



Report to Village Council on Recommendations from the Neighborhood Protection Committee 2020-2021

Committee Members

Joe Bier, Chair
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Council Liaison

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Introduction

This report is a fulfillment of the Village Council's charge to the Neighborhood Protection Committee to recommend actions to carry out the Section 10.2 of the Village Charter, Neighborhood Protection. The 57 recommendations suggested by the Committee are wide-ranging and address many persistent development issues in the Village. One of the recommendations is the writing of a construction manual and its use in a mandatory pre-construction meeting with the builder and staff. The proposed manual includes many of the Committee's recommendations. Other recommendations include noise and light definitions and enforcement, maximum building heights, dust, on-site regulation, odor and vibration, and water runoff abatement.

Mission Statement

The purpose of the committee is to consider what action could be taken to more effectively implement the provisions, excluding traffic, of the neighborhood protection section of the Village Charter, Section 10.2, including any possible ordinance(s).





The Neighborhood Protection Charter Amendment and Committee

On Nov. 6, 2012, Palmetto Bay voters approved a Neighborhood Protection Charter Amendment. The Amendment became Section 10.2 of the Village Charter, but remained aspirational without enacting ordinances until June 17, 2019, when the Palmetto Bay Village Council passed Resolution 2019-103 creating a Neighborhood Protection Committee ("The Committee"). Its purpose was to gather residents' comments, research other municipalities' codes, and propose action to carry out the provisions of Section 10.2: "All single-family residential properties shall be protected from the negative impacts of adjacent or nearby non-single family residential uses."

Charter Section 10.2.1 continues:

All non-single-family-residential developments, structures, or use (that is/are a direct or indirect result of that development, structure, or use) in, adjacent to, or nearby any single-family-zoned properties shall not disrupt or degrade single-family residential properties by creating negative impacts on those properties such as density, intensity, noise, light, glare, dust, odor, vibration, traffic, or runoff that exceeds that of adjacent single-family properties. Nothing therein should be construed or applied to abrogate the vested rights of a property owner.





Committee Members and Meetings History

On July 1, 2019, in Resolution 2019-103, the Village Council established the Neighborhood Protection Committee and appointments were made by each Councilmember as follows: Joe Bier (Chair), (appointed by Mayor Karyn Cunningham), Beverly Gerald (by Vice-Mayor John DuBois), Eugene Flinn (by Councilmember David Singer), and Jennifer Santino Finger (by Councilmember Marsha Matson). Gary Pastorella was later appointed by Councilmember Patrick Fiore. Initially held in Village Hall, Committee meetings were attended by residents and were later held virtually due to Covid restrictions and related safety protocols.

The Committee was asked to study the impact of development on the specific topics of density, intensity, noise, light, glare, dust, odor, vibration, and runoff. Traffic was excluded by the Council. The three questions to be addressed were:

What are our neighborhood protection efforts?

How can we improve our procedures?

What can we learn from other municipalities?

At the first meeting on July 30, 2019, members were sworn in by the Clerk, Missy Arocha. Village Attorney Dexter Lehtinen reviewed the requirements of Florida's Open Records and Sunshine Laws. A committee secretary, Eugene Flinn, was chosen. At later meetings, Bev Gerald was secretary. The committee reviewed the Charter Section, the Village zoning map, and other municipalities' codes. Meetings were held once a month until March 4, 2020, when they were suspended due to the COVID-19 pandemic. The meetings resumed virtually in September 2020, continuing to the present.



