

The City of Aventura



19200 West Country Club Drive Aventura, FL

City Commission Workshop Meeting

May 22, 2012
9:00 A.M.

Executive Conference Room

AGENDA

1. ***Renewable Energy Devices Amendment to LDR (City Manager)****
Future Action Required: Ordinance to Amend LDR
2. ***Self Storage Facilities as a Conditional Use in the Medical Office District (City Manager)****
Future Action Required: Ordinance to Amend LDR
3. ***Resolution Supporting Central Everglades Planning Project (Mayor Gottlieb)****
Future Action Required: Resolution
4. ***Students Working Against Tobacco (Student Request)****
5. ***Art in Government Facilities (Commissioner Diamond)****
6. ***Resolution Opposing FPL Rate Increase (Commissioner Auerbach)****
7. ***Adjournment***

*** Back-up Information Exists**

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Office of the City Clerk, 305-466-8901, not later than two days prior to such proceeding.

CITY OF AVENTURA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA, CM
City Manager

BY: Joanne Carr, AICP
Community Development Director

DATE: May 8, 2012

SUBJECT: Support and Standards for Installation of Renewable Energy Devices in the City of Aventura

May 22, 2012 City Commission Workshop

Following the City Commission's discussion at the April 19 workshop, the proposed ordinance has been redrafted as follows:

1. The preamble to the subsection has been revised to exempt solar collector panels from the condition that the number and size of renewable energy devices shall not exceed the total energy requirements of a building;
2. A new statement has been added as "(iii)" to the preamble to provide that any sell-back of energy shall be made only as authorized by law;
3. A new condition (4) has been added to provide that devices shall not be mounted on or supported by building walls;
4. A new condition (9) has been added to provide that roof mounted turbines and related equipment cannot occupy more than 5% of the roof area. This will limit the number of turbines that can be installed and is the similar percentage of roof area restricted in the City Code for telecommunications equipment;
5. A new sentence relating to waivers for emerging technologies has been added to Condition (16).

The redrafted ordinance follows and is proposed as an addition to Section 31-238, Accessory Uses, of the Land Development Regulations. The changes from the draft presented at the April 19 workshop are in underlined text.

“(o) Renewable Energy Devices

Non-commercial renewable energy devices, including solar collector panels, wind turbines, clotheslines and other energy devices using renewable resources, shall be permitted as an accessory use in all zoning districts, provided that; (i) the device installation complies with all site development standards of this subsection, complies with the applicable zoning district and complies with the landscape standards of these LDRs and provided that; (ii) excepting solar collector panels, the number and size of renewable energy devices installed on a property shall not exceed the total number of kilowatts needed to generate the amount of energy required to serve the established uses located on the property upon which the renewable energy devices are installed; (iii) any sell-back of energy shall be made only as authorized by law and further provided that; (iv) the following conditions are met:

- (1) The device installation shall not create a nuisance as determined by the City Manager or his designee;
- (2) The device installation shall not interfere with any existing broadcast, transmission or reception antenna, including, but not limited to the City’s emergency communication system;
- (3) The device or devices shall be installed in a manner to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard;
- (4) The device or devices shall not be mounted on or supported by building walls;
- (5) No signage, advertising, pennants, ribbons, balloons, flags, banners or similar material shall be placed on any renewable energy device;
- (6) The device installation shall not be placed on patio or balcony railings in condominiums, cooperatives or apartments;
- (7) The device installation shall comply with all applicable building, fire and life safety codes and regulations, as evidenced by obtaining all necessary permits prior to installation;
- (8) Wind turbines shall not exceed the higher of 18 feet above the main roofline or the manufacturer’s recommended height for the particular model to be installed;
- (9) Roof-mounted wind turbines and other related rooftop equipment and structures shall not occupy more than 5% of the roof area;
- (10) Wind turbines shall be painted a non-reflective, non-obtrusive color that conforms to the environment and architecture of the community;
- (11) Solar collector panels shall not project above the ridge of a sloped roof and shall not project more than 5 feet above the finished slope of the roof surface or more than 5 feet above the deck or parapet of a flat roof. No part of the device shall extend beyond the edge of the roof. All mounting hardware, electrical and other connections required for operation of the panels shall be screened from view;
- (12) No lighting of a renewable energy device is permitted, except as required by Federal Aviation Administration or other agency having jurisdiction;
- (13) Ground installations shall comply with the site development criteria of the applicable zoning district;
- (14) Any renewable energy device found to be unsafe by the Building Official shall be repaired by the property owner to meet all federal, state and local safety

standards or shall be removed within 30 days of such determination of the Building Official;

