

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

RESOLUTION NO. 09-19

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CANAL EROSION AND BOATING SAFETY; REQUESTING THE STATE, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, AND MIAMI-DADE COUNTY TO UNDERTAKE BOATING SAFETY ENFORCEMENT WITHIN THE CANALS LOCATED WITHIN THE VILLAGE OF PALMETTO BAY AND ELSEWHERE; PROVIDING AN EFFECTIVE DATE. (Sponsored by Vice Mayor Brian W. Parisier).

WHEREAS, Florida Fish and Wildlife Conservation Commission (FWC), Division of Law Enforcement, Office of Boating and Waterways regulates speed waterway speed zones within Florida waterways; and,

WHEREAS, Speed regulations, and boating safety is currently regulated by the state; and,

WHEREAS, pursuant to section 324.70, Fla. Stat., local law enforcement have the inherent power to regulate the waterways; and,

WHEREAS, reckless boating can cause erosion to canals, and such reckless boating can harm the recreational boaters using the canals under the state's blue-ways programs; and,

WHEREAS, the representatives of the South Florida Water Management District (SFWMD) at prior council meetings discussed the significant erosion that has occurred to its easements and the canal banks of the various C100 canals within the Village of Palmetto Bay and the urgent need to stop speeding boats, creating greater impact to eroding softened banks; and

WHEREAS, under state law it is unlawful for any person to operate any boat or other watercraft upon any waterway or body of water within the Village at a rate of speed which causes waves to damage to boats, vessels and persons, as provided under 327.33, Florida Statutes, and 33 USC 2006 for operating a vessel in compliance with navigation rules; and,

WHEREAS, the Village desires to work with the state in order to protect the health, safety and welfare of its residents, those using the canals; desires to protect life, limb, vessel traffic safety and maritime property; and further desires to protect the canals from further erosion; and,

WHEREAS, the Village petitions the State of Florida, FWC, to police and monitor the canals in order to promote boater safety and, by protecting the community using the canals from such reckless activities; and,

WHEREAS, the Mayor and Village Council also seeks for the State of Florida to enforce the Florida Administrative Code and Chapter 327, Florida Statutes, as it relates to funding the staffing of the Florida Fish and Wildlife Conservation Commission, so that the officers can patrol the canals of the Village and Miami-Dade County, as they were mandated to do; and,

1
2 **WHEREAS**, the South Florida Water Management District (SFWMD) promotes boater
3 safety and is requested to come to the Village and neighboring communities to provide boater safety
4 education to the residents; and,
5

6 **WHEREAS**, canals permeate all of South Florida, and Miami-Dade County is requested to
7 partner with the Village, SFWMD, and FWC in this educational and safety effort; and,
8

9 **WHEREAS**, the Mayor and Village Council desire to approve this resolution and to
10 forward this resolution to the Florida House and Senate, to Governor Charlie Christ for action, and
11 to the Directors and Legal Counsels for Florida Fish and Wildlife Conservation, the South Florida
12 Water Management District.
13

14 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**
15 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
16

17 **Section 1.** The above whereas clauses are incorporated by reference into this resolution.
18

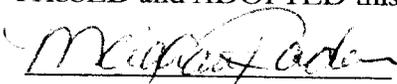
19 **Section 2.** The Village Clerk is directed to provide a copy of this resolution to the
20 Florida House, Florida Senate, to Governor Charlie Crist, and to the Directors and Legal Counsels
21 for Florida Fish and Wildlife Conservation, South Florida Water Management District and Miami-
22 Dade County. The state needs to ensure the future health of the state infrastructure and water
23 supply by ensuring the maintenance of the state regulated canal system and also to protect the
24 health, safety, and welfare of its residents through boater safety education and enforcement of
25 existing laws, particularly 327.33, Florida Statutes, against reckless boating by providing periodic
26 patrols within the Village's canal system.
27

28 **Section 3.** The Village requests that the State place signage within the canals indicating
29 all existing enforcement mechanisms and advising the community to use the canals safely, and not in
30 a reckless manner. Additionally, the Florida Fish and Wildlife Commission signs in compliance with
31 327.40, Florida Statutes, should be posted at any identified danger area at the State's expense,
32 including: (1) within 300 feet of any bridge fender system; (2) within 300 feet of every bridge span
33 presenting a vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet; and
34 (3) within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow
35 channel or fairway, or such other area where an intervening obstruction to visibility may obscure
36 other vessels or other users of the waterway.
37

38 **Section 4.** This resolution shall take effect immediately upon approval.
39

40 PASSED and ADOPTED this 2nd day of March, 2009.

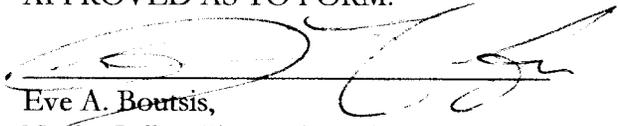
41
42 Attest:

43 
44 Meighan Rader
45 Village Clerk

41 
42 Eugene P. Flinn, Jr.
43 Mayor

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

APPROVED AS TO FORM:



Eve A. Boutsis,
Nagin Gallop Figueredo, P.A.
Office of Village Attorney

FINAL VOTE AT ADOPTION:

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