

Regular Village Council Meeting
Meeting Minutes
Tuesday, June 21, 2011
7PM

- A. **CALL TO ORDER:** Mayor Daisy M. Black called the Regular Council meeting for June 21, 2011 to order at 7:06pm.
- B. **SILENT MEDITATION & PLEDGE:** Mayor Black asked everyone to stand for a moment of silent meditation followed by the Pledge of Allegiance.
- C. **ROLL CALL:** Village Clerk was asked to read the roll call sheet. The following were noted as present / absent:

Present: Mayor Daisy M. Black
Vice Mayor Harold E. Mathis, Jr.
Councilperson Claudia V. Cubillos
Councilperson Linda Marcus
Councilperson Omarr C. Nickerson

Also present: Jason Walker, Village Manager
Eugene Morales, Chief of Police
Joseph S. Geller, Village Attorney (arrived after roll call)
Albertha Patterson, Village Clerk

Absent: None

- D. **APPROVAL OF AGENDA:** Mayor Black stated she received information the Office of Commission on Ethics is investigating the process of issuing of the waste collection service contract. Mayor Black removed item H2: Waste Service Contract from the agenda until the investigation with the Office of Commission on Ethics is completed. Councilperson Cubillos added item H2: July 2, 2011 celebration. Councilperson Nickerson added item H5: Budget Workshop.
Councilperson Cubillos moved that the agenda be approved as amended.
Councilperson Nickerson seconded the motion. The motion carried unanimously.
- E. **APPROVAL OF MINUTES FOR THE FOLLOWING MEETING:**
E1. Minutes for April 26, 2011 Regular Council Meeting. – Mayor Black asked for a motion to approve the minutes. Mayor Black stated no comments were received on the minutes, therefore, the minutes are considered approved as presented.
- F. **ACKNOWLEDGMENT OF VISITORS AND/OR SPECIAL PRESENTATIONS:**
Councilperson Cubillos read a letter of appreciation addressed to Chief Morales and his staff for their support provided during the May 21, 2011 Third Annual 5K Armed Forces Run Walk. Councilperson Cubillos stated members of the police department volunteered to work in support of the event.

G. GOOD AND WELFARE: None noted.

H. AGENDA ITEMS:

H1. Report on Auditor Findings for 2009-2010

Village Manager Walker referred Mayor and Council to the Financial Statement booklet provided earlier by Alberni, Caballero & Company, L.L.P., Certified Public Accountants and Consultants on the audit for fiscal year ending September 30, 2010.

Mr. Nestor Caballero stated Mr. Christopher Chiccora served as the supervisor during the audit for the Village will explained the report.

Mr. Chiccora referred all to the Independent Auditors report which is the first report in the financial statement. Mr. Chiccora stated this report is a “clean and unqualified opinion”.

Mr. Caballero stated El Portal is one of the few municipalities in Miami Dade County that received an increase in taxes. Mr. Caballero stated the village property value will begin to stabilize.

Mr. Caballero stated the general fund balance is a “healthy fund balance” as shown in the graph on page six although there was a decrease in the current year funds. The amount of \$527,000 represents about 30 percent of the General Fund expenditures as a fund balance.

Mr. Chiccora stated page nine is a summary of all net assets for 2010 of \$3.5 million compared to \$3.7 million in the prior year.

Mr. Chiccora stated the accounts receivable is down about \$500,000 due to funds received from the prior year. Mr. Chiccora stated there are no violations to report. The only recommendation that is being repeated is the policies and procedures manual which has not been updated due to the new computer system. All other recommendations have been cleared during this year’s audit.

Mayor Black thanked the Villagers for maintaining their property. Mayor Black stated without the Villagers help, this increase in the property value would not have been realized.

Village Manager Walker asked Mr. Caballero to explain the Balance Sheet.

Mr. Caballero stated page 11 in the financial statement booklet indicates the balance in the general fund is \$1.1 million. However, \$637,201 is for the CITT fund. With the deduction of the CITT fund, the balance is \$527,955 in the reserve for the Village to use for any type of emergency like a hurricane.

Village Manager Walker stated the reason he requested Mr. Caballero to explain the balance sheet was due to this report is as of September 30, 2010. In October 2010 after passing the budget, Council agreed to borrow \$53,000 from the general fund balance. Village Manager Walker stated he presented a mid-year budget adjustment that borrowed \$115,000 and when the audit is completed next year that \$527,000 number will be \$412,000.