Recommendations on Noise

Noise Recommendations			
Subject	NPC Recommendation ->	Action	Code Section
Noise	1) Post table of fines for noise violation	Post on website	
	2) Why is a special magistrate for code violations needed?	Everyone has the right to appeal.	Code 30-60.29 (j)
	3) Need more noise enforcement. Noise variances should be minimized and requests for variances should be brought before Council so residents have a chance for public comment. Official Village events with variances should have an upper level of 90 decibels with the exception of 4 th of July fireworks.	Code enforcement officer writes citation during working hours. When code enforcement officer is not working, police officer writes report for code enforcement; Will consider purchasing more noise meters.	
	4) Change code from "barking dog" to "domestic animal."	To Council for change of code.	Code 30-60.29 (5)
	5) Measure nuisance noise from the property line and for a minimum of 5 minutes. Violations should be written as a nuisance and the fines increased to the maximum allowed by law. Warnings should be limited, especially for short term rentals and rental party houses. County police should enforce the noise codes of Palmetto Bay.	To Council for change of code.	Code 30-60.29
	6) Change motorboat noise level to 60 dba or install muffler.	To Council for change of code, now at 85 dba.	Code 30-60.29 (10)
	7) Change Saturday hours for construction and demolition noise to 9 am -5 pm and weekdays to 7 am – 6 pm. No construction noise on Sundays and holidays.	To Council for change of code, now at 7 am-7 pm for Saturdays and weekdays. Add no construction noise on Sundays and holidays.	Code 30-60.29 (g)
	8) Provide information about after-business hours complaints.	Communications Department to post on website duty officer's phone number and after-business hours number	Code 30-60.29 (i).



Recommendations on Light

Light Recommendations			
Subject	NPC Recommendation ->	Action	Code Section
Light	1) Outdoor lighting spillover should not exceed 0.3 ft candles vertical and 0.01 ft candles horizontal.	No change in ft. candle levels but add the words vertical and horizontal to the code.	Code 30.60.6(3)
	2) All outdoor lighting must be shielded and not exceed 1260 lumens	Verification takes place during building permit process. No change in code. Will consider buying a light meter to aid in enforcement and verification.	Code 30.60.6(2)
	3) External illumination of displays, buildings and architectural features should not exceed 2000 initial lumens combined. Lighting shall be specifically targeted at particular architectural features and shall not project beyond such features.	Verification takes place during building permit process. No change in code.	Code 30-90.19 (2) d.
	4) Lights should not exceed 18 feet in overall height; located within tennis courts/basketball courts/outdoor recreational areas(s); not illuminated between 10 pm and 8 am.	Send to Neighborhood Protection Committee for further discussion.	Code 30-60.6 (2)
	5) Horizontal measurement taken at the height 5 feet above or near the property line; vertical measurement taken at or near the property line or at nearest point of the highest reading.	To be included in pre-construction meeting.	N/A
	6) Add lighting definitions from South Miami or from Sanibel.	Send to Neighborhood Protection Committee for further discussion.	



Recommendations on Density and Intensity

Density and Intensity Recommendations			
Subject	NPC Recommendation ->	Action	Code Section
Density and Intensity	1) Complete shut-down of projects for construction-related violations, not just citations and fines.	Shutdown determined by building official for health and safety reasons. Otherwise, fines under civil code adjudicated by magistrate; if not paid, then lien on property. No change only better enforcement from appropriate village department.	N/A
	2) Restrict building height to 45' throughout village.	Current maximum building heights: US 1 corridor - 65'; Business districts - 75'; VMU - 85'; Single family residential - 2 stories; Downtown district - 5 stories, except in Neighborhood sector - 3 stories. Send to Council to change code.	N/A
	3) Eliminate incentives for extra floors and taller buildings.	Height incentives no longer exist, except in VMU.	N/A
	4) Eliminate incentives to reduce required parking for new developments.	Reduced parking incentives no longer exist.	N/A
	5) Restrict short-term occupancy of single-family homes to two people per bedroom per night.	In short-term rental ordinance	N/A
	6) Criminal background and sexual offender checks must be required and verified.	Already in registration form in short-term rental ordinance. If VPB wants to send registration form to county property appraiser, VPB needs to inform applicant on form.	



