

# TOWN OF MIAMI LAKES, FLORIDA

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## MINUTES TOWN COUNCIL MEETING - ZONING

January 18, 2005

7:00 p.m.

Miami Lakes Middle School  
6425 Miami Lakeway North  
Miami Lakes, Florida 33014

1. **CALL TO ORDER:** The Mayor called the meeting to order at 7:22 p.m.
2. **ROLL CALL:** In addition to the Mayor, the following Council Members were present at roll call: Mary Collins, Robert Meador, Michael Pizzi, Nancy Simon, Peter Thomson and Vice Mayor Roberto Alonso. The following staff members were also present: Town Manager, Alex Rey, Deputy Town Clerk, Evelyn Roig and Town Attorney Nina Boniske and Michael Marrero of the law firm Weiss, Serota, Helfman, Pastoriza, Guedes Cole & Boniske, PA.
3. **PLEDGE OF ALLEGIANCE:** The Mayor led the pledge.
4. **PUBLIC HEARING - ORDINANCES - SECOND READING:**
  - a. **AMENDING CHAPTER 21 OF THE TOWN CODE REGARDING MAINTENANCE OF PERIMETER WALLS AND FENCES; PROVIDING FOR CORRECTIVE ACTION BY THE TOWN; PROVIDING FOR THE ASSESSMENT OF LIENS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR AN AMENDMENT TO SECTION 8CC-10 OF THE TOWN CODE**  
(Pizzi)

The Town Attorney read the Ordinance by title.

The Town Manager spoke about the ordinance and mentioned that it will address the maintenance requirements of the Town's perimeter walls and establish uniform colors.

The Mayor opened the public hearing. The following residents spoke before the Council regarding this item:

- Raul Gastesi
- Jose Enriquez
- Felicia Salazar
- John Gonzalez
- Rafael Lopez
- Gunilla Crawford
- Irene Berman
- Bernard Zango Jr.
- Ladd Howell

Hearing no additional members of the public in favor of or in opposition to the ordinance, the Mayor closed the public hearing and re-opened the Zoning meeting.

Councilman Pizzi moved adoption of the ordinance on second reading. Councilman Thomson seconded the motion.

Councilman Pizzi spoke about the need for the ordinance and noted that the Town has worked in the past to beautify the perimeter walls. He spoke about the maintenance required for the perimeter walls and added that if residents do not repair the walls, the Town now has the authority to repair it and enforce its maintenance.

Councilman Thomson thanked the homeowners associations for maintaining their walls.

Councilwoman Simon requested that the definition of “perimeter wall” be entered into the record. The Town Planner noted that the definition can be derived from Item 4A (p. 7, Sec. 5.9, A4(a) of the ordinance.

The Town Attorney mentioned that once the policy is put into procedure, the Building Department can develop the definition of the perimeter wall.

Councilwoman Simon expressed concern about the legal aspect of the Town entering private property to repair the perimeter walls. She asked that the insurance be reviewed in regards to the Town’s liability.

Per Councilman Meador’s request, the Town Manager spoke about implementing the uniform code especially to neighborhoods where the walls are properly maintained, but do not meet the color standards. The Town Manager noted that the Town will work with the residents as for the proper implementation.

Councilwoman Collins questioned as to how long do the residents have to comply. The Town Manager noted that if the wall is in bad condition, the wall will need to be repainted with the uniform color and that if an owner wishes to repaint a wall, it will have to meet the color standards. The Town Manager further mentioned that walls that have been recently painted and properly maintained, the code will not be enforced until the wall requires repainting.

Following discussion, the motion carried unanimously on roll call.

*The Mayor recognized Commissioner Natasha Seijas who was in the audience.*

Councilwoman Collins requested, the Town Manager explain what a Deed Restriction was. The Town Manager noted that a Deed Restriction is an

agreement between the buyer and seller that requires the property owner to comply with certain conditions.