Village Manager Walker stated the audit has been submitted to the state and can be viewed on the Villager’s website.

H2. July 2, 2011 Celebration

Councilperson Cubillos stated the picnic will be held at Horace Mann Middle School.

Councilperson Cubillos suggested the police officers be paid for their work on July 2, 2011 and funds be donated from each Councilpersons' discretionary fund since the estimated cost for the picnic will be \$2,500 instead of the \$1,500 as before.

Councilperson Marcus stated she has committed her discretionary funds to a project because she did not know of this suggestion to pay the police officers. Councilpersons Mathis, Nickerson and Cubillos stated they have not used any of their discretionary funds and gave Village Manager Walker permission to use portions of their discretionary funds to pay the police officers.

Village Manager Walker stated he received the approval on May 21, 2011 from Miami-Dade County Public School. The picnic is on as scheduled for July 2, 2011 at Horace Mann Middle School from 11am until 2pm.

Councilperson Cubillos asked for volunteers to please come to the Village Hall on Saturday, July 2, 2011 at 9am and ask for her. Assistance will be needed to transport the picnic items to the school.

H3. Amendment 01 to Design Agreement with New Millennium

**RESOLUTION NO.:2011-013 AMENDMENT 01 TO NEW
MILLENNIUM AGREEMENT**

Mayor Black asked the Clerk to read Resolution No.:2011-013 into record.
The Clerk read the subject section of the Resolution.

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL
OF THE VILLAGE OF EL PORTAL, FLORIDA AUTHORIZING
THE VILLAGE MANAGER OF THE VILLAGE OF EL PORTAL,
FLORIDA TO ENTER INTO AMENDMENT 01 TO THE AGREEMENT
FOR PROFESSIONAL DESIGN ENGINEERING SERVICES WITH NEW
MILLENNIUM DESIGN CONSULTANTS, INC., FOR NE 87TH STREET
FROM NE 5TH AVENUE TO NW 2ND AVENUE WITH THE EXCEPTION
OF NE 2ND AVENUE; AND TO TAKE EFFECT IMMEDIATELY
UPON ADOPTION.**

Village Manager Jason Walker explained the purpose of this Resolution stating these funds are from FDOT and this amendment was requested by FDOT but will not exceed \$20,000. Vice Mayor Mathis moved that Resolution No.:2011-013 be approved. Councilperson Cubillos seconded the motion. Resolution No.:2011-013 passed by roll call vote of 5-0.

H4. Proposed Settlement of Workers Compensation Lawsuit

RESOLUTION NO.:2011-012 LAWSUIT SETTLEMENT

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF EL PORTAL, FLORIDA, TO APPROVE ROSEMARY OLIVA'S WORKER'S COMPENSATION SETTLEMENT IN THE AMOUNT OF \$75,000.00, PLUS STATUTORY ATTORNEY FEES IN THE AMOUNT OF \$8,250.00, FOR A TOTAL OF \$83,250.00 AS SETTLEMENT OF THE WORKER'S COMPENSATION CLAIM; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

Attorney Geller introduced Attorney Isabelle Martinez. Attorney Geller stated Attorney Isabel Martinez is here to report on the tentative settlement agreement of the worker's compensation. Attorney Geller stated Ms. Oliva lawsuit of retaliation and unlawful termination is being handled by the Florida League of Cities. Attorney Geller stated Ms. Martinez has done a wonderful job for the village and is unable to elaborate on the pending litigation. Attorney Martinez was referred to the Village by the Miami-Dade County League of Cities.

Attorney Martinez explained the agreements have not been signed. However, the settlement will be comprised of two payments to Ms. Oliva of \$37,500. The total including attorney fees to be paid will be \$83,250.00. Rosemary Oliva Attorney fee was \$8,250. Attorney Martinez stated the retaliatory claim is exclusive of this claim and is therefore pending.

Village Manager Walker stated he will have to take \$20,000 from the reserve to pay the first payment. The second payment will be paid out of next year's budget.

Attorney Geller stated for the record the corrections on Resolution No.:2011-012 of the Lawsuit Settlement that he brought with him.

Councilperson Nickerson moved that Resolution No.:2011-012 be approved. Councilperson Cubillos seconded the motion. Resolution No.:2011-012 passed by roll call vote of 4-1. The one no vote was Vice Mayor Mathis.

Councilperson Marcus asked when a report will be received on the other case from Ms. Oliva. Attorney Geller stated a report should be received in September because the Attorneys usually take the entire month of August off.