Recommendations on Dust and On-Site Construction

Dust and On-Site Construction Recommendations			
Subject	NPC Recommendation ->	Action	Code Section
Dust and On-Site Construction	1) Write construction manual and require mandatory pre-construction meeting.	Construction manual and mandatory pre-construction meeting to be implemented as a "major plan review." County code is the starting point. To Council for code change.	
	2) Update zoning map to match newly amended Downtown Palmetto Bay building code.	In progress by Planning and Zoning Department.	
	3) Do not allow construction staging locations off-site of a construction project.	If property is zoned to allow it, VPB cannot stop it due to property rights. No code change. Better and more thorough enforcement is recommended.	
	4) Construction manual and mandatory pre-construction orientation meeting between village staff and all contractors and subs to address proper dust control. Temporary closure of unpaved streets to minimize dust from car traffic. Washing down of streets before reopening to traffic. Dust control implementation for all vehicles exiting property to local paved streets.	To be included in construction manual.	
	5) Use of wet cut saws instead of dry cutting for sidewalk and curb cuts to be addressed in construction manual and mandatory pre-construction meeting between village staff and all contractors.	To be included In construction manual.	
	6) Construction manual to address open pits: Inspection, fencing, plating, signage, maintenance, dust control, noise control, tree protection, after hour contact, hours of operation.	To be included in construction manual.	
	7) Coordinate with tree board to implement mandatory tree protection ordinance for all Palmetto Bay. Specific regulations in construction manual and mandatory pre-construction meeting with all contractors.	To be included in construction manual.	
	8) Protect old growth tree canopy. Demarcate protected trees with brightly colored fencing installed prior to commencement of construction.	To be included in construction manual. Will place temporary orange fencing around 136 th St. old growth trees.	



Recommendations on Odor and Vibration

Odor and Vibration Recommendations			
Subject	NPC Recommendation ->	Action	Code Section
Odor and Vibration	1) Inspect and restripe all village intersections and roadways to improve safety. Coordinate with Miami Dade County to have striping done at county's cost.	NPC chair to meet with county commissioner.	
	2) Implementation of a public reporting/tracking system for complaints.	Tracking system in progress.	
	3) Need better enforcement for odor and vibration, mainly from construction.	To be included in construction manual and discussed during mandatory pre-construction meeting with contractor and all subs.	
	4) Focus on proactive compliance over punitive enforcement efforts. Explain expectations upfront.	To be included in construction manual and mandatory pre-construction meeting discussions.	
	5) Use Miami-Dade County construction manual as guide for VPB construction manual.	To be included In construction manual.	
	6) Require mandatory pre-construction meeting.	To be included in construction manual.	
	7) Creation of a citizen advisory board or task force	Six-month project in progress.	
	8) Use performance bonds.	VPB uses performance bonds.	
	9) Maintain all Village assets to the highest standards possible. Budget accordingly.	Budget issue.	
	10) Continue Street-by-Street initiative.	Not able to do now due to limited workforce	
	11) Adjacent neighbor sign-off for zoning change or variance request	Already in code.	
	12) Post and enforce lower speed limit signs in specific areas of village already approved by Council.	Manager will look into it.	



Recommendations on Water Runoff

Water Runoff Recommendations			
Subject	NPC Recommendation ->	Action	Code Section
Water Runoff	1) Bay issues with runoff. Many neighborhood storm water systems flow into our local canals which in turn flow either directly or indirectly into Biscayne Bay. Too many Village residents have modified their swales eliminating runoff catch areas resulting in runoff ending up directly in the canals. The Deering Flow-way is an example of an attempt to fix problems by restoring a more natural flow indirectly to the bay. The natural filtration of canal water by an absorbing land mass helps reduce harmful elements from entering Biscayne Bay. Our committee recommends and wants each property within the village to absorb its own runoff water and recharge the aquifer, not simply create a system of drains that outflow to the bay.	Recommend information campaign by village to all homeowners. Partner with County and newly appointed Bay expert to initiate comprehensive environmental protection efforts and promote awareness within the village and surrounding areas.	
	2) Non-toxic fertilization and pest control of lawns should be recommended, encouraged and promoted to our homeowners to reduce the number of undesirable pollutants entering local canals and Biscayne Bay.	Recommend information campaign by village to all homeowners. Partner with County and newly appointed Bay expert to initiate comprehensive environmental protection efforts and promote awareness within the village and surrounding connected and adjacent areas.	
	3) Rain gardens and grassy swales. Maintaining runoff on property requires creating and maintaining swales that hold and absorb water within each property.	Recommend information campaign by Village to all homeowners. Partner with County and newly appointed Bay expert to initiate comprehensive environmental protection efforts and promote awareness within the village and surrounding connected and adjacent areas.	
	4) Prevent development and construction projects from adversely affecting adjacent single-family residential properties.	Currently being implemented in new developments. Include in mandatory pre-construction meeting with contractor and all subs. Verification of compliance during permit processing.	