- (15) If any renewable energy device is not operational for a period of 12 consecutive months or more, the device shall be removed by the property owner within 30 days of the date of written notice by the City to remove such device.
- (16) Waivers. A waiver to provide relief from the requirements of this subsection, or any other applicable development standards of the LDRs of Chapter 31 of this Code, may be granted in those cases where strict application of such requirements would have the effect of prohibiting the operation and functionality of a renewable energy device. It is acknowledged that emerging technologies in renewable energy devices may also require and justify a waiver of provisions of this subsection.
 - (i) An application for a waiver under this subsection shall be filed by the owner of the property upon which the waiver is requested, or their designated representative. The application shall be on a form provided by the City
 - (ii) Waivers from this section or other applicable LDRs of Chapter 31 of this Code, may be granted by the City Manager or his designee only when competent and substantial evidence demonstrates that the particular waiver or waivers requested are necessary for the operation and functionality of the particular renewable energy device to serve the energy needs of the uses and structures located on the subject property
 - (iii) Appeals from a decision of the City Manager or his designee pursuant to this subsection shall be made in accordance with Section 31-83 of the Code.”

Staff will draft an ordinance for public hearing following discussion and direction from the City Commission.

CITY OF AVENTURA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM
City Manager

BY: Joanne Carr, AICP
Community Development Director

DATE: May 9, 2012

SUBJECT: Request to permit self service storage facilities as a conditional use
in the Medical Office zoning district



May 22, 2012 City Commission Workshop

I. THE REQUEST

City staff has received an inquiry for amendment to the Medical Office zoning district to add 'self service storage facilities with a minimum of 1.5 acre lot size' as a conditional use in this zoning district. The attorney's letter dated April 12, 2012 is attached.

The lands within the Medical Office zoning district have an underlying future land use of Business & Office, according to the Future Land Use Map in the City's Comprehensive Plan. The Business & Office future land use category is comprehensive and accommodates the full range of sales and service activities. A self service storage facility is a service that may be contemplated in this future land use category.

The Medical Office zoning district is intended to provide for medical offices and other uses supporting the medical profession associated with the Aventura Hospital. A list of the existing permitted, conditional and prohibited uses in this district is attached. Currently, self service storage facilities are not listed as a permitted, conditional or prohibited use in this zone. This type of use is currently listed as a permitted use in the TC2, Town Center Marine zoning district and in the I, Industrial District and is listed as a conditional use in the B2, Community Business District.

If an amendment to the Medical Office zoning district was approved, the owner would make its application for administrative site plan approval. Development of a self service storage facility would be required to meet the existing site development standards of the MO district, including minimum lot size, height, setbacks, floor area ratio and would also

be required to meet parking, landscaping and other applicable sections of the Land Development Regulations. The site plan would be reviewed by staff and comments addressed by the applicant. The owner would then make its application for conditional use approval, which would be scheduled and noticed for public hearing.

Analysis of the Request

The request is a policy decision as to whether this type of use is appropriate in the Medical Office zoning district. There are two existing public storage facilities within this zoning district. They were built prior to adoption of our City's Land Development Regulations and are considered non-conforming uses. The owner's attorney advises in the attached letter that existing storage buildings do have a number of tenants related to medical use, such as medical suppliers, hospitals and physicians.

The City Attorney's office has reviewed the proposal and found no legal impediment to requesting an amendment to the zoning district.

The addition of this conditional use would require that the owner submit an Application for Amendment to the Text of the Land Development Regulations. That application would be processed through the public hearing process and evaluated using the criteria for amendment in Section 31-77 of the Land Development Regulations.

