



VILLAGE OF PALMETTO BAY

Mayor Karyn Cunningham
Vice Mayor John DuBois
Council Member Patrick Fiore (Seat 1)
Council Member David Singer (Seat 2)
Council Member Marsha Matson (Seat 3)

Interim Village Manager Gregory Truitt
Village Attorney John C. Dellagloria
Village Clerk Missy Arocha

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter, or hearing impaired to participate in this proceeding should contact the Village Clerk at (305) 259-1234 for assistance no later than four days prior to the meeting.

AMENDED¹ AGENDA VIRTUAL COMMITTEE OF THE WHOLE WORKSHOP TUESDAY, JULY 21, 2020 - 7:00 PM (305) 259-1234

1. **CALL TO ORDER, ROLL CALL, INVOCATION, PLEDGE OF ALLEGIANCE, AND DECORUM STATEMENT, IN THAT ORDER:** Any person making impertinent or slanderous remarks, or who becomes boisterous, while addressing the Council may be barred from further appearance before the Council by the Mayor, unless permission to continue or again address the Council is granted by a majority vote of the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be allowed in the Council meeting. Persons exiting the Council meeting shall do so quietly. All cellular telephones and beepers are to be silenced during the meeting.
2. **PUBLIC COMMENTS SUBMITTED**
3. **VILLAGE COUNCIL DISCUSSION ITEMS:**
 - A. FARMER'S MARKET
 - B. SPECIAL EVENTS
 - C. C-100A CANAL & SOUTH FLORIDA WATER MANAGEMENT DISTRICT

¹ With the approval of the Village Attorney, the Agenda was amended on July 17th to include discussion on item 3C, including the addition of the proposed Ordinance and Resolution regarding the discussion items.

4. NEXT COMMITTEE OF THE WHOLE WORKSHOP DATE AND ADJOURNMENT

WE, THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, HEREBY COMMIT OURSELVES TO MAINTAINING CIVILITY IN OUR PUBLIC AND POLITICAL DISCOURSE AND PLEDGE TO THE FOLLOWING PRINCIPLES:

- We will respect the right of all citizens in our community to hold different opinions;
- We will avoid rhetoric intended to humiliate or question the wisdom of those whose opinions are different from ours;
- We will strive to understand differing perspectives;
- We will choose our words carefully;
- We will speak truthfully without accusation and we will avoid distortion; and
- We will speak out against violence, prejudice, and incivility in all of their forms, whenever and wherever they occur.

PURSUANT TO FLORIDA STATUTES 286.0105, THE VILLAGE HEREBY ADVISES THE PUBLIC THAT 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.



**DISCUSSION ITEM 3B:
PROPOSED ORDINANCE
RELATING TO SPECIAL EVENTS**

**DISCUSSION FOR COMMITTEE OF THE WHOLE WORKSHOP
TUESDAY, JULY 21, 2020**

PROPOSED ORDINANCE NO. 2020-____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SPECIAL EVENTS IN PARKS AND ON VILLAGE PROPERTY; AMENDING VILLAGE CODE SECTION 30-60.18 REGARDING PERMIT APPLICATIONS; THE DIRECTING OF SOUND SPEAKERS; PROHIBITING THE FENCING OF PARKING AREAS AND PARK SPACE: REQUIRING AN INDEMNIFICATION AGREEMENT; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. *(Sponsored by Councilmember Marsha Matson)*

WHEREAS, the Village of Palmetto Bay prides itself as being the “Village of Parks”; and

WHEREAS, the residents of the Village enjoy the peace, beauty and tranquility of the park system of the Village; and

WHEREAS, although the Village allows special events in Village parks and on public and private property, it has become increasingly important to add additional requirements in order to ensure that the residents of the Village are not impacted by events on either public or private property that can disturb the peace and tranquility of residential communities.

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

Section 1. Section 30-60.18 of the Code of Ordinances is amended as follows:

Sec. 30-60.18 - Special events; temporary uses.

(a) A special event or temporary use is permitted on Village park property and on private property in all zoning districts provided a special event permit is obtained. The special event permit application

DRAFT-ORDINANCE

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Additions shown by underlining and deletions shown by ~~overstriking~~.

"****" indicates portions of code excluded.

includes, in addition to those matters in (b) below, the applicant, the event and the event's logistical information to be considered by the Village in making its determination whether to approve an application. Temporary structures including tents and lighting require building division review and may require a building permit. Temporary signs and/or banners shall comply with the provisions of Division 30-90.

(b) Additional requirements for approving any special event permit shall include the following:

(i) a fully complete application which shall not be amended without approval of the Village Council; (ii) any sound speakers shall be directed inward toward the attendees; (iii) there shall be no fencing of the park or parking areas of any event held on Village park property; (iv) an indemnification agreement to be approved by the Village Attorney.

Section 2. Conflicting Provisions. The provisions of the Code of Ordinances of the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Severability. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but shall remain in effect..

Section 4. Codification. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be renumbered or re-lettered.