H5. Budget Workshop Councilperson Nickerson

Councilperson Nickerson scheduled a Town Hall meeting for July 16th 2011. Councilperson Nickerson stated that he will schedule two Administration and Finance Committee meetings for the month of July. One will be July 13th and the other will be July 16th. Councilperson Nickerson stated the second meeting is to clarify any questions residents may have concerning the budget. Councilperson Nickerson stated tonight our reserve went from \$527,000 to \$392,000 then another \$20,000.

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H5. Budget Workshop (continued)

Councilperson Nickerson stated the Workshop will be held on Saturday, July 16, 2011 from 10am until 12noon and will be an open forum. Councilperson Nickerson explained that the Budget Workshop would be like a Town Hall meeting.

I. RESOLUTIONS / ORDINANCES: None noted.

J. REPORTS:

J1. Village Manager – Jason M. Walker

J1a. White fly - toured the Village with Orkin today

J1b. July 2 celebration

J1c. Water restrictions - Signs around the village for water shortage

Odd home addresses are allowed to water their lawn on Wednesdays and Saturdays from 12am to 10am or 4pm to 11:59pm. Even home addresses will be allowed to water their lawn on Thursdays and Sundays during the same time periods.

Mrs. Chamberlin stated there is a special allowance for the new plants. Mrs. Chamberlin stated it is required that you keep your receipts when you purchase plants as proof.

J1d. ALE committee meets every other Friday.

The committee is working on the following items:

The tree protection ordinance

Swale Ordinance – Residents are responsible for the care of the swale areas.

Banner Ordinance

Banner created to post on Northwest side for Council meeting

These items should be completed by the July meeting.

J1e. Thanks to Mr. Danny Reyes and his company for donating the paint.

J1f. Bid will go out for construction project

J1g. Manager will send letter to villagers on taking away property

J1h. Trailer Park code enforcement to force compliance and payment of fines

J1i. A plan in case the Trailer Park is evacuated.

J1j. ADA ramp has been completed for the park.

J1k. Water truck is in operation. Thanks to Officer Casais for following through on this project.

J1l. Tree Grant: New Trees planted \$10,000 reimbursement applied

J1m. Audit report compared to next year \$49,000 shortfall

J1n. Police negotiation agreement hopefully within the next week

J1o. Piggy backed on a debris hauling contract

J1p. Retirement of Building Permit Clerk

J1q. New Hall Rental agreement went into effect on Monday.

J1r. Special Master Hearings on August 10th, 2011 at 2pm.

J2. Village Mayor – Mayor Black

Mayor Black stated she has a statement to read.

Mayor Black stated she was elected Mayor of El Portal six months ago and setup office to observe the day to day operation of the village.

Mayor Black stated she requested information from Village Manager Walker and has not received all of the information to date to deliver the state of the village address. Mayor Black stated the Village Manager informed her that he was informed by other councilpersons that he did not have to submit anything to her. Mayor Black stated this shows a lack of transparency in the Village and the operation of the village is an “as needed to know” basis with the Mayor.

Mayor Black stated today she spoke with the Florida Department of Environmental Protection (FDEP) and learned that the Village loss the money for the Seawall project because no statements have been sent for reimbursements. Mayor Black stated these plus a number of other reasons she feels the council should terminate the contract with Village Manager Walker for lack of confidence. Mayor Black stated that the Village should look for new eyes as a Manager for the Village.

Village Manager Walker stated he wanted to explain his actions.

Mayor Black stated no explanation was needed because she made a statement. Mayor Black stated her statement was not for vote.

Village Manager Walker stated he could not invoice anything because they had not started work.

Village Manager Walker stated he provided the Mayor with copies of the minutes from the meetings. Village Manager Walker stated when he started he was informed he did not have to provide a written report because his report was given orally. If that was not enough, it was not his fault. It was the Clerk’s minutes.

As a note: the Clerk minutes are summary minute’s not detailed information as what was requested of Village Manager Walker from Mayor Black. Village Manager Walker has a secretary who could provide a typed report to Mayor and Council. Village Manager Walker could read the bullet points for the people.

Mayor Black stated she was informed the Village loss the total \$575.000 because nothing was done with the funds for four years.

J3. Legal Matters – Attorney Joseph S. Geller

Attorney Geller stated the lawsuit was settled involving Ms. Rosemary Oliva with the stated results by Attorney Martinez.