RESOLUTION SUPPORTING CENTRAL EVERGLADES PLANNING PROJECT

WHEREAS, the Greater Everglades Ecosystem is a globally imperiled habitat and the primary source of drinking water for (insert municipality); and

WHEREAS, Everglades National Park is critical to South Florida's tourism, with nearly a million people visit each year; 30 percent of whom from outside the United States

WHEREAS, the Everglades ecosystem has continued to decline in the face of restoration delays and an expedited solution is needed to increase the quality, quantity, timing and distribution of freshwater flows into the central Everglades, Everglades National Park and Florida and Biscayne Bay; and

WHEREAS, increased deliveries of water south of Lake Okeechobee will reduce damaging discharges to the Caloosahatchee and St. Lucie estuaries; and

WHEREAS, the goal of the Central Everglades Planning Project (CEPP) is to significantly reduce planning times and deliver a finalized plan, for a suite of restoration projects in the central Everglades within 18 months,

WHEREAS, full support and funding by the State of Florida and the U.S. Congress is needed to implement this project, protect regional water supply, create much needed jobs and strengthen the local economy.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE _____, FLORIDA, THAT:

Section 1. The (insert name of municipality) Commission hereby urges the SFWMD, the State of Florida a Commission to _____

Section 2. The (insert name of municipality) Commission hereby urges the U.S. Congress to _____

Section 3. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this __ day of _____, 2012.

THEREFORE BE IT RESOLVED that (insert name of municipality) supports the completion of a project implementation report (PIR) through the CEPP by May 2013 that addresses key obstacles for restoring freshwater flows and implements meaningful ecological and economic benefits toward restoring America's Everglades.

Eric M. Soroka

From: Joseph Nabaka <jnaba001@fiu.edu>
Sent: Thursday, February 02, 2012 12:13 PM
To: Eric M. Soroka
Subject: SWAT Club Presentation
Attachments: CandyFlavored_handout_MiamiDade.pdf; tobacco pictures 265.JPG

Mr. Soroka,

My Name is Joseph Nabaka.I am a graudate student with Florida International University Stempel school of Public Health-Health Policy and Management program.I am currently an intern with a youth advocacy organization called SWAT(Student Working Against Tobacco). It's main goal is to prevent and reduce tobacco use among the youths and also to protect them from the effects of secondhand smoke.

Please find attached the students' talking points and a picture of their previous presentation.You can also visit their website for more information:<http://www.gen-swat.com>

We will like to be included in the agenda for your next council meeting, so as to make our presentation. It is our hope that policies will be initiated to restrict the sale of candy flavored tobacco products in various forms which unfortunately targets kids.

I will appreciate again it if we can be given an oppotunity to make presentation,which be be about 10 minutes.

Should you need more information,please let me know.

Thank you for your response.

Sincerely,

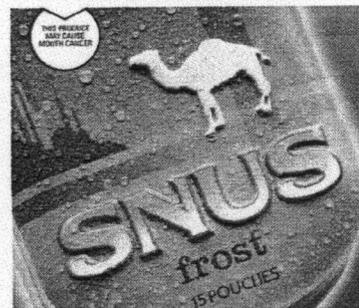
Joseph Nabaka

CANDY-FLAVORED TOBACCO POLICIES



What is the problem with candy-flavored tobacco?

- Candy-flavored tobacco targets new users, the majority of which are kids.
- Studies show that 17-year-old smokers are three times as likely to use flavored cigarettes as smokers over the age of 25.
- Almost 90 percent of adult smokers began smoking as teenagers.

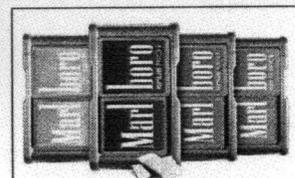


How to Use: Place one in your mouth. Don't chew or swallow. Move it around if you want. Let it fully dissolve in your mouth. Enjoy Anywhere. Anytime. Anyplace.

Sticks will last 20-30 minutes*



How to Open Sticks' Child-Resistant Packaging



What is not banned by the FDA?

- Candy-flavored spit tobacco.
- Candy-flavored cigars and cigarillos.
- Snus (rhymes with "noose"): small packets of tobacco resembling tea bags that are kept in the mouth. The excess juice can be swallowed instead of spat.
- New dissolvable products: pellets (Camel Orbs), a twisted stick the size of a toothpick (Camel Sticks), and a film strip for the tongue (Camel Strips), all of which are made from finely ground flavored tobacco.

Request to put the following subject on our next workshop agenda

FROM: COMMISSIONER BOB DIAMOND
TO: CITY MANAGER ERIC SOROKA
DATED: May 15, 2012
RE: ART IN AVENTURA'S GOVERNMENT BUILDINGS.

It is my belief that outstanding art in Aventura's various government buildings would significantly contribute to our name and reputation as "The City of Excellence." It would enhance and enrich the public environment and would promote creative art projects for both children and adults. It would also transform public spaces from ordinary civic areas to sites that help define our community as a place that truly encourages that bit of creativity that exists in everyone, and in particular, our young people. It would also contribute to making Aventura's government buildings a major cultural destination for both residents and visitors.

