



VILLAGE OF PALMETTO BAY

Mayor Karyn Cunningham
Vice Mayor John DuBois
Council Member Patrick Fiore (Seat 1)
Council Member David Singer (Seat 2)
Council Member Marsha Matson (Seat 3)

Interim Village Manager Gregory Truitt
Village Attorney John C. Dellagloria
Village Clerk Missy Arocha

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter, or hearing impaired to participate in this proceeding should contact the Village Clerk at (305) 259-1234 for assistance no later than four days prior to the meeting.

AGENDA SPECIAL COUNCIL MEETING THURSDAY, OCTOBER 8, 2020 – 7:00 PM (305) 259-1234

1. **CALL TO ORDER, ROLL CALL, INVOCATION, PLEDGE OF ALLEGIANCE, AND DECORUM STATEMENT, IN THAT ORDER:** Any person making impertinent or slanderous remarks, or who becomes boisterous, while addressing the Council may be barred from further appearance before the Council by the Mayor, unless permission to continue or again address the Council is granted by a majority vote of the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be allowed in the Council meeting. Persons exiting the Council meeting shall do so quietly. All cellular telephones and beepers are to be silenced during the meeting.
2. **REQUESTS, PETITIONS AND PUBLIC COMMENTS SUBMITTED**
3. **REMARKS BY DONA HIGGINBOTHAM FROM THE MERCER GROUP FLORIDA, LLC**
4. **QUESTION AND ANSWER SESSION BETWEEN THE VILLAGE MANAGER FINALISTS AND THE VILLAGE COUNCIL**
5. **RESOLUTION WITH PUBLIC COMMENTS SUBMITTED**
 - A. **A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE MANAGER**

SOLICITATION PROCESS; NAMING THE FINAL NOMINEE FOR VILLAGE MANAGER; SPECIFYING THE METHOD OF FINALIZING THE VILLAGE MANAGER CONTRACT FOR SUBSEQUENT SUBMISSION TO THE VILLAGE COUNCIL; AND PROVIDING AN EFFECTIVE DATE. *(Sponsored by Village Attorney John C. Dellagloria and Village Clerk Missy Arocha)*

6. COUNCIL COMMENTS

7. NEXT MEETING AND ADJOURNMENT

WE, THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, HEREBY COMMIT OURSELVES TO MAINTAINING CIVILITY IN OUR PUBLIC AND POLITICAL DISCOURSE AND PLEDGE TO THE FOLLOWING PRINCIPLES:

- We will respect the right of all citizens in our community to hold different opinions;
- We will avoid rhetoric intended to humiliate or question the wisdom of those whose opinions are different from ours;
- We will strive to understand differing perspectives;
- We will choose our words carefully;
- We will speak truthfully without accusation and we will avoid distortion;
- We will speak out against violence, prejudice, and incivility in all of their forms, whenever and wherever they occur.

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



PUBLIC NOTICE

**(INSTRUCTIONS ON HOW TO
ACCESS THE MEETING AND HOW
THE PUBLIC CAN PARTICIPATE)**



VILLAGE OF PALMETTO BAY NOTICE OF SPECIAL COUNCIL MEETING

NOTICE IS HEREBY GIVEN that on Thursday, October 8, 2020 at 7:00 p.m. the Village of Palmetto Bay shall conduct a "Virtual" Special Council Meeting. This meeting will be conducted using a teleconferencing platform and broadcast live. Members of the public may watch the virtual meeting via the Village's official Facebook page and/or our Granicus web stream on www.palmettobay-fl.gov.

The purpose of the meeting is to make the final selection of a Village Manager for the Village of Palmetto Bay pursuant to Resolution 2020-64.

PLEASE NOTE that pursuant to Governor DeSantis' Executive Order 20-193, in which he declared a public health emergency and a state of emergency, there is a recommendation to limit public gatherings. Any Florida Statute that requires a quorum to be present in person or requires a local government body to meet at a specific public place, is suspended, and the Village is authorized to hold public meetings through the use of communications media technology, subject to the rules pursuant to Section 120.54(5)(b)2, Florida Statutes. [This notice provides instructions on how to access the meeting and how the public can participate.](#)

Public comments forum (Option 1): Prior to the meeting, the public can submit a web form available at this address: <https://www.palmettobay-fl.gov/FormCenter/Public-Comments-Form-10/Public-Comments-Form-52>. Form submissions received prior to the meeting will be read before the item is heard. Form submissions received after 7:00 p.m. will be read at the end of the Village Council's Agenda.

Public comments forum (Option 2): Public attendees wishing to provide real-time, audible public comments during the meeting may do so using GoToWebinar's desktop, laptop, tablet, or smartphone app. Once registered, attendees will receive GTW session information and call-in telephone numbers for those wishing to use a telephone. Telephone attendees may not participate in public comment as the system has no way to mute or unmute. Attendees wishing to speak during public comment time must use the GoToWebinar application on their desktop, laptop, or smart device. Attendees may not use a webcam whatsoever. In lieu of no availability to participate through the webinar, please submit your public comment using the web form as described above.