Section 5. Effective Date. This Ordinance shall take effect immediately upon enactment upon Second Reading



**DISCUSSION ITEM 3C:
PROPOSED RESOLUTION
RELATING TO C100-A CANAL &
SO. FL WATER MGMT DISTRICT**

RESOLUTION NO. 2020-__

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, REGARDING THE INTRUSION OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S C-100A CANAL ON TO CORAL REEF PARK AND THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S REMOVAL OF TREES FROM CORAL REEF PARK, RESULTING IN A TRESPASS AND TAKING BY THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT; DIRECTING THE VILLAGE ATTORNEY TO FILE SUIT AGAINST THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT FOR ALL CAUSES OF ACTION RELATING TO THE TRESPASS ON TO AND TAKING OF PROPERTY DUE TO THE CANAL ENCROACHMENT AND REMOVAL OF TREES; INITIATING DISPUTE RESOLUTION PROCEDURES PURSUANT TO FLORIDA STATUTE 164.1052(1); AND PROVIDING AN EFFECTIVE DATE. (SPONSORED BY _____)

WHEREAS, the canals of the South Florida Water Management District ("District") must by law be located and operated on land on which the District has a legal right to locate and operate such canals; and

WHEREAS, District canals located and operated on District-owned property are sometimes contiguous to District-owned maintenance easements running parallel to the canals and located on property owned in fee simple by adjacent property owners; and

WHEREAS, the District-owned maintenance easements provide the District the right to use the easement area for the purpose of constructing, cleaning, and maintaining the canals, but do not allow the District to locate and operate the canals themselves within the easement; and

WHEREAS, District canal C-100A flows through Coral Reef Park, owned and operated by the Village of Palmetto Bay; and

WHEREAS, upon information and belief, due to the fault of the District and/or its agents, District canal C-100A canal banks have encroached on to portions of Coral Reef Park, thus illegally intruding upon, trespassing upon, and taking property not owned by the District; and

WHEREAS, the governmental sovereign immunity of the District does not protect the District from illegal intrusion upon, trespass upon, and taking

of property not owned by the District caused by the District and/or its agents; and

WHEREAS, the District cannot remove trees for purposes of canal maintenance from land on which the District does not have a legal right to do so; and

WHEREAS, the District initiated a tree-removal project in the Village of Palmetto Bay, and as part of that tree-removal project, removed trees located in Coral Reef Park outside of the District-owned canal property and canal maintenance easement for the C-100A canal; and

WHEREAS, the District's removal of trees from Coral Reef Park constitutes a taking without payment of full compensation; and

WHEREAS, Florida law (Fla. Statute 164.1041-164.1061) provides for a dispute resolution procedure for disputes among Florida governmental entities, prior to filing any lawsuit by a Florida governmental entity against another Florida governmental entity (or, if filed, the lawsuit is to be abated pending dispute resolution procedures); and

WHEREAS, the Village Council wishes to initiate the required dispute resolution procedure, as specified under Florida Statute 164.1052(1); and

WHEREAS, the District operates District canals as part of the Central and South Florida Flood Control Project, a federal flood control project under the general guidance of the U.S. Army Corps of Engineers; and

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE OF PALMETTO BAY, FLORIDA, THAT:

Section 1. (1) Lawsuit Against South Florida Water Management District. (a) The Village Attorney, in coordination with the Village Manager, is hereby authorized and directed to file suit against the South Florida Water Management District for the encroachment of the C-100A canal on to Coral Reef Park, which illegally intrudes upon, trespasses upon, and takes property within Coral Reef Park not owned by the District, and for the District's removal of trees from Coral Reef Park.

(b) The Village Attorney is authorized to include in such lawsuit any and all legal claims, whether or not otherwise identified herein.

(2) Dispute Resolution Procedures. (a) In so far as Florida law requires participation in dispute resolution procedures prior to the filing of a lawsuit by a Florida governmental entity against another Florida governmental entity (e.g., Fla. Statute 164.1041 to 164.1065), the Village Attorney, in coordination with the Village Manager, is authorized and directed to engage in such dispute resolution procedures prior to filing the lawsuit otherwise authorized herein.

(b) Consistent with Village Charter section 2.1, the Village Attorney, in coordination with the Village Manager, may invite the attendance of the Village Mayor at any dispute resolution meetings with the District.

(3) Official Initiation of Dispute Resolution by the Village Council in Accordance with Fla. Statute 164.1052(1). This Resolution shall be considered the initiation of the dispute resolution process by the Village Council pursuant to Fla Statute 164.1052(1). As provided by the statute, the Village Council hereby states as follows: "It is the intention of the governing body to initiate the conflict resolution procedures provided by this act prior to initiating court proceedings".

(3) Duties of the District to the United States. The Village Attorney should explore the legal responsibilities owed by the District to the United States (through the U.S. Army Corps of Engineers) with respect to proper maintenance of the canals, in so far as the canals are operated by the District as part of the federal Central and South Florida Flood Control Project. Assistance from the Corps of Engineers may be sought by the Village Attorney as may be appropriate, in coordination with the Village Manager.

(4) Cost of Legal Proceedings. At the conclusion of the dispute resolution procedures or earlier, but in any event prior to filing the lawsuit authorized herein, the Village Attorney and Village Manager shall provide to the Council a budget report with respect to budget impacts of such litigation, for consideration by the Council.

Section 2. This Resolution shall take effect immediately upon its adoption.

PASSED and ADOPTED this ____ day of June, 2020.