I suggest a special Committee of five persons who would review the proposed donated art, typically from artists and/or collectors, for approval as to quality and, also, determine a place of display. I suggest that two members of the committee would be our City Manager and our Mayor. Applications would be solicited from the local community for people with exceptional experience in the field of art. Three such persons for the committee would then be selected by our City Manager and Mayor. As an example only, and not to interfere with the selection process, Aventura resident Shirley Levin, who previously owned and operated an art gallery in Mexico City for many years, has recently offered her services to our city.

To my knowledge, we presently have three works of art in our public buildings. I take great pride in having introduced the first work of art to our City Commission by a donated gift from a resident, Ralph Silverman. The gift, located in the lobby of our Government Center, is the outstanding work of art by an internationally recognized artist-sculptor, Gianmaria Potenza. His work has been accepted in numerous museums in Europe. In a recent E-mail to me, Mr. Potenza advised that his current works are now exhibited at the Erarta Museum in San Pietroburgo (Italy) and will be moved in the future to a large exhibition in Moscow. I recall scores of our youngsters coming from our Charter School to see Potenza's work of art and the children's wonderful attempts thereafter to re-create it from their own mind and memory. The second outstanding work of art is in the tile of the lobby floor of our Arts & Cultural Center – the creation by a Haitian artist and received through the "Miami-Dade Art in Public places." The third is a sculptural piece by Michael Israel on a wall in our Arts & Cultural Center – a gift from The Aventura Marketing Council.

Numerous respected persons in the creative art field have offered their art work as donated gifts to our city. All such items, of course, would have to be reviewed by the committee for approval.

By reference, Clara Poupel, a contemporary artist from France and now Aventura, has offered a major work of her art that can be viewed on her website and a CD that can be provided to the proposed committee. Clara had a highly successful one person showing of her art this past year at Markowitz Fine Art Gallery located in the Miami Design District. A busload of people from Aventura went to see the showing.

Another example would be May Karp, a resident of Toronto and Aventura, a well known and highly respected artist in the field of photography. May recently had a major one person showing of her work at the Yin Yang Gallery in Toronto. A noted art critic wrote; "May Karp's conceptual and painterly style has rendered the old boundaries of conventional photography obsolete." Sorel Etrog, who received Canada's highest artistic honor as an international sculptor, issued public statements as to May Karp, "A gifted artist committed to the art of photography." May's work has been approved by numerous Canadian art committees and is displayed in numerous public places.

In brief, I believe that numerous artists have spoken to me on this subject because art has been an important part of my life since 1965. Without great detail, while practicing law for 35 years, I also studied art at two colleges, namely Union College in New Jersey, the New School in New York and privately with Mrs. Byron Brown in New York. My wife and I also had a successful Art Gallery in Millburn New Jersey for about five years named, "Diamond Gallery."

Respectfully,

A handwritten signature in cursive script that reads "Bob Diamond". The signature is written in black ink and is positioned to the right of the word "Respectfully,".

Bob Diamond

Aventura prop Arts 051412

RESOLUTION NO. 2012-20

A RESOLUTION OF THE VILLAGE OF PINECREST, FLORIDA, OPPOSING THE PROPOSED BASE RATE INCREASE BY FLORIDA POWER AND LIGHT; AUTHORIZING THE MAYOR TO FILE THIS RESOLUTION WITH THE FLORIDA PUBLIC SERVICE COMMISSION; PROVIDING FOR DISTRIBUTION BY THE VILLAGE CLERK; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Power and Light ("FPL") provides electricity within the Village of Pinecrest ("Village"), and the Village and its residents have no alternative but to purchase services from FPL; and the Village government purchases electricity from FPL to power Village Hall and numerous municipal buildings in order to provide services to residents; and

WHEREAS, the residents and businesses of the Village must also purchase electric service from FPL; and

WHEREAS, the Village, its residents and businesses continue to face a depressed economy with limited resources wherein jobs are being lost, incomes and revenues are static or declining, and home mortgages are being foreclosed, requiring the Village, its residents and businesses to live within their means and budget accordingly; and

WHEREAS, in March 2012, FPL proposed a 16% base rate hike in order to ensure up to a 12.5% return on equity for its shareholders; and

FPL's Response: This doesn't provide a complete view. FPL has worked hard to keep costs down while continuing to invest in necessary improvements. And while the costs of many products and services have risen in recent years, FPL's bill has actually decreased. Since 2006, food and health care costs have gone up 20 percent or more while a gallon of gasoline costs has risen more than 40 percent. Meanwhile, FPL's typical residential bill in 2012 is actually about 13 percent less than it was in 2006 due in large part to fuel savings from investments and from lower fuel prices. At the same time, FPL has delivered strong reliability and outstanding customer service.

