ITEM 14A

REQUEST FOR PREPARATION OF POLICY, LEGISLATION OR ACTION

To:	Village Manager and Village Attorney	Date:	February 21, 2013
From:	Councilman Tim Schaffer	Re:	Inclusion under "Other Business" Council Meeting of 3/4/2013

PURPOSE:

Offer an amendment to the Village Code of Ordinances to revise the law concerning residential driveways.

MAJOR POINTS TO BE COVERED:

As I was walking many Village streets during my recent campaign for public office, I spoke with many homeowners, some of whom asked for clarification regarding locations of residential driveways. I have drafted the attached ordinance in an attempt to clearly define locations, width, and amounts for all types of driveway approaches on all lots. It is my belief that this clarification falls under the concept of enjoyment of property rights and will not create an undue hardship to residential lot owners.

REASON:

I believe the language of the Zoning Code is in need of further explanation in order to alleviate the concerns of Palmetto Bay homeowners. I found the definition of driveways to be ambiguous and, additionally, the current code has a typographical error in a measurement.

DESIRED ACTION:

Direct the Village Manager to provide this draft Ordinance to the appropriate departments; authorize Attorney Boutsis to review for legal sufficiency following staff review; and, schedule this matter to be heard at first reading at the April 1st, 2013, Regular Council Meeting.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING ORDINANCE NO. 07-32 TO MODIFY DEFINITIONS AND LOCATIONS OF DRIVEWAY APPROACHES IN RESIDENTIAL ZONED NEIGHBORHOODS PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.[Sponsored by Councilman Tim Schaffer].

WHEREAS, the adopted rules and regulations for the location of driveway approaches in residential neighborhoods under Ordinance 07-32 modified on October 1, 2007; and,

WHEREAS, the existing rules and regulations are silent on the some specific lot types and locations causing an undue hardship to residential homeowners who have no clear guidelines or regulations to follow; and,

WHEREAS, several residents of the community have asked for relief and definition of said locations of driveways to ensure compliance with the Zoning Code; and,

WHEREAS, the Zoning Code is a guideline for staff and members of the general public to use for development.

BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. Ordinance 07-32, at Section 30-70.5(b)(2), entitled "Residential driveways" shall be amended as follows:

* * *

30-70.5 Size and character of parking spaces

The following requirements shall be observed for parking:

(a) *Size.* Each parking space shall be not less than 8.5 feet in width and 18 feet in length. Parallel parking space shall not be less than 8.5 feet in width and 23 feet in length.

(b) *Accessibility.*

(1) *Generally.* Each required space shall be accessible without driving over or through another parking space. In all instances, adequate interior driveways, ingress and egress driveways shall be provided to connect all parking spaces with a public right-of-way or alley. Tandem parking is prohibited, unless provided under the valet parking in this Code. Parking stalls abutting the same continuous drive aisle shall have the same angle and orientation. Drive aisles shall be one-way only which are less than 24 feet wide or which abut parking stalls with angles less than 90 degrees. Parking stall angles and drive aisle direction of flow may change

only when the drive aisle is interrupted by a circulation drive or structure. Backing out is prohibited into any public right-of-way, except for specified residential uses. Access drives between the paved portion of the right-of-way and the property line shall comply with the Miami-Dade County Public Works Manual.

(2) *Residential driveways.* Residential driveway approaches shall be identified on the site plans and shall be constructed according to approved public work standards. The driveway approach shall be a minimum width of 12 feet but not wider than 20 feet, except for a five-~~inch~~ foot radius on either side. The driveway must be set back at least ~~five~~ three feet from any adjoining properties at all points, unless previously approved. Residential driveway approaches and access ways must be 35 feet from street intersections and are subject to required triangle of visibility standards. No more than ~~one~~ two two-way access ways shall be permitted for any street frontage less than 100 linear feet. ~~up to 100 lineal feet or no more than two one-way access ways shall be permitted for any street frontage up to 100 lineal feet.~~ If the lot is a corner lot greater than 100 linear feet in width or a through lot then one additional access way no wider than 12 feet in width shall be allowed at the rear of a through lot or on the side of a corner lot on the property provided that the access way is not situated in the same location as the other access ways and that the third access way is to a street defined as minor or less and is not a hindrance to traffic flow. No access way shall be located closer than 30 feet from another access way on any one lot. These standards shall be applicable to any property under one ownership. ~~Where ownership involves over 100 feet of street frontage, one additional two-way or two additional one-way drives may be permitted for each additional 100 feet of frontage or major fraction thereof.~~ The balance of such street frontage not involved with access ways shall be landscaped in accordance with the provisions of division 30-100.

(3) *Commercial driveways.* Commercial driveway entrances and approaches shall be paved and constructed according to approved public works standards. The driveway and approach shall have a minimum width of 12 feet but not wider than 30 feet. The driveway and approach shall not encroach upon adjoining properties and shall be set back a minimum of five feet from adjoining properties. Commercial accessways shall be a minimum of 100 feet apart when located on properties under common ownership. No commercial driveway curb cut shall be located within 50 feet of a street intersection.

