

**TOWN OF CUTLER BAY
TOWN COUNCIL MEETING
MINUTES**

Wednesday, February 18, 2009, 7:00 PM
South Dade Regional Library
10710 SW 211th Street, 1st Floor
Cutler Bay, Florida 33189

- 1. CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the mayor at 7:00 PM. Present were the following:

Councilmember Peggy R. Bell
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Vice Mayor Edward P. MacDougall
Mayor Paul S. Vrooman

Town Attorney Mitchell Bierman
Town Attorney Chad Friedman
Town Clerk Erika Santamaria
Town Manager Steven J. Alexander

- 2. PROCLAMATIONS, AWARDS, PRESENTATIONS:** None at this time.

- 3. APPROVAL OF MINUTES:**

A. Councilmember Bell made a correction in the minutes for January 21, 2009 minutes. Councilmember Sochin made a motion approving the corrected minutes of the meeting on January 21, 2009. The motion was seconded by Councilmember Meerbott and adopted by a unanimous voice vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

- 4. REPORTS**

- A. TOWN MANAGER'S REPORT**

The town manager reported that a recent bill had been introduced in the State legislation to freeze impact fees for local governments due to the decline in the economy. He stated the impact of this passing would be devastating to the Town. He reported that an emergency MPO meeting has been called to discuss funding which will be attended by him and the Public Works Director. He reported that he recently approved a Police initiative which includes a DUI detail within the Town. He addressed the concern for legal costs and stated that any ordinances that is in the works would be introduced either in the town manager's report, town attorney's report, or under new business in the agenda.

B. TOWN ATTORNEY'S REPORT

The town attorney reported that the amendments issue has been examined and recommended that amendments may be distributed among the Council, but that there should be no response made by any member to any amendment.

The town attorney stated that an add-on was to be considered in the Consent Agenda. He discussed that the item was brought forward by Councilmember Sochin and the attorney briefly discussed the background of the item.

C. BOARD AND COMMITTEE REPORTS, COUNCIL ANNOUNCEMENTS

Mayor Vrooman introduced the chair of the Communications Committee, Herb Parlato, who continued to present the committees report to the council.

Vice Mayor MacDougall made a motion to accept the report from the Communications Committee. The motion was seconded by Councilmember Sochin and all members were in favor.

Vice Mayor MacDougall stated that he had a replacement for his appointment to the Parks Committee. He introduced Donna Moser and gave a brief background on his appointment. Vice Mayor MacDougall made a motion to approve Donna Moser as his appointee to the Parks Committee. The motion was seconded by Councilmember Bell and all the members were in favor.

5. CONSENT AGENDA:

- C. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REPEALING RESOLUTION 08-22 RELATING TO THE CREATION OF THE TOWN COMMUNICATIONS COMMITTEE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Vice Mayor MacDougall pulled Items A, B, and E. Mayor pulled Item D.

Councilmember Bell made a motion to approve the Consent Agenda as amended with pulled Items A, B, D, and E. The motion was seconded by Councilmember Sochin and Resolution 09-14 was adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following add-on resolution by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AN AMENDMENT TO THE CONTRACT WITH WIALAN TECHNOLOGY FOR THE PROVISION OF WIRELESS SECURITY CAMERAS IN CUTLER RIDGE PARK TO ADD FUNCTIONALITY THERETO TO PROVIDE FREE

WIRELESS INTERNET SERVICES TO PARK USERS WITHIN CUTLER RIDGE PARK IN AN AMOUNT NOT EXCEED \$50.00 PER MONTH; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Sochin provided a brief oral presentation on the resolution.

Councilmember Sochin made a motion to approve the resolution. The motion was seconded by Vice Mayor MacDougall and Resolution 09-17 was approved by unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following resolution by title:

- A.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO THE PROVISION OF STORMWATER IMPROVEMENT PROJECT; AUTHORIZING THE ISSUANCE OF A INVITATION TO BID (ITB) FOR CUTLER RIDGE ELEMENTARY AREA ROADWAY AND DRAINAGE IMPROVEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The town manager provided a brief oral presentation on the resolution.

Rafael Casals, Public Works Director, addressed the Council.

After some discussion, Councilmember Bell made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and Resolution 09-12 was approved by unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following resolution by title:

- B.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO THE PROVISION OF STORMWATER IMPROVEMENT PROJECT; AUTHORIZING THE ISSUANCE OF A INVITATION TO BID (ITB) FOR SAGA BAY DRAINAGE BASINS 1.3 AND 1.4 ROADWAY AND DRAINAGE IMPROVEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Rafael Casals, Public Works Director, addressed the Council.

After brief discussion, Vice Mayor MacDougall made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and Resolution 09-13 was approved by a unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following resolution by title:

- D.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE TOWN'S COMPREHENSIVE PARKS MASTER PLAN; AND PROVIDING AN EFFECTIVE DATE.

Alan Ricke, Parks and Recreation Director, addressed the Council.