- b. AMENDING ARTICLE 5, ALLOWABLE ENCROACHMENTS INTO THE REQUIRED YARDS AND EXCEPTIONS TO THE MAXIMUM PERMITTED HEIGHTS IN ALL ZONING DISTRICTS; ADDING PROVISIONS FOR DECKS AND WALKWAYS; DRIVEWAYS AND PARKING SPACES; FENCES, WALLS AND GATES; HEDGES; PROJECTIONS AND OVERHANGS INTO THE REQUIRED YARDS; ANTENNAS AND SATELLITE DISHES; SWIMMING POOLS, HOT TUBS, SCREEN ENCLOSURES AND POOL DECKS; TENNIS COURTS; AND EXCEPTIONS TO HEIGHT RESTRICTIONS, ALL AS INCLUDED IN EXHIBIT “A” HEREIN** *(Rez)*

The Town Attorney read the Ordinance by title.

Town Planner made a presentation. Mr. Valdes proceeded to discuss the changes in various sections of the ordinance.

The Mayor opened the public hearing. The following residents spoke before the Council regarding this item:

- Kim Miller
- Frederick Perry
- J.C. Wilson
- Trish Morgan
- Mirtha Mendez
- Pedro Carballo
- Dr. David A. Bennet

Hearing no additional members of the public in favor of or in opposition to the ordinance, the Mayor closed the public hearing and re-opened the Zoning meeting.

Vice Mayor Alonso spoke about the residents’ concerns in regards to the new code dealing with hedges on the front yards of properties. He also expressed concern about this issue and mentioned that he does not recall voting in favor of the hedges issue.

Councilman Pizzi spoke against penalizing residents retroactively, who have complied with the old code, in a way that might create a hardship.

The Town Manager noted that hedges are neither structural nor personal properties and can vary in height and dimension over time. He added that as a result the Town will allow a one year moratorium for the resident to come into compliance.

Councilman Pizzi expressed concern about approving the issue dealing with hedges and cited that he does not feel that the Town is extending the same

protection to residents with hedges as it is extending residents with structures such as walls.

Councilman Meador expressed concern about maintaining hedges at a safe height. He further asked the Town Planner to indicate where the terms “fences” and “walls” and the type of materials that will be allowed for their construction are defined in the code. Mr. Valdes noted that the description of the types of fences was omitted to include all types of fences. Councilman Meador questioned why not all the allowed materials are listed. Mr. Valdes cited that presently materials are used that were not available in the past.

Councilwoman Simon spoke about the restrictions on ornamental landscape features. She suggested that residents be permitted to keep their creative features. Mr. Valdes mentioned that certain regulations should be in place. Councilwoman Simon requested to enter into the record that the Town will not proceed to require residents to reduce the size of their ornamental features.

Councilwoman Simon further spoke about overnight parking not being permitted on landscaped swales. She requested clarification with regards to landscaped swale areas since the code forbids landscaping the swale areas. She cited that residents should be allowed to plant around the trees in the swale areas. Mr. Valdes clarified that landscaped swale refers to the approach areas.

Councilwoman Simon spoke about the chain linked fences and cited the houses in the Lake Patricia area whose chain linked fences have been in place since the construction of the houses. She noted that many of those residents might not have the actual permits for the fences due to the longevity of the fences. Councilwoman Simon requested that for the record, to appease the residents, the Town clarify that residents will neither be required to pull the fences and install green coated vinyl fences nor will they have to take them down if the permit cannot be found. Mr. Valdes mentioned that if a fence is more than 50% damaged, the resident will have to comply with the present code for its repair.

Councilwoman Simon expressed disagreement with the code not allowing residents to plant hedges on their front yard.

Vice Mayor Alonso made a motion to amend the restriction of not allowing hedges on the sides of the front yards. Councilman Meador seconded the motion. Motion carried unanimously.