Please register to attend the session as follows:

<https://attendee.gotowebinar.com/register/4644016468138223115>

After registering, you will receive a confirmation email containing information about joining the webinar.

Any meeting may be opened and/or continued, under such circumstances, additional legal notice would not be provided. Any person may contact Village Hall at (305) 259-1234 for additional information. In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation (or hearing impaired) to participate in this proceeding or to review any documents relative thereto should contact the Village for assistance at (305) 259-1234 no later than twelve (12) hours prior to the proceedings.

If a person decides to appeal any decision made by the Village Council, with respect to any matter considered at a meeting or hearing, that person will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

Missy Arocha
Village Clerk

www.palmettobay-fl.gov



AGENDA ITEM

5A



MEMORANDUM

To: Honorable Mayor and Village Council

Date: October 1, 2020

From: John C. Dellagloria, Village Attorney
Missy Arocha, Village Clerk

Re: Recommendation on the Village
Manager Selection Process

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE MANAGER SOLICITATION PROCESS; NAMING THE FINAL NOMINEE FOR VILLAGE MANAGER; SPECIFYING THE METHOD OF FINALIZING THE VILLAGE MANAGER CONTRACT FOR SUBSEQUENT SUBMISSION TO THE VILLAGE COUNCIL; AND PROVIDING AN EFFECTIVE DATE. *(Sponsored by Village Attorney John C. Dellagloria and Village Clerk Missy Arocha)*

RECOMMENDATION:

As the Council meeting for the selection of the Village Manger, is scheduled for October 8, 2020, the following is a recommendation of the mechanics of how the voting will be conducted:

- (1) Scenario One. Only the three finalists are involved. Each Council Member will e-mail their vote to both the Village Clerk and Village Attorney on the Village server. If a candidate gets at least 3 votes, he is selected. If not, the candidate with the lowest number is eliminated, and a second round chooses the Manager.
- (2) Scenario Two. As the Council is free to include additional names, and in the event the Council allows more than the three finalists to be voted on, then:
 - (i) again, if a candidate gets at least 3 votes, he is selected.
 - (ii) Otherwise, the top two go to the second round and a selection is made.
 - (iii) If there is a tie for the second top vote getter, those candidates will be voted on as the second finalist. (if a candidate gets 3 votes in this tie breaker, he only goes to the final round, he is not selected as the Manager). The same voting procedure as above will apply.

Before the result in any round is announced by the Clerk, we will first confer to assure our tabulations match. The e-mails received by each Council Member with their vote(s) will be preserved as public records.

1 RESOLUTION NO. 2020-_____

2
3 A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF
4 PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE
5 MANAGER SOLICITATION PROCESS; NAMING THE FINAL
6 NOMINEE FOR VILLAGE MANAGER; SPECIFYING THE METHOD
7 OF FINALIZING THE VILLAGE MANAGER CONTRACT FOR
8 SUBSEQUENT SUBMISSION TO THE VILLAGE COUNCIL; AND
9 PROVIDING AN EFFECTIVE DATE. *(Sponsored by Village Attorney*
10 *John C. Dellagloria and Village Clerk Missy Arocha)*

11
12 WHEREAS, the Village Charter of the Village of Palmetto Bay
13 provides for the Village Council to select a Village Manager to serve at
14 the pleasure of the Council; and

15
16 WHEREAS, pursuant to Resolution 2019-162, the Village Council
17 began the process of requesting proposals for a professional search
18 firm which would supervise the selection of a new Village Manager; and

19
20 WHEREAS, pursuant to Resolution 2020-05, the Village Council
21 retained the professional search firm of Mercer Group Florida, LLC to
22 advertise for the position, conduct interviews and make
23 recommendations to the Village Council, and through its Managing
24 Member Dona Higginbotham, the applicants were narrowed to three
25 finalists; and

26
27 WHEREAS, the Village Council accepted the recommendation of
28 the Mercer Group, and the three finalists for the position are: (1) Steven
29 Alexander, (2) Ariel Artime, and (3) Nick Marano; and

30
31 WHEREAS, the Village Council held a Special Council Meeting
32 on Thursday, October 8, 2020 and selected the new Village Manager
33 for the Village of Palmetto Bay subject to the approval of a contract for
34 the position.

35
36 NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE OF
37 PALMETTO BAY, FLORIDA, THAT:

38
39 **Section 1. Selection:** In accordance with the Village Charter, the
40 Village Council designates _____ for the position of

1 Village Manager for the Village of Palmetto Bay, effective
2 _____.

3

4 **Section 2. Contract:** The Village Council hereby designates the
5 Village Attorney and Village Clerk review with _____ the terms
6 of the Employment Agreement authorized on _____ by the
7 Council, to be presented to the Village Council for final approval and the
8 appointment of the new Village Manager. A copy of the Employment
9 Agreement is attached as "Exhibit A".

