

VILLAGE HALL  
500 NE 87<sup>TH</sup> ST  
EL PORTAL, FL 33138  
JASON M. WALKER  
VILLAGE MANAGER



MAYOR DAISY M. BLACK  
VICE MAYOR LINDA MARCUS  
COUNCILPERSON CLAUDIA V. CUBILLOS  
COUNCILPERSON OMARR C. NICKERSON  
COUNCILPERSON ADAM OLD

Regular Village Council Meeting  
Tuesday, January 22, 2013  
MINUTES  
7:00PM

**A. CALL TO ORDER:** Mayor Daisy Black, presiding, called the meeting for January 22, 2013 to order at 7:01 PM.

**B. SILENT MEDITATION & PLEDGE:** The Mayor asked all to stand for a moment of silent meditation followed by the Pledge of Allegiance.

**C. ROLL CALL:** Mayor Black asked the Interim Village Clerk, Carolina Montealegre, for a **Roll Call**.

**Present:** Mayor Daisy M. Black, Vice Mayor Linda Marcus, Councilperson Claudia V. Cubillos, Councilperson Adam Old, Village Manager Jason Walker (Not voting), Sitting Village Attorney Oliver G. Gilbert III (Not voting), Chief Eugene Morales (Not voting) and Interim Village Clerk Carolina Montealegre (Not voting).

**Absent:** Councilperson Omarr Nickerson

**D. APPROVAL OF AGENDA:** Mayor Black requested any additions or deletions to the agenda. Hearing none, she approved the agenda.

**E. APPROVAL OF MINUTES FOR THE FOLLOWING MEETING:**

**E1.** Minutes for December 20, 2012, Regular Council Meeting – The Mayor requested a motion to approve the minutes as presented. Councilperson Old motioned for approval and Councilperson Cubillos seconded the motion. The minutes were approved by a unanimous “aye” vote.

**F. ACKNOWLEDGMENT OF VISITORS AND/OR SPECIAL PRESENTATIONS:**

**F1.** Irwin Williams, CFO – October - December 2012 Financials, He started by asking the Council to refer to page 2 of the Unaudited Financial Statements for the 3 months ended December 31, 2012. The statement is on file with the clerk. He discussed the current assets. He pointed out the Variance from December of last year to this year of \$146,000 and said that was due to the construction projects. The Manager added that once we’re reimbursed from the FDOT road project, it will be replenished. The Mayor asked if we were just waiting for the money from them. Mr. Williams said that was correct. Vice Mayor Marcus arrived at 7:05PM. He then turned to each individual budget. The Council budget was first and he highlighted what has been spent

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out of each Councilperson's discretionary fund. The Manager stated that there will be a credit to Councilperson Cubillos' fund from the Target grant. Adam asked if they each gave \$100 from this fund for the 75<sup>th</sup> Anniversary. The Manager said it wasn't needed because the grant paid for all the expenses.

Mr. Williams said that there was nothing to report for the budgets until Public Safety. Councilperson Old asked about the GPS units being taken into account. The Manager said they haven't been purchased yet. He spoke about a new document that they haven't seen before and that was the Special Projects budget worksheets. CITT has some money left over. Vice Mayor Marcus asked if the CITT money was limited to certain projects. He answered yes. The CFO asked everyone to turn to the next page to show what budget to actual looked like for all the projects and then brought special attention to CITT budget and where the money went. The Vice Mayor asked if there was a time limit to spend this money. The Manager said no. The Sherwood Forest Park project is done and we're waiting for small items that the Village needs to be reimbursed for. The CFO asked if there were any more questions for him on the financials.