Recommendations on Water Runoff (cont.)

Water Runoff Recommendations			
Subject	NPC Recommendation ->	Action	Code Section
Water Runoff	5) Permeable pavement, rain barrels, vegetated filter strips are all ideas that have been promoted within the village.	Recommend information campaign by Village to all homeowners. Partner with County and newly appointed Bay expert to initiate comprehensive environmental protection efforts and awareness within the village and surrounding connected and adjacent areas.	
	6) Budget projects annually that address reducing runoff that negatively impacts local waterways and Biscayne Bay. Investigate and apply for local, state and federal grants that will aid financially in efforts to improve water quality in the C100 canal and ultimately in Biscayne Bay.	Budget issue.	
	7) Modify code to embrace new technology. Look at national standards; don't work with unenforceable code. We need to update code regarding reduction of harmful runoff.	Coordinate efforts with new County Bay expert to tap funding sources that can be utilized to improve water quality by updating outdated codes, adding enforcement to newly enacted codes and budgeting properly each year to continuously improve water quality.	
	8) Update village master plan: 1. The problem or problems need to be identified. 2. Fixes need to be identified to rectify the situation. 3. Budget needs to be set in place along with funding sources to resolve. 4. A prioritization schedule should be set up. 5. Plan in place to resolve issues based upon the prioritized need, separated from politics. Monitoring and maintaining needs to be put in place.	Add runoff issues to the village master plan	
	9) Review and update village storm water master plan created by Kimley -Horn. They originally created a Capital Improvement Program (CIP) for stormwater improvements to prioritize and set the budgets required to plan, construct, operate and maintain the Village's Stormwater Management Program. The CIP is a budgetary tool and is intended to provide an order of magnitude for the Village's yearly funding for the implementation of the Stormwater Utility.	Provide copies of the CIP to all current village council members and senior management to familiarize them with efforts and initiatives from previous councils and administrations in this regard.	
	10) We need to fund additional hours of code enforcement to maintain neighborhood protection within the village. The expansion and development of the downtown already requires additional attention and enforcement of existing codes. Many new developments are planned to start within the coming months. Hundreds of new residents will ultimately move into the Southern end of Palmetto Bay.	Budget issue.	



General Recommendations

General Recommendations			
Subject	NPC Recommendation ->	Action	Code Section
General Recommendations	1) Tree Advisory Board should work hand in hand with village staff to review construction plans and existing tree plantings on proposed construction sites and provide recommendations prior to ground-breaking on any project within the village. Trees determined to remain on subject property to be identified and fenced by contractor and property owner at their expense to prevent damage during construction.	To be included in construction manual and mandatory pre-construction meeting.	
	2) Implement tracking and reporting system for resident issues.	In progress on 6-month timeline.	
	3) Implementation of a construction manual using Miami-Dade County as example.	In construction manual.	
	4) the creation and implementation of a Pre-Construction Requirement Manual and mandatory pre-construction orientation meeting between Village and all contractors and subcontractors for all projects.	In construction manual.	
	5) Negotiate with Miami Dade/Village of Palmetto Bay Police for the enforcement of all laws and ordinances, not just those recognized by Miami Dade County.	Police will write up/report noise when code enforcement officer is not working. The next day, code enforcement will determine whether to write a citation.	