- c. **CREATING ARTICLE 6, SUPPLEMENTARY USE REGULATIONS PERTAINING TO THE APPEARANCE AND CARE OF PREMISES; HOME OFFICES; EASEMENTS; NUISANCES; WATERFRONT PROPERTIES; BOATS AND WATERCRAFT; COMMERCIAL AND RECREATIONAL VEHICLES; AND ROOFS; ALL AS INCLUDED IN EXHIBIT “A” HEREIN** *(Rey)*

The Town Attorney read the Ordinance by title.

The Town Planner made a presentation. He cited changes to the code.

The Mayor opened the public hearing. The following residents spoke before the Council regarding this item:

- Abe Balmori
- John F. Greaney
- Alicia Pamies
- Humberto Garcia
- Gianna Sheinheitt
- Ozzie Romero
- Yanet Vega
- Sam Budlong
- Maria Ramirez
- Mirtha Mendez
- Ben Ostrovsky
- Richard McCrory
- Susana Gil

Hearing no additional members of the public in favor of or in opposition to the ordinance, the Mayor closed the public hearing and re-opened the Zoning meeting.

Councilman Pizzi noted that many of the residents in the Town purchased their homes because the deed restrictions allowed the storage of boats on their properties. He mentioned that the code allows a provision that the boats be allowed on the property as long as the boat is registered with the Miami-Dade County. He expressed concern about the residents wishing to purchase new boats and not being allowed to keep the new boat on their property. Councilman Pizzi recommended that Item 6.6 (A) be changed to its original wording.

Councilman Pizzi made a motion that the Council reverts to the original language in Section 6.6 (A). Councilwoman Simon seconded the motion.

Councilman Thomson mentioned that Councilman Pizzi is referring to residents who purchased their homes in Miami Lakes while the area was considered unincorporated Dade Miami-Dade County. He noted that he is not in favor of applying this amendment of the code to the whole Town based on this small section of the Town.

Councilwoman Simon expressed concern about not allowing residents to keep a boat in their backyard when such boat cannot be seen from the outside.

Councilman Meador agreed with Councilman Thomson and noted that if the boat was legal upon incorporation, the boat will be allowed to remain legal.

Councilman Pizzi expressed concern about residents whose boats are protected under the ordinance not have their new boats protected should they chose to replace their boats.

Councilman Pizzi requested to amend his motion to allow the residents who are allowed to have their boats right now the right to maintain that right until they sell their home and not lose that right if they decide to replace their boats.

Vice Mayor Alonso expressed concern about the wording of the ordinance.

The Town Attorney read the proposed amendment to the ordinance as follows:

*A boat or personal watercraft may be replaced with a boat or personal watercraft of equal or smaller length provided that the boat or personal watercraft is registered with the Town within 180 days within the date of the purchase of the boat. The boat or personal watercraft must be registered to the owner of the property. Once the residence is sold no further boats or personal watercrafts may be kept on the property unless the boat or personal watercraft complies with this code.*

Following discussion, the motion carried 5 to 2.

Councilman Pizzi made a motion to take out Section C (1) d. The motion failed to carry by voice vote.

Councilman Meador moved to separate out Section C (1) d to its own identification. It was seconded and the motion carried by voice vote.

Councilwoman Collins moved adoption of Item 4( C) as amended. Councilman Meador seconded the motion, which carried 6 to 1 on roll call with Councilwoman Simon dissenting.

*Following a 5-minute recess, the Council reconvened.*

**ROLL CALL:** In addition to the Mayor, the following Council Members were present at roll call: Mary Collins, Robert Meador, Michael Pizzi, Nancy Simon, Peter Thomson and Vice Mayor Roberto Alonso. The following staff members were also present: Town Manager Town Manager, Deputy Town Clerk Evelyn Roig and Town Attorney Nina Boniske and Michael Marrero of the law firm Weiss, Serota, Helfman, Pastoriza, Guedes Cole & Boniske, PA.