**G. RESOLUTIONS / ORDINANCES:**

**G1.** Mayor Black reads the short title into the record. Interim Village Clerk reads the long title into the record.

**RESOLUTION NO. 2013-001**

**Gun Control Support**

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF EL PORTAL, FLORIDA OF MIAMI-DADE COUNTY, FLORIDA, ADVOCATING THE PROHIBITION OF SALES AND POSSESSION OF AUTOMATIC, SEMI-AUTOMATIC AND ASSAULT WEAPONS; PROVIDING FOR AN INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.**

**G1a.** The Mayor read a letter into the record that she sent to the emails she has on file, but wanted to read to the general public as well. Points of importance/demands made were:

1. Ban all assault weapons
2. Ban high capacity ammunition clips
3. Establish a minimum age limit on gun users, preferably 18 years and older.
4. National background checks through National Crime Information Center (NCIC)
5. Fix gun background checks and close loopholes for criminals to get guns (Gun Shows)
6. Have gun owners who sell their personal guns to other individuals report the gun sale to local police.
7. Review and amend SB 234 - Open Carry Law.
8. Review and amend HB 45 - Which bans local governments from implementing stricter gun control laws.
9. Review and repeal HB 155 - Which forbids doctors from asking patients if they have guns in their homes.

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- 10.** And the most egregious bill to be reviewed and amended; HB 0249 - Stand Your Ground Law.

The FULL LETTER is ON FILE WITH THE CLERK. The Mayor stated that she will be taking this letter to the Tallahassee next visit.

The Regular Council meeting was closed at 7:18 PM and opened to public comments.

1. Merlin Brooks, 400 NE 90<sup>th</sup> ST, El Portal, FL – In her 20 some years living here in El Portal she has never heard of anything like this happening here. She supports the Mayor’s letter.
2. Barbara Feuschel, 220 NE 85<sup>th</sup> ST, El Portal, FL – She responded to the email the Mayor sent out and appreciated the Mayor’s initiative on gun control. She is glad that this issue is supported on a national level.

The Regular Council meeting was reopened at 7:20 PM. The Mayor asked if there was a motion to adopt the Resolution. Councilperson Old wanted to discuss the Resolution before the roll call vote. He said that the Mayor’s letter was great, but he thinks it’s a little bit different than what’s in the Resolution. He has a problem with the wording of the Resolution because the request to ban semi-automatic weapons includes banning most weapons people have in their home. Automatic and high powered weapons are already heavily regulated and if not, will be in the near future. He would approve the Resolution if the “semi-automatic” weapons were removed from the wording. The Mayor said her letter was not a part of the Resolution. It was something she put together on her own in support of gun control. It’s her remarks in addition to the Resolution. The City of South Miami sent this Resolution to us. Vice Mayor Marcus understands Councilperson Old’s stance. She believes this more of a collective stance of support. The Resolution as written is a little ephemeral, but something needs to be done and this is a way for the municipality to voice their support. Councilperson old said the letter was great but was still worried about the wording of the Resolution. The Mayor read the full Resolution into the record for the benefit of those in the audience.

**Motion:** to approve Resolution No. 2013-001, **Action:** Approve, **Moved by** Vice Mayor Marcus, **Seconded by** Councilperson Adam Old

**Vote:** Motion carried by roll call vote (**summary:** Yes = 2, No=1).

**Yes:** Vice Mayor Linda Marcus, Mayor Daisy M. Black

**No:** Councilperson Old

**Absent:** Councilperson Claudia V. Cubillos, Councilperson Omarr C. Nickerson

**G2.** Mayor Black reads the short title into the record. Interim Village Clerk reads the long title into the record.

**RESOLUTION NO. 2013-002**

**Earth Hour**

**A RESOLUTION OF THE MAYOR AND VILLAGE  
COUNCIL OF THE VILLAGE OF EL PORTAL, FLORIDA  
OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO  
EARTH HOUR PARTICIPATION ON MARCH 23, 2013;**

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**URGING OTHER MUNICIPALITIES TO REGISTER AND PARTICIPATE IN EARTH HOUR; PROVIDING FOR AN INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.**

**G2a.** The Regular Council meeting was closed at 7:26 PM and opened to public comments. Hearing none the Public Hearing was closed and the Regular Council meeting was reopened at 7:26 PM.

**Motion:** to approve Resolution No. 2013-002, **Action:** Approve, **Moved by** Vice Mayor Linda Marcus, **Seconded by:** Councilperson Adam Old.

