.

Manager Williams stated that staff is following direction of Council to put together a program and then come back with a formal bid process. He explained that staff has not met with the contractor to see if they are willing to temporarily extend their service to the Village. The process would be delayed until November or December if a new process has to begin.

Councilwoman Lindsay expressed her displeasure with several items that she verified following review of the materials provided to her by the proposers. She remarked that she cannot support the recommendation, as it is necessary to have professional people serve on the selection committee.

Councilman Fiore stated that he remains concerned with the contract, as three years is too long.

Following brief comments, Manager Williams remarked that the selection committee was made up of qualified representatives from another municipality and he believes voiding the process without formal bid protest would be incorrect.

Attorney Boutsis advised that the Council can defer the final decision, but can only approve or disapprove, not select another vendor at this time.

Mayor Stanczyk called the question. The motion failed (4 to 1, Vice Mayor Pariser being the sole favorable vote.)

10. RESOLUTIONS REQUIRING PUBLIC HEARING

11. ORDINANCES FOR FIRST READING

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND RECREATION; AMENDING ORDINANCE NO. 09-04 TO MODIFY PARK FEES RELATING TO THE EDWARD AND ARLENE FELLER COMMUNITY ROOM AT LUDOVICI PARK; PROVIDING FOR AN ADMINISTRATIVE USER FEE WAIVER FOR PALMETTO BAY BRANCH LIBRARY CLUBS, HEREIN AFTER "QUALIFIED ORGANIZATIONS" AS TO THE USE OF THE EDWARD AND ARLENE FELLER COMMUNITY ROOM; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Vice Mayor Brian W. Pariser].

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

Attorney Boutsis provided staff report.

Vice Mayor Pariser remarked that he had originally included 501 3(C) groups; however, it was noted that there may be hundreds of non-profits within close proximity. He stated that he was concerned with groups of the library, as the community room was built as an appurtenance to the library. He stated that staff could draft an agreement where use can be suspended if there were damage or assurance to replace or repair any broken item could be included.

Councilman Tendrich stated that the room should not be offered free of charge, but perhaps a reduced rate.

Councilman Fiore asked the funding mechanism used to build the facility. Manager Williams replied that bond funds and loan proceeds were used. Councilman Fiore concurred with Councilman Tendrich regarding a nominal fee.

Mayor Stanczyk stated that the Village remains the “stewards of our assets” and while it is important to be generous, the Council must be careful to protect this room from overuse.

Councilwoman Lindsay provided the example of the skate park. Manager Williams concurred that the park was overwhelmed until the \$5 fee was charged.

Following discussion, Councilman Tendrich and Councilman Fiore suggested considering a nominal fee, possibly \$25.00.

The motion failed (4 to 1, Vice Mayor Pariser being the sole favorable vote.)

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO NAMING, RE-NAMING AND CO-DESIGNATION OF VILLAGE ROADS, STREETS, AND PUBLIC WAYS; REPEALING SECTIONS 21-52- THROUGH 54, AND MODIFYING SECTION 21-55; PRECLUDING FURTHER NAMING, RE-NAMING OR CO-DESIGNATING OF PUBLIC STREETS, ROADS, OR PUBLIC WAYS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Howard Tendrich].

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

Attorney Boutsis provided staff report.

Councilman Tendrich opined that there are better ways to honor individuals and suggested the Council should discontinue naming streets in honor of people.

Councilman Fiore remarked that he did not agree.

Councilwoman Lindsay suggested that the Ordinance be revised to enable the Council to name streets after major contributions to the history of the community.

Mayor Stanczyk suggested that some may wish to honor someone who does not live in Palmetto Bay.

Vice Mayor Pariser stated that the process should be better defined. He moved to table the matter to a Committee of the Whole. Seconded by Councilman Fiore. All voted in favor. The motion carried (5-0.)

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC COMMENTS; CREATING SECTION 2-51 OF THE VILLAGE'S CODE OF ORDINANCES ENTITLED "CHARTER REVISION COMMISSION"; TO PROVIDE FOR PUBLIC COMMENTS AT CHARTER REVISION MEETINGS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Howard Tendrich].

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

Attorney Boutsis provided staff report.

Mayor Stanczyk suggested including all advisory boards in this ordinance.

Following discussion, the Council directed Attorney Boutsis to draft a separate ordinance to include all other advisory committees.

Mayor Stanczyk called the question. All voted in favor of the Ordinance on first reading. The motion carried (5-0.)

12. 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 BUSINESS LICENSING; CLARIFYING THE PROVISIONS RELATING TO INSURANCE COMPANY LICENSING UNDER SECTION 6-44 OF THE VILLAGE'S CODE OF ORDINANCES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

Attorney Boutsis provided staff report.

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

All voted in favor. The Ordinance passed unanimously (5 to 0.)

13. **OTHER BUSINESS:** None at this time.
14. **COUNCIL COMMENTS:** None at this time.
15. **NEXT MEETING AND ADJOURNMENT**

The Meeting was officially adjourned at 11:56 pm.

Prepared and submitted by:



Meghan J. Alexander, CMC
Village Clerk

Approved by the Village Council on this 3rd day of October, 2011.



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.