- d. CREATING ARTICLE 7, ENVIRONMENTAL REGULATIONS; PROVIDING FOR ADOPTION OF LANDSCAPE REQUIREMENTS FOR SINGLE-FAMILY AND TWO-FAMILY DISTRICTS, ALL AS INCLUDED IN EXHIBIT “A” HEREIN; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS;** (Rey)

The Town Attorney read the Ordinance by title.

The Town Planner mentioned that based on the comments received, the section dealing with hedges will be changed back. He noted other changes to the code.

The Mayor opened the public hearing. The following residents spoke before the Council regarding this item:

- Henry Herranz
- Mirtha Mendez

Hearing no additional members of the public in favor of or in opposition to the ordinance, the Mayor closed the public hearing and re-opened the Zoning meeting.

Councilwoman Collins moved adoption of the ordinance. Councilman Thomson seconded the motion.

Councilwoman Collins moved to amend the ordinance to prohibit hat-racking trees. Vice Mayor Alonso seconded the motion. The motion carried unanimously.

Councilman Meador made a motion to allow Mr. Valdes to adjust the section dealing with hedges. Councilman Thomson seconded the motion.

The Mayor noted that staff's recommendation dealing with hedges was going to be the recommendation that the Council passed in the previous section.

Councilman Meador spoke about the code not allowing planting around the trees in the swale areas. He expressed concern about residents taking care of the trees in front of their yards and not being able to plant around them. The Manager noted that the code would be clarified to allow planting of annuals or perennials or similar plants.

Councilman Meador made a motion to clarify that planting of annuals, perennials and other similar plants around trees in swale areas would be allowed. Councilwoman Simon seconded the motion. The motion carried unanimously. Councilwoman Simon moved the adoption of Section 4 (d) including the language of the Town planner dealing with hedges. Vice Mayor Alonso seconded the motion.

Councilman Pizzi inquired about whether residents are considered to not be in compliance if they do not have the required three trees on their property. The Town manager noted that the code would be enforced when improvements are made to the property's landscaping. Vice Mayor Alonso cited that landscaping requirements must be met prior to receiving a Certificate of Occupancy for a home. He noted that if the trees are removed after the residents move in, they should be considered to be in violation.

Following discussion, the motion carried unanimously on roll call.

## 5. PUBLIC HEARING - RESOLUTIONS

- a. **FINAL PLAT – MIAMI LAKES CAR MAX; 6300 N.W. 167<sup>TH</sup> STREET A RESOLUTION APPROVING A REPLAT OF TRACTS B, C, AND D OF MIAMI LAKES BUSINESS PARK NORTH ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 149, AT PAGE 20 OF THE PUBLIC RECORDS OF MIAMI DADE MIAMI-DADE COUNTY, FLORIDA LYING IN THE NORTHWEST ¼ OF SECTION 13, TOWNSHIP 52 SOUTH, RANGE 40 EAST, TOWN OF MIAMI LAKES, MIAMI-DADE MIAMI-DADE COUNTY, FLORIDA.**

The Deputy Town Clerk swore in the residents wishing to speak before the Council.

The Town Attorney read the resolution by title.

The Town Planner noted that staff recommends approval of the application.

The Mayor opened the public hearing. Hearing no members of the public in favor of or in opposition to the resolution, the Mayor closed the public hearing and re-opened the Zoning meeting.

Councilwoman Collins moved adoption of the resolution. Councilman Pizzi seconded the motion. The motion carried unanimously on roll call.

- b. **A RESOLUTION APPROVING THE DEVELOPMENT AGREEMENT BETWEEN LOWELL AND BETTY DUNN AND THE TOWN OF MIAMI LAKES.**  
*(Page 59)*

The Town Attorney read the resolution by title into the record.

The Town Manager noted two corrections to the packet received by the Council. He noted that in the Manager's memo regarding a letter received by the Miami-Dade County dated November 18, 2004 the letter was superseded on January 11, 2005. He added that in the development agreement on page 1, exhibit 1, Miami-Dade County's involvement portion will be removed.