**Vote:** Motion carried by roll call vote (**summary:** Yes = 3).

**Yes:** Vice Mayor Linda Marcus, Councilperson Adam Old, Mayor Daisy M. Black

**Absent:** Councilperson Claudia V. Cubillos, Councilperson Omarr C. Nickerson.

**H. REPORTS OF THE VILLAGE MANAGER, MAYOR & COMMITTEE CHAIRS:**

**H1. Village Manager Reports: Jason Walker**

- a. **NE/NW 87<sup>th</sup> ST** - FDOT approved 90% reimbursement. Currently going through the final audit due on 2/5/13. Medians not complete yet, but will be by end of January or beginning of February. There was a savings of \$21,000 on project and the Manager will approach FDOT to use that money for additional work.
- b. **Stormwater Phase V** – Down the nature trail and up NW 5<sup>th</sup> Ave. Survey complete, in design phase. SWFMD \$205,000 for construction and design. Once design phase is completed the Village will go out to bid. Passed final inspection for Phase IV (3 drains complete). We saved for 3 years to complete this last project. \$42,000/ year is collected. Save until project fits budget.
- c. **Charrette** – The dates for January and February Information sessions were pushed back at request of county. New dates 2/28, 3/16 for information sessions. Actual Charrette date also moved back to beginning of May. Vice Mayor brought up a date for March and that was pushed back too. Their schedule is pushed back because they're working on and MDC transit Charrette. Shailendra, the County contact, is not giving a firm date for the contract. From his experience it's not conducive to the Charrette process to set a date until after the Information Sessions. Florence Chamberlin graciously volunteered to write a press release, but it should be approved by the Council first. The Manager passed it out to the Council and mentioned that the Mayor was quoted. Vice Mayor Marcus gave Friday as the deadline for any additions/changes to the press release. Mayor Black agreed.
- d. **FRS Lawsuit** – Monies from last year and this year (3% employee contribution) were reserved due to pending lawsuit. There will be a savings of approx. \$31,000 because the courts ruled in favor of the State.

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Councilperson Cubillos will speak at the next Administration & Finance meeting about what to do with the savings. The Audit is scheduled to be on February 25<sup>th</sup>.

- e. **Tot Lot & Sherwood Forest Park** – FMIT (the FLC Insurance branch) paid a visit and some items of concern have been brought to the Administration's attention. Is the cost to repair is under \$5,000 then he will just go ahead perform the work. If it's over, then it will be brought to the Council. Pictures of the possible liability hazards found were passed around. Pictures on file with the clerk. Items should be addressed in the next two weeks. Vice Mayor Marcus asked if it would save us money on our insurance. Councilperson Cubillos asked if it was a routine inspection. The Manager said the last company didn't but FMIT does.
- f. **E-Civis** – The training went well. The Mayor asked what the grants covered. The Manager will send an email to the Mayor containing the 5 grants he found regarding the police Department and copy the Chief and Sgt.
- g. **IT Project** – The Manager asked the Clerk to update the Council on the email migration and network infrastructure upgrade. Ms. Montealegre spoke about the move to the cloud. It will reduce tech calls. The hardware for the server is being upgraded as well. Microsoft Office software and our emails will be moved to a virtual location where you will have access to it anywhere you have access to the internet. The firewall/wireless router will also be upgraded to support more users. The server will store all the property files being scanned in right now. Vice Mayor Marcus asked the Clerk about archiving progress and how will it be made available? Councilperson Cubillos answered by saying that she was going to cover that in Administration & Finance.
- h. **Trailer Park** – Issues have been raised with them regarding a Tenant retention program. They are collecting rent on trailers where they and the Village agreed that they would be removed once unoccupied. He gave an update on the Laundromat demolition project and said that there are four more trailers scheduled for demolition.

Councilperson Old asked for an update on the Annexation. The Manager said he did his part last week and I Ms. Montealegre did her part yesterday. It will be re-submitted tomorrow. Vice Mayor Marcus asked more questions about the Trailer Park. She's not familiar with what the Manager was saying about re-renting trailers that have been vacated. Did he mean trailers are being moved into empty lots or trailers that are being vacated and their moving more people in. The Manager said it was the latter.

## **H2. Committee Chair Reports**

### **a. Public Affairs - Vice Mayor Linda Marcus**

- The Vice Mayor spoke about continuing the slate of events that have been run by Councilperson Cubillos. She also gave a deadline of February 15<sup>th</sup> for newsletter submissions. Quarterly newsletter dates

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set. Minimal hardcopies are going to be made for a eco friendly approach.