FPL's 2013 base rate request reflects an increase of approximately \$7 a month, or about 23 cents a day, on the base portion of a typical 1,000-kWh residential customer bill. This equates to approximately 16.3 percent increase in the base rate, however, as the Resolution later notes, a customer's bill is made up of more than just the base rate. Because of projected fuel savings,

lower fuel prices and other adjustments, the net increase that FPL's typical customers would actually pay on their bills would be about \$1.41 a month, or less than 5 cents a day.

This equates to an increase of about 1.5 percent on FPL's typical residential bill today, which is currently the lowest of the state's 55 electric utilities and significantly lower than the national average. A 1.5 percent increase is less than the cumulative rate of inflation over the past three years, and even with the increase, FPL typical residential bills are still expected to be the lowest in the state and still well below the national average.

Today, FPL's allowed return on equity (ROE) midpoint of 10.0 percent is the lowest of Florida's investor-owned utilities and in the bottom quartile of the country, despite the fact that we provide our customers with the lowest bill in the state, strong reliability, award-winning customer service and one of the cleanest emissions profiles in the country. As with most investor-owned utilities, FPL can earn within a range of plus or minus 1 percent of our allowed ROE midpoint.

WHEREAS, FPL benefits from more pass-through cost recovery mechanisms than any other regulated utility in the United States of America, including the Storm Cost Recovery Surcharge, the Fuel Cost Recovery Clause pass-through, the Environmental Cost Recovery Clause pass-through, the Capacity Cost Recovery Clause pass-through, the Conservation Cost Recovery Clause pass-through, and the Nuclear Cost Recovery Clause pass-through, which pass-through mechanisms increase FPL's current cash flow without the scrutiny employed in a traditional rate case; and

WHEREAS, currently approximately 52% of the rates paid by FPL customers are paid pursuant to these cost recovery mechanisms instead of through base rates; and

FPL's Response: The above two (2) paragraphs claims regarding cost-recovery clauses are incorrect. Fuel costs make up the bulk of cost-recovery clause dollars, and FPL has made great strides at driving down these costs for customers. FPL doesn't make a profit on fuel. Every dollar we save on fuel is a dollar our customers save, and our investments in more fuel-efficient power plants are one of the major reasons why our typical residential customer bill is the lowest in the state and lower than the national average.

WHEREAS, in 2009 the Florida Public Service Commission ("PSC") awarded FPL only 7% of its requested base rate relief, yet FPL continued in 2010 and 2011 to report substantial earnings growth, including an increase of 14% in 2010 and 13% in 2011; and

FPL's Response: This characterization is misleading. It ignores the fact that our last case was resolved by the settlement agreement, which FPL negotiated with intervenors – after the PSC's original decision. This agreement served as an essential, temporary financial bridge. It enabled

us to begin recovering the costs of our investment in our fuel-efficient West County Energy Center 3, to earn an 11 percent ROE, and was a sufficient compromise to sustain the company financially until 2013 without raising customer rates.

WHEREAS, October 4, 2010, the PSC Staff recommended that the PSC order FPL to hold \$400 million for possible refund to customers and that the PSC investigate over earning by the company, however the customers never received a refund; and

FPL's Response: This claim is extremely misleading. The truth is that FPL never earned more than it was allowed. The above-referenced docket was never necessary and has long been closed.

WHEREAS, the proposed rate increases will adversely affect the residents of the Village and further strain limited resources.

FPL's Response: FPL recognizes that no one ever wants a rate increase, particularly in uncertain economic times. We do not make our request lightly. We have worked hard to keep costs down while continuing to invest in necessary improvements.

Setting appropriate rates is a complicated process, but it is essential to the financial stability of a utility – and a utility's financial stability is essential to providing reliable service for customers. Today, FPL's typical residential customer gets the lowest bill in the state and reliability that's among the best in the country, and we have proposed a base rate request for 2013 based on what we have determined is necessary to continue providing strong service for our customers over the long term.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PINECREST, FLORIDA:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified as true and correct and are incorporated herein by this reference.