Councilmember Meerbott made a motion to defer the resolution until the next meeting. The motion was seconded by Councilmember Bell and failed by a 2-3 voice vote. The vote was as follows: Councilmembers Bell and Meerbott voting Yes; Councilmember Sochin, Vice Mayor MacDougall and Mayor Vrooman voting No.

After some discussion, Vice Mayor MacDougall made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and Resolution 09-15 was approved by 4-1 voice vote. The vote was as follows: Councilmembers Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes; Councilmember Bell voting No.

The town clerk read the following resolution by title:

- E.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE ADMINISTRATIVE ORDER "FEE SCHEDULE FOR THE PLANNING AND ZONING DIVISION" RELATING TO THE REVISION OF THE TOWN OF CUTLER BAY PLANNING AND ZONING DIVISION FEE SCHEDULE; PROVIDING FOR AN EFFECTIVE DATE.

Robert Daddario, Finance Director, addressed the Council.

After some discussion, Councilmember Sochin made a motion to approve the resolution. The motion was seconded by Councilmember Meerbott and Resolution 09-16 was approved by a 3-2 voice vote. The vote was as follows: Councilmembers Meerbott, Sochin and Mayor Vrooman voting Yes; Councilmember Bell and Vice Mayor MacDougall voting No.

6. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)

ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL BE SWORN-IN PRIOR TO GIVING TESTIMONY AND MAY BE SUBJECT TO CROSS EXAMINATION. ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL STATE THEIR NAME AND ADDRESS FOR THE RECORD.

7. ORDINANCES FOR FIRST READING (PUBLIC HEARING NOT REQUIRED)

The clerk read the following ordinance, on first reading, by title:

- B.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATING TO CERTIFICATES OF RE-OCCUPANCY FOR THE SALE OF HOMES THAT HAVE ALREADY BEEN OCCUPIED; AMENDING THE SCHEDULE OF VIOLATIONS AND CIVIL PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The town manager gave an oral report on the ordinance.

Councilmember Sochin made a motion to approve the ordinance. The motion was seconded by Councilmember Meerbott and the ordinance was approved by a unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The mayor recessed the council meeting at 9:00 p.m. The mayor reconvened the council meeting at 9:15 p.m.

8. ORDINANCES FOR FIRST READING (PUBLIC HEARING REQUIRED)

9. ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED):

The clerk read the following ordinance, on second reading, by title:

- A.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REVISING FEES FOR COMMERCIAL AND MULTI-FAMILY RESIDENTIAL SOLID WASTE COLLECTION FRANCHISEES; PROVIDING FOR A DUMPSTER REGISTRATION FEE PAID BY THE FRANCHISEE FOR COMMERCIAL AND MULTI-FAMILY RESIDENTIAL SOLID WASTE COLLECTION ACTIVITIES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The town manager gave an oral report on the ordinance.

The mayor opened the public hearing. Bill Meiklejohn, 9311 Sterling Drive, addressed the Council.

Councilmember Meerbott made a motion to bifurcate the amendments included in the ordinance. The motion was seconded by Councilmember Sochin and the amendments of the ordinance were approved to be bifurcated by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Meerbott made a motion to approve the first amendment which was to include the fee exemption for 501c(3) organizations in the ordinance. The motion was seconded by Vice Mayor MacDougall and the amendment of the ordinance was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Vice Mayor MacDougall made a motion to deny the second amendment which was to include an annual dumpster registration fee of \$25.00 for each dumpster or large container being serviced within the Town by the franchisee. The motion was seconded by Councilmember Bell and amendment was denied by a 4-1 roll call vote. The vote was as follows: Councilmembers Bell,

Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes; Councilmember Sochin voting No.

The clerk read the following ordinance, on second reading, by title:

- B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 06-10 ENTITLED, "FLOODPLAIN MANAGEMENT REGULATIONS"; UPDATING DEFINITIONS; REVISING TOWN STANDARDS TO CONFORM TO FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) GUIDELINES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The town manager gave an oral report on the ordinance.

The mayor opened the public hearing. There were no speakers.

Councilmember Sochin made a motion to approve the ordinance. The motion was seconded by Councilmember Meerbott and Ordinance 09-06 was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The clerk read the following ordinance, on second reading, by title:

- C. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATING TO THE PROTECTION OF TREES WITHIN THE TOWN; PROVIDING FOR THE REGULATION OF THE SAFEGUARDING, MAINTENANCE, AND REMOVAL OF TREES WITHIN THE RIGHT-OF-WAY OF THE TOWN OF CUTLER BAY; SETTING FORTH TOWN RIGHTS AND RESPONSIBILITIES; SETTING FORTH THE DUTIES OF THE TOWN; DESCRIBING PRIVATE LANDOWNER RIGHTS AND RESPONSIBILITIES; CREATING A PUBLIC EDUCATION PROGRAM; SETTING UP A SYSTEM FOR PERMITTING AND BOND REQUIREMENTS; PROVIDING FOR PENALTIES AND NOTIFICATION; SETTING FORTH TOWN INDEMNIFICATION GUIDELINES; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

The town manager gave an oral report on the ordinance.

The mayor opened the public hearing. There were no speakers.