K. UNFINISHED BUSINESS AND GENERAL ORDERS: None noted

L. NEW BUSINESS: None noted

M. GOOD AND WELFARE:

1. Deborah Thompson- 241 NE 88th Street - When are the improvements on 87th Street going to start? Village Manager Walker stated this should start in August or September.

1a. D. Thompson asked what will be done for her as to her swale. During peak hours of traffic, she was unable to get out of her property. How long will the construction last?

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GOOD AND WELFARE (CONTINUED)

Village Manager Walker stated he will not know that information until he receives the MOT (maintenance of traffic) plan agreement. He does not know right now what roads will be closed. The contractor will tell the village how they plan to maintain the traffic.

1b. D. Thompson thanked the council for the card sent to her husband. It meant a lot.

2. **Randolph Morton** (A teacher at Horace Mann). Mr. Morton stated his reason for being here tonight was to get permission to have a used book sale at the picnic. Mr. Morton stated he is trying to raise funds for the Media Center at Horace Mann and was informed that the Village was planning a picnic.

Councilperson Cubillos stated as long as he manages the table for the books --it is ok.

3. Douglas Cunningham - 129 NE 87th Street- asked is the Waste Management contract a done deal? Mr. Cunningham stated he would like another vote on the contract. Mr. Cunningham stated he does not feel those that took money from Waste Management should vote on the contract.

4. William Pollak a native of Miami and a volunteer with two organizations: Scenic Miami and Scenic Miami Dade that include all of the communities in Miami Dade. Mr. Pollak stated his organizations are trying to resist the billboards from being put up all around Dade County. Mr. Pollak stated the organizations that he is affiliated with feel no one wants to come in and build anything around these billboards. Their goal is for the County not to lift a law that has been on the books for some time to limit the billboards. Mr. Pollak stated he will work with Village Manager Walker to get a resolution. Mayor Black stated as long as the council gets the information in time.

5. Kim Flower asked when will tonight's Council meeting be broadcasted?.

The young man that was recording the Council meeting and works with Comcast stated the meeting will be on tomorrow night at 7pm.

Kim Flower stated a lot of the people do not understand the finances of the Village. Mrs. Flower asked Mayor Black now that she has aired her opinion about Village Manager Walker what is she going to do with it?

Mayor Black stated she will work to get the money into the village. Mayor Black stated as Mayor- it all stops with her and the Village will have to wait until next year for this money. Mayor Black stated she was told by Village Manager Walker that he had received an extension to use the money. Mayor Black stated if she has to use her personal money next year, she will be in Tallahassee. Kim Flower stated she hopes Mayor Black reconsider her statement.

6. Barbara Fuechsl -220 NE 85th Street-stated she has gotten to know Jason Walker as a very competent person. Ms. Fuechsl stated she recalls the Manager stating he does not recommend moving ahead on the seawall because it is going to cost a lot more money.

7. Florence Chamberlin - 221 NE 89th Street – I think it has to be better efforts to work together to get things done. Mrs. Chamberlin stated she is pleased to be active with the committee because she feels a part of the Village. Mrs. Chamberlin stated the numbers speak for itself as reflected in the Auditor's report.

8. Doug Cunningham – 129 NE 87th Street- Stated some of our members were offended because of the discussion here. Mr. Cunningham stated he is pleased to hear a discussion. Mr. Cunningham stated he does not want to see everyone agreeing as if they had already discussed the issues.

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9. Irwin Williams stated when the Auditors gave a figure of \$527,000 what they did not say was that amount included all the sick and vacation time on the books. Mr. Williams stated whether the seawall project is a good or bad project, we have to spend the money to get the money back. What happens if we have a real emergency? It is not a thirty day turn around reimbursement system.

Mayor Black stated we have a new villager. Her name is Audrey Sophia Medina. Our new villager is the daughter of Sadri and Tere Medina weighing in at 7lbs, 2ozs and 20 inches. Audrey was born June 16, 2011 and all are well. Congratulations to Mr. & Mrs. Medina.

N. **ADJOURNMENT:** Vice Mayor Mathis moved that the Regular Council meeting of June 21, 2011 be adjourned. Councilperson Marcus seconded the motion. The motion carried unanimously. The Regular Council meeting was adjourned at 8:54pm.

Respectfully submitted,

Albertha Wilks Patterson

Albertha Wilks Patterson, MSM, CMC

Date transcribed: July 25, 2011

Date approved: _____