(4) Where a business is adjacent to a park, neither the driveway nor the parking area shall be located between the business structure and the public park.

* * *

Section 2. Codification. This ordinance shall be codified and included in the code of ordinances.

Section 3. Severability. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect immediately upon enactment.

First reading: March 4, 2013

PASSED AND ENACTED this _____ day of _____, 2013.

Attest: _____

Meighan Alexander
Village Clerk

_____

Shelley Stanczyk
Mayor

APPROVED AS TO FORM:

_____

Eve Boutsis
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____

Council Member Tim Schaffer _____

Council Member Joan Lindsay _____

Vice-Mayor John DuBois _____

Mayor Shelley Stanczyk _____

ITEM 14B

REQUEST FOR PREPARATION OF POLICY, LEGISLATION OR ACTION

To: Village Manager and Village Attorney

Date: February 22, 2013

From: Councilman Patrick Fiore

Re: Inclusion under "Other Business" Council Meeting of 3/4/2013

PURPOSE:

Release of Attorney-Client Session transcripts for concluded cases.

MAJOR POINTS TO BE COVERED:

The Florida Sunshine Laws provide for open meetings of governmental bodies when two or more members of the governing board are to be present at a meeting. As all are aware, there is an exemption in the law that provides procedures for conducting a private meeting between a governmental entity and its attorney to discuss pending litigation. The law is clear that when the litigation is concluded, the transcript of the meeting shall become part of the public record.

REASON:

Florida is unique with its significant safeguards that are in place to guarantee everyone's right to access. Disclosure is the standard, unless there is a particular public necessity that requires an exemption of disclosure. It is appropriate to allow the "client" municipal board to meet with its counsel in private to discuss the pending lawsuits and how best to defend the municipality; however, once the litigation is concluded, whether settled between the parties or otherwise adjudicated by a Court, the transcripts of those private meetings must be disclosed in accordance with State law.

Our Council has been at the forefront of efforts to insure transparency, such as the check register being on line and the significant broadcasting efforts of our meetings on television and live streaming/on demand on our website. Openness is the key to maintaining and building public trust; and I believe my fellow Councilmembers share this sentiment.

DESIRED ACTION:

Direct the Village Attorney to provide a list to the Village Council of litigation that is concluded; and, further, instruct the Village Clerk to include those transcripts as part of the public record.

REQUEST FOR PREPARATION OF POLICY, LEGISLATION OR ACTION

To:	Village Manager and Village Attorney	Date:	February 22, 2013
From:	Councilman Patrick Fiore	Re:	Inclusion under "Other Business" Council Meeting of 3/4/2013

PURPOSE:

Offer an amendment to the Village Code of Ordinances to revise Section 2-45(b) concerning duties and responsibilities of the Mayor.

MAJOR POINTS TO BE COVERED:

Section 2-45 reads as follows:

Duties and responsibilities of the mayor.

(a) *Mayor to serve as presiding officer.* The mayor shall be the presiding officer of all village council meetings. The mayor shall announce every matter coming before the council for action and announce the decision of the council on each matter. The vice-mayor shall act as the presiding officer during the absence of the mayor. In the absence of both the mayor and vice-mayor, the remaining councilmembers shall, by majority vote, select a presiding officer.

(b) *Mayor to maintain decorum at council meetings.* The mayor shall encourage open and respectful communication between members of the public and the council. The mayor shall also preserve good order and decorum at all meetings of the council. All speakers must address their remarks to the mayor, speak in a dignified and courteous manner, and avoid admonishing individual members of the public, council and representatives of the village. Should a member of the audience become unruly or behave in an improper manner that is prejudicial to the dignified conduct of the meeting, the mayor shall have the power to require the person to leave the meeting and to be accompanied, if necessary, by a police officer. In the event the audience becomes unruly the mayor may either recess or adjourn the meeting.

Section 2-45(a) is one of the responsibilities of the Mayor mandated in the Charter and is appropriate. However, 2-45(b) should include language to allow for a Councilmember to prevent any individual from behaving in an improper behavior; rather than leave this responsibility solely to the discretion of the Mayor.

REASON:

The majority of the language of the Ordinance is appropriate as written; however, there are many subjective terms, such as "open and respectful", "dignified and courteous", and "unruly", that require discretion on the part of the Mayor. As an equal member of the Village Council, serving as the presiding officer is appropriate for the Mayor; however, to place the responsibility of determining what is respectful, dignified, or unruly into the hands of one person, is not. How a person perceives an individual admonishment directed at them should not be solely judged by one member of the Council, the Mayor, who has equal voting power and is elected Village-wide as each member of the Council is elected. The Councilmember being admonished should have the right and the power to require the person to leave the meeting, rather than wait for the Mayor to take action or not.

DESIRED ACTION:

Direct the Village Attorney to revise the language of the Ordinance to allow for an individual Councilmember to move that all discussion ceases while the Council votes to remove a person who is behaving improperly or disrespectfully. The Ordinance would be drafted for first reading in April.

For use by staff: Date received _____

To be considered at _____ Council Meeting