The Town Planner recommended approval of the resolution by the Town Council and read the conditions and requirements for the approval.

The Attorney representing Lowell and Betty Dunn stated for the record that he and his clients do not believe that this issue is a quasi-judicial matter, but rather a legislative matter. He spoke about the agreements regarding Dunwoody Forest and Dunwoody Lakes. He noted that the agreement serves as a way to expedite the construction of 87<sup>th</sup> Avenue since Dunwoody Lakes is not ready for construction. He added that the construction of 87<sup>th</sup> Avenue and 154<sup>th</sup> Street would commence upon execution of the agreement at no cost to the Town. He

requested a reservation of concurrency for Dunwoody Lakes for ten years. He added that the Town has also agreed to reserve roadway capacity for Dunwoody Forest if that application is approved. The Dunn's attorney stated that the agreement is expressed at this point and does not constitute approval of the Dunwoody Forest application. He added that approval of this agreement also does not nullify the existing obligation on the Dunn's that were approved pursuant to the Dunwoody Lakes application.

Mr. Lowell Dunn II spoke before the Council.

The Mayor opened the public hearing. The following members of the audience spoke before the Council:

Miami-Dade County Commissioner Natasha Seijas addressed the Council. She defended Lowell Dunn's position but expressed disapproval about the way the agreement was composed. She further spoke about a letter dated January 11<sup>th</sup>, 2005 and noted that the letter is not signed by Mr. Dunn and added that the County has not received copy of this letter. She additionally asked that a copy be sent to her office no later than tomorrow (Jan. 19<sup>th</sup>). Commissioner Seijas questioned why the Dunns are required to construct NW 87<sup>th</sup> Avenue as per the Development Agreement section of the agreement. She further spoke about the portion dealing with the third party agreement with Miami-Dade County. Commissioner Seijas noted that the Town cannot set the pace for the County to build a road. She stated that in matters involving the County there should be some cooperation by the Town. Commissioner Seijas also mentioned that there is no need to put Mr. Dunn through the agreement.

Commissioner Seijas mentioned that she has no involvement with the running of governmental entities and added that she respects everybody and expects to also be respected as a Miami-Dade County Commissioner. She further mentioned that if the agreement is brought to the County, the County will question why the Town of Miami Lakes is telling it what to do. She added that the Miami-Dade County does not tell the Town what to do in matters dealing with hedges, trees, boats, etc.

Commissioner Seijas stated that the Town is making decisions for the Miami-Dade County with this agreement that are none of its business.

The following residents also spoke before the Council:

- Dr. David Bennett, spoke against the item.
- Pedro Carballo, spoke against the item.
- Mirtha Mendez, spoke against the item.
- Denise Mendez, spoke against the item.

Hearing no additional members of the public in favor of or in opposition to the resolution, the Mayor closed the public hearing and re-opened the Zoning meeting.

In response to residents' concerns, the representative for Lowell Dunn noted that the traffic from the new Hialeah area would not have an impact on NW 154<sup>th</sup> Street since the street does not go through to Hialeah. He also added that Dunwoody Lakes currently has concurrency and that concurrency could be denied for Dunwoody Forest if the application is denied when it is presented for approval. The representative mentioned that if the Dunns never get approval for the development, the Town will never have NW 87<sup>th</sup> Avenue developed. He noted that Lowell Dunn is asking that the concurrency be extended for the ten year period recognized by law. He added that Lowell Dunn will immediately, upon the approval of this agreement, give the Town or the Miami-Dade County the needed roadway, right of way dedication and Lowell Dunn will construct the roadway at the stated time period in 2007. He noted that under the current approval, there is no required stated time for Lowell Dunn to construct the roadway.

Manager to address the concerns brought up by Miami-Dade County Commissioner Natasha Seijas.