Councilmember Meerbott made a motion to approve the ordinance. The motion was seconded by Councilmember Bell and Ordinance 09-07 was approved by unanimous 5-0 roll call vote. The

vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The clerk read the following ordinance, on second reading, by title:

- D. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33 "ZONING" ARTICLE VI "SIGNS" SECTION 33-96.5 RELATING TO THE MAXIMUM HEIGHT FOR FLAG POLES IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE. (MEERBOTT)**

Planning director, David Hennis, provided a brief report on the ordinance.

The mayor opened the public hearing. Tom Condon, 19641 Holiday Road and Bill Meiklejohn, 9311 Sterling Drive, addressed the Council.

Councilmember Bell offered the following amendments:

- Reducing the proposed maximum height of the flag pole to 25 feet.
- Reducing the amount of flag poles allowed on residential properties with less than 7,500 square feet lot area.
- Reducing the amount of flag poles allowed on residential properties with more than 7,500 square feet lot area.

Councilmember Meerbott offered the following amendment:

- Notwithstanding anything in this ordinance, any flag pole in exists on the effective date of this ordinance that is not in an unsafe condition shall not be considered a violation.

Councilmember Meerbott made a motion to approve the amended ordinance with the foregoing amendments. The motion was seconded by Vice Mayor MacDougall and Ordinance 09-08 was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The clerk read the following ordinance, on second reading, by title:

- E. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCES 08-11 AND 08-12 TO PROVIDE FOR AN EXTENSION TO THE MORATORIUMS ON DEVELOPMENT WITHIN THE TOWN; PROVIDING FOR A TERM; PROVIDING FOR A REPEALER; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.**

Planning director, David Hennis, provided a brief report on the ordinance.

The mayor opened the public hearing. Tom Condon, 19641 Holiday Road, addressed the Council.

Councilmember Bell made a motion to approve the ordinance. The motion was seconded by Councilmember Sochin and Ordinance 09-09 was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The clerk read the following ordinance, on second reading, by title:

- F. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, UPDATING REGULATIONS RELATED TO TEMPORARY STORAGE UNITS AND FREIGHT CARGO CONTAINERS; CREATING PERMIT REQUIREMENTS; CREATING ANNUAL REGISTRATION FEE; CLARIFYING FEE REQUIREMENT RETROACTIVE TO PASSAGE OF INITIAL ORDINANCE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE AND PROVIDING FOR AN EFFECTIVE DATE.

Planning director, David Hennis, provided a brief report on the ordinance.

The mayor opened the public hearing. Bill Meiklejohn, 9311 Sterling Drive, addressed the Council.

Councilmember Meerbott made a motion to change both registration fees to \$250.00. There was no second to the motion, therefore the motion died due to lack of a second.

Councilmember Sochin made a motion to approve the ordinance as stated. The motion was seconded by Councilmember Meerbott and Ordinance 09-10 was approved by a 4-1 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, and Mayor Vrooman voting Yes; Vice Mayor MacDougall voting No.

10. PUBLIC COMMENTS

THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.

The following individuals spoke: Steve Zarzecki, 9640 Martinique Drive and Bill Meiklejohn, 9331 Sterling Drive.

11. MAYOR AND COUNCIL COMMENTS

Councilmember Sochin discussed he met with key officials in his recent trip to Tallahassee in reference to the recent submittal of a bill to prohibit local governments from passing a similar security camera ordinance much like the Town's.

Vice Mayor MacDougall thanked the Cutler Bay policing unit for their continued efforts. He also discussed his concerns with legal costs from the town attorney's office. He suggested that the Council should explore other options for legal representation.

Councilmember Bell also addressed the legal costs of the town attorney, she suggested that the Council should conduct a workshop to explore the other options as the Vice Mayor suggested. She mentioned that she spoke with the town manager in reference to this issue and he agreed that he would bring up any upcoming ordinances during the New Business of the agenda before something is drafted. Member Bell thanked Rafael Casals, Public Works Director, for cleaning out the storm drains along SW 216th Street. She advised the Council that the special events volunteers and the Parks and Recreation Department are arranging an Arbor Day celebration and that more information will be available very soon.

Councilmember Meerbott addressed the legal costs concern. He requested that the town manager bring forward some ideas to the Council to reduce costs. He stated that at a recent transportation committee meeting at Chamber South was quite successful and that many surrounding cities expressed interest in bringing more transportation solutions to the southern region of Miami.

Mayor Vrooman stated that the legal costs were a directive that he took on. He stated that he has not followed through with this directive for various pending reasons. The mayor confirmed that the legal cost issue must be addressed. He addressed a comment that was made during the meeting in reference to fees. He stated that fees are everywhere and most of the fees provide vital services to the residents. He mentioned that there is no motive to implementing fees and that the Town's organization is working on minimum staffing to produce maximum results.

12. OTHER BUSINESS: None at this time.

13. ADJOURNMENT

The next council meeting will be held on March 18, 2009 at South Dade Regional Library.

The meeting was officially adjourned at 11:00 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Council on
this 18th day of March, 2009.*

Paul S. Vrooman, Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN 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 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 TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.