**b. Public Works - Chairperson Omarr Nickerson (ABSENT)**

- Councilperson Old spoke in Councilperson Nickerson's place. The NE/NW 87<sup>th</sup> ST project was completed. He brought up the tree in circle being approved by a majority vote at the last meeting and asked the Mayor about her "stop action" request to hold the planting of the tree. The Mayor said she was still worried about the electrical wiring. Councilperson Old said we still voted to place the tree. The Mayor said she didn't want to waste money by planting the tree and then having to remove it. Vice Mayor Marcus also asked about voting procedures. She is not familiar with a "stop action" procedure. The Manager was given direction by vote using the by-laws that were adopted. Councilperson Old said that he thinks the Manager needs a clear mission and when one councilmember tells him to do something and another councilmember directs him to do something else outside of the dais, which leads to an uncomfortable situation. The Mayor said she is looking for the tax dollars coming out of this Village and Councilperson Old said "we all are". The Vice Mayor said she doesn't think it's equitable to say she's worried about money. The Attorney stated that the Council voted on this using Robert's Rules and those rules direct the Council on voting procedures. The motion or resolution gave directions to the Manager to take action. Mayor Black asked for an electrician to come out and address her concern about the roots of the tree damaging the lighting in the circle. Everything was discussed before the vote and she doesn't believe there is anything in the by-laws that allows the Mayor to overturn anything via email. Vice Mayor Marcus referred her question to the sitting attorney, Mr. Gilbert. Attorney Gilbert said that if the Manager is directed to take action, he would assume that part of the process will require the Manager to be safe. He is not familiar with the bylaws but will be happy to review them. Vice Mayor Marcus showed him a document and said that due diligence was done prior to the vote and every member of the council was provided with a report. The Mayor said he did not and that somewhere in that report it did not recommend that type of tree. Councilperson Old said he read the report and there were pros and cons to every issue and given those the council made a decision. The Vice Mayor restated her question about voting mechanisms to overturn a vote. The Mayor asked if they wanted to bring someone in to look at the wiring. The Attorney said that once a vote has been taken the Manager is required to move forward, but that part of that process would be (as the Mayor mentioned) to make sure it's safe. A Resolution compels the Manager to act. The Manager said he would have an electrician come take a look and asked if any further

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action would be needed after that before planting the tree. She said no further action would be needed once the electrician looked at the wiring-root problem and said there won't be one.

**c. Public Safety - Chairperson Daisy M. Black**

- Mayor Black stated that she would hold all reports until after her meeting with the PBA regarding the Police Department. Councilperson Old asked what they were.

**d. Code Enforcement Committee - Chairperson Adam Old**

- Councilperson Old spoke about the appointments for a Charter Revision Commission *of not less than seven (7) Village residents*. It was supposed to happen in March of 2012. Charrette Steering Committee Appointments were discussed. The actual appointments were moved back at the recommendation of the Manager because the Charrette itself was moved back. The Mayor said she believes each councilperson appointed someone to the Charter Revision Commission last time. The Manager recommends that each councilperson appoints someone and the Attorney appoints two residents with some type of legal background and all appointments must be approved by the council. Each member of the Council will appoint a resident to be approved at the Regular Council meeting next month.

**e. Planning & Zoning - Chairperson Daisy M. Black**

- The Mayor said the Manager went over the items in his report.

**f. Administration & Finance - Chairperson Claudia V. Cubillos**

- Councilperson Cubillos spoke about the meeting she had on January 9<sup>th</sup>. One of the first things they spoke about was raising the hourly wage for part time police officers to \$15.00/HR. Hopefully this will appeal to officers so that there isn't only one officer working the midnight shift. There will be a budget workshop in June or July and the date for that will be set at the March Committee Meeting. In her meeting with Jason, Chantel Fernandez's position was brought up. Her part time job was and to scan the records in and she will be meeting with her on Friday to discuss what progress has been made. Will ask Jason where we're at with her. She wants a goal setting/ projects timeline set up to define a vision for Administration. She wants expectations, feedback? The swale was completed and that means that The Little Library goes up in the next 30 days. At the next meeting she wants to discuss the goals for the Village as a whole.