The Town Manager mentioned that the agreement is between Miami Lakes and the Lowell Dunn. In the agreement, Dunn is committed to dedicate land to the Town and/or Miami-Dade County. He noted that the land being dedicated to the Miami-Dade County is NW 87<sup>th</sup> Avenue and the land dedicated to the Town would be NW 154<sup>th</sup> Street. The Town Manager stated that the Miami-Dade County is not currently part of the agreement, as expressed by the language. He added that the agreement recognizes that Mr. Dunn may enter into an agreement with Miami-Dade County for the construction of the road and that if he is able to do this, it would be a way for him to comply with the agreement. The Town Manager further added that the Town has no way to obligate and dictate to the Miami-Dade County that they have to build that road. The Town Manager stated that the only obligation the Town can have is for the developer to build the road. He added that the Dunn Family has the obligation to build the road as owners of the property. He noted that if the Dunns can find someone to help with the cost of developing the road that would be a separate agreement.

The Town Manager mentioned that this agreement serves as a way to accelerate the construction of the road on 87<sup>th</sup> Avenue and 154<sup>th</sup> in exchange for his ability to hold back concurrency. He added that deferring the Dunns project from being built also defers the traffic impact on the roads. He further noted that the zoning requirements imposed on the developer require him to extend the same enhancement north on NW 154<sup>th</sup> Street. He noted that the Dunn Family has the obligation of building the road whether or not they enter into an agreement with the Miami-Dade County aid in the cost of the construction.

Miami-Dade County Commissioner Natasha Seijas readdressed the Council and stated that the Miami-Dade County will not participate in the agreement in the

manner stated. She stated that, as a Commissioner from the district, that she will not support this in Miami-Dade County Commission. Commissioner Seijas mentioned that when the Dunn Family came before the Miami-Dade County for the zoning issue, Miami-Dade County denied them. She pointed out that the Town did not. Commissioner Seijas also stated that Miami-Dade County will not participate in concurrency for ten years.

The Mayor noted that the January 11<sup>th</sup> letter is from the Miami-Dade County. Commissioner Seijas acknowledged that the letter is from the Miami-Dade County, but added that it has not been signed and returned to the Miami-Dade County. She further added that the letter has not been accepted and pointed out that the required signature form Mr. Dunn is not present on the second page and therefore makes no difference. Commissioner Seijas further stated that if the letter is not signed by Mr. Dunn, it is not a legal document.

Commissioner Seijas mentioned that the same way she fought for the Town's incorporation she will fight for the Town to not grant a 10-year concurrency. She also mentioned that if this issue comes before the Miami-Dade County, it will not be granted on a 10-year concurrency. The Mayor pointed out that Commissioner Seijas was copied on the January 11<sup>th</sup> letter. She restated that the letter is not a legal document. She further reaffirmed that she is against granting a concurrency for ten years. The representative for the Dunn family mentioned that the reason why the January 11<sup>th</sup> has not been signed is because their office just received the letter today and added that it will be signed. He further added that the Dunn family acknowledges that it has full responsibility for construction of the roadway improvements per this agreement regardless of whether or not any deal is struck with the Miami-Dade County.

Councilwoman Collins also addressed Commissioner Seijas and noted that when this issue first came before the Council a long time ago, the fire department had wanted the land for the construction of a station. Councilwoman Collins addressed the Dunn Family and asked them if there is any way to construct the roadway before March 2007 if the Council approves the agreement. The Dunn Family representative mentioned that Miami-Dade County staff indicated that it would be possible.

Councilman Thomson made a motion to defer the item to date certain February 15, 2005. Councilwoman Collins seconded the motion, which carried unanimously.

## **6. ADJOURNMENT:**

The Mayor adjourned the meeting at 11:55 pm.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2005

Attest:

\_\_\_\_\_  
Wayne Slaton, Mayor

\_\_\_\_\_  
Town Clerk