Section 2. The Village hereby objects to and opposes the Public Service Commission ("PSC") approving FPL's request for a base rate increase.

Section 3. The Mayor is authorized on behalf of the Village to file this Resolution with the PSC and present this Resolution opposing the rate increase at any public meeting, conference or hearing, including those scheduled for the purpose of discussing or considering any matters under consideration in PSC docket number I20015-EI.

Section 4. The Village Clerk is hereby directed to distribute a copy of this resolution via mail to the PSC Clerk, Attention: Docket I20015-EI, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, and via electronic mail to the Commission at contact@psc.state.fl.us.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 6. All Resolutions made in conflict with this Resolution are hereby repealed.

Section 7. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED this 10th day of April, 2012.

;

RESOLUTION NO. 2012-20

A RESOLUTION OF THE VILLAGE OF PINECREST, FLORIDA, OPPOSING THE PROPOSED BASE RATE INCREASE BY FLORIDA POWER AND LIGHT; AUTHORIZING THE MAYOR TO FILE THIS RESOLUTION WITH THE FLORIDA PUBLIC SERVICE COMMISSION; PROVIDING FOR DISTRIBUTION BY THE VILLAGE CLERK; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Power and Light ("FPL") provides electricity within the Village of Pinecrest ("Village"), and the Village and its residents have no alternative but to purchase services from FPL; and the Village government purchases electricity from FPL to power Village Hall and numerous municipal buildings in order to provide services to residents; and

WHEREAS, the residents and businesses of the Village must also purchase electric service from FPL; and

WHEREAS, the Village, its residents and businesses continue to face a depressed economy with limited resources wherein jobs are being lost, incomes and revenues are static or declining, and home mortgages are being foreclosed, requiring the Village, its residents and businesses to live within their means and budget accordingly; and

WHEREAS in March 2012, FPL proposed a 16% base rate hike in order to ensure up to a 12.5% return on equity for its shareholders; and

WHEREAS, FPL benefits from more pass-through cost recovery mechanisms than any other regulated utility in the United States of America, including the Storm Cost Recovery Surcharge, the Fuel Cost Recovery Clause pass-through, the Environmental Cost Recovery Clause pass-through, the Capacity Cost Recovery Clause pass-through, the Conservation Cost Recovery Clause pass-through, and the Nuclear Cost Recovery Clause pass-through, which

pass-through mechanisms increase FPL's current cash flow without the scrutiny employed in a traditional rate case; and

WHEREAS, currently approximately 52% of the rates paid by FPL customers are paid pursuant to these cost recovery mechanisms instead of through base rates; and

WHEREAS, in 2009 the Florida Public Service Commission ("PSC") awarded FPL only 7% of its requested base rate relief, yet FPL continued in 2010 and 2011 to report substantial earnings growth, including an increase of 14% in 2010 and 13% in 2011; and

WHEREAS, October 4, 2010, the PSC Staff recommended that the PSC order FPL to hold \$400 million for possible refund to customers and that the PSC investigate over earning by the company, however the customers never received a refund; and

WHEREAS, the proposed rate increases will adversely affect the residents of the Village and further strain limited resources.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PINECREST, FLORIDA:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified as true and correct and are incorporated herein by this reference.

Section 2. The Village hereby objects to and opposes the Public Service Commission ("PSC") approving FPL's request for a base rate increase.

Section 3. The Mayor is authorized on behalf of the Village to file this Resolution with the PSC and present this Resolution opposing the rate increase at any public meeting, conference or hearing, including those scheduled for the purpose of discussing or considering any matters under consideration in PSC docket number 120015-EI.

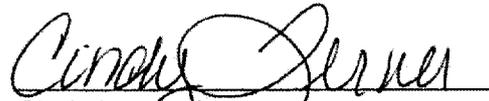
Section 4. The Village Clerk is hereby directed to distribute a copy of this resolution via mail to the PSC Clerk, Attention: Docket 120015-EI, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, and via electronic mail to the Commission at contact@psc.state.fl.us.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 6. All Resolutions made in conflict with this Resolution are hereby repealed.

Section 7. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED this 10th day of April, 2012.


Cindy Lerner, Mayor

Attest:



Guido H. Inguanzo, Jr., CMC
Village Clerk

Approved as to Form and Legal Sufficiency



Cynthia A. Everett
Village Attorney

Consent Agenda