**H3. Village Mayor Reports** – Mayor Black restated that her reports will be on hold until after her meeting with the PBA.

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**H4. Village Attorney Reports** – Sitting Village Attorney Gilbert had nothing to report.

**I. UNFINISHED BUSINESS AND GENERAL ORDERS:** None.

**J. NEW BUSINESS:** None.

**K. GOOD AND WELFARE:**

(Note: This section of the agenda is reserved in the spirit of a representative democracy “of, by, and for people” and is specifically provided as a mechanism for the input and solutions on matters of concern of Villagers. We request that comments be limited to 3 MINUTES PER PERSON, and that speakers and the audience maintain proper decorum at-large. The speaker may speak on any item of concern.)

1. Merlin Brooks, 400 NE 90<sup>th</sup> ST, El Portal – The Manager started to speak after she introduced herself. He spoke with the County about a need for two stop signs at NE 5<sup>th</sup> AVE and 90<sup>th</sup> ST and at NE 3<sup>rd</sup> and 86<sup>th</sup> ST. She thinks someone is going to cause an accident one day. She thanked Councilperson Cubillos for starting her report with the incident that happened last week Monday. She spoke about the vigil that was held for the late Kori Clark and how the neighbors brought up the Police Department’s response time. She wasn’t home when it happened. She said a woman who lives across from the Clark’s was speaking ill of the officers and claimed that El Portal was the third on the scene to arrive. She said she didn’t believe it, but would ask if there was a funding problem in the Police Department? Mrs. Brooks said she was concerned and wanted to know if the raises had anything to do with the shooting, but Councilperson Cubillos already addressed it by saying it didn’t. She supports her Police Department. Jason asked the Mayor if he could address Mrs. Brooks’ statement. He went on to recount his version of events on what happened that afternoon starting with what Mrs. Brooks said and then inviting the Chief to add to his recount. He said the Department responded honorably and there might be a question about the 911 tapes, but that is being pulled by the Chief to clarify any questions. He was there on the scene and he got there before Biscayne Park did, so that statement the neighbor made was untrue. The Manager was on the phone with a resident when the call went out on the radio and as soon as it went out Officer Rego and Chef Morales ran out. He told the resident to hold on and that the police were running out. The shooting took place on NE 90<sup>th</sup> ST and NE 91<sup>st</sup> ST is Miami Shores and they have their own 911 system. They may have arrived before El Portal for that reason, but when the Chief of Police got there he handled the crime scene and even followed them to the hospital where the victim was pronounced dead. He collected the victim’s belongings and gave them to his family. Most calls come in on Wednesday-Saturday nights so most officers are here then, but within 15-20 minutes of the call going out other El Portal officers that weren’t on duty responded. The Mayor said that she heard the same thing Mrs. Brooks said. She said that that same neighbor told her that not one car or uniformed officer from El Portal was there. She also added that she cares about every officer in El Portal and that somebody told a particular officer that the Mayor does not care about the officers. The Manager added



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that from firsthand knowledge the officers did respond. The Mayor isn't saying that the police did not respond, just that the timing was a question. Mrs. Brooks said she wanted to ask because she didn't believe her neighbor.

2. Barbara Feuschel, 220 NE 85<sup>th</sup> ST, El Portal, FL – Mrs. Feuschel says she was the resident on the phone with Jason when he had to hang up because she heard the radio noise in the background. She brought up 911's response time and said Miami Shores has the benefit of having theirs. She can only witness what the Manager said.

**L. ADJOURNMENT:** Mayor & Council

**Motion:** motion to adjourn, **Action:** Adjourn, **Moved by** Councilperson Cubillos, **Seconded by** Councilperson Old. Meeting Adjourned at 8:31 PM.

# of members in audience: 4

*To listen to the full recording of the January Regular Council Meeting, you can click on the link below and download it for your convenience. The link may expire at any time. If you are experiencing difficulty accessing the file, please email your request to the Clerk's office at [cmontealegre@villageofelportal.org](mailto:cmontealegre@villageofelportal.org).*

<https://dl.dropbox.com/u/103397344/2013-01-22%20Regular%20Council%20Meeting.MP3>