10

11 **Section 3.** This Resolution shall take effect immediately upon its
12 adoption.

13

14 **PASSED and ADOPTED** this 8th day of October 2020.

15

16 Attest:

17

18

19 _____
20 **Missy Arocha**
21 **Village Clerk**

_____ **Karyn Cunningham**
Mayor

21

22 **APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE**
23 **USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY,**
24 **FLORIDA ONLY:**

25

26

27 _____
28 **John C. Dellagloria, Esq.**
29 **Village Attorney**

29

30 **FINAL VOTE AT ADOPTION:**

31

32 Council Member Patrick Fiore _____

33

34 Council Member David Singer _____

35

36 Council Member Marsha Matson _____

37

38 Vice-Mayor John DuBois _____

39

40 Mayor Karyn Cunningham _____

1 **SECTION 2. COLA**

2 The Manager shall be an employee of the Village and will receive the same cost-
3 of- living (COLA) increases as are provided to Village employees under the same
4 terms as applicable to all Village employees.

5 **SECTION 3. YEARLY EVALUATIONS**

6 The Village shall conduct an annual evaluation upon each anniversary date of this
7 Contract. The Council in its discretion shall determine to either maintain the existing
8 salary without change or to give a merit pay increase.

9 **SECTION 4. RETIREMENT ISSUES**

10 **IRC 401 CONTRIBUTIONS/QUALIFIED RETIREMENT PLANS**

11 The Manager shall receive qualified retirement plan contributions from the Village,
12 pursuant to U.S. Internal Revenue Code sections 401(a) (or equivalent provisions),
13 as follows: (i) an automatic six percent (6%) of annual salary; and (ii) a match con-
14 tribution by the Village, for each percent, up to six percent (6%) of annual salary
15 deferrals voluntarily contributed by the Manager. These qualified retirement plan
16 contributions by the Village are in addition to base salary.

1 **4.1 IRC 457/DEFERRED COMPENSATION** - The Manager shall receive

2 six percent (6%) of annual salary as deferred compensation, pursuant to U.S. Internal
3 Revenue Code 457 (or equivalent provision). This deferred compensation is in ad-
4 dition to base salary.

5 **SECTION 5. PTO, INSURANCE, AND OTHER BENEFITS**

6 **5.1 PTOs** —

7 The Manager shall receive eight hours (8 hours) personal time
8 off (PTO) bi-weekly with an accrual limit of two hundred twenty hours (240). Upon
9 termination of employment for any reason, accrued PTO shall be paid based upon
10 salary at time of termination.

11 **5.2 HOLIDAYS** –

12 The Manager shall be entitled to all Village recognized
13 holidays, the same as other employees, except for pre-scheduled events or unfore-
14 seen circumstances which require attention.

15 **5.3 INSURANCE AND MEDICAL ISSUES** –

16 The Manager shall receive, at Village expense through Village group insurance plans (or as otherwise deter-
17 mined by the Village), comprehensive medical, dental and eye insurance and the
18 family (spouse and minor children if any) and life insurance in the amount of
19 _____ . The term "medical" in this agreement means medical, dental and
20 eye. The Manager shall receive, at Village expense not to exceed _____
21 short-term disability insurance, and long-term disability insurance in an amount not

1 to exceed _____. _____ shall receive the same medical leave benefits
2 as are provided to Village employees under the same terms and conditions as appli-
3 cable to all Village employees.

4 Upon termination for any reason other than termination for cause, the Manager
5 shall receive continued medical insurance benefits, which is one year (1 year) of post
6 termination medical insurance benefits for each full two years (2 years) of service.
7 The medical benefits under this section 5.3 and under section 6.5 shall have no cash
8 value.

9 **5.4 EQUIPMENT** – The Manager shall receive a Village issued cell phone
10 and a monthly auto allowance of Five Hundred Fifty Dollars (\$550).

11 **5.5 MOVING EXPENSES** – The Manager shall receive an amount up to Ten
12 Thousand Dollars (\$10,000) toward moving expenses if moving from out of town.
13 The Village shall receive proof of receipts for the moving expenses.

14 **SECTION 6. TERMINATION/SEVERANCE BENEFITS**

15 **6.1 AT-WILL EMPLOYMENT/TERMINATION WITHOUT CAUSE -**

16 This Contract may be terminated by the Council, as the Manager is an at-will em-
17 ployee, without cause upon no less than thirty days (30 days) following a Notice of
18 Intent to terminate. This termination must occur at a Council meeting, pursuant to
19 the procedures specified in this subsection.

1 **6.2 NOTICE** - A proposed Notice of Intent to terminate by the Council must
2 be noticed at least seven days (7 days) prior to a Council meeting. Following adop-
3 tion of a Notice of Intent to terminate by the Council, a subsequent Council meeting
4 shall be held no more than thirty days (30 days) thereafter, during which time the
5 Manager may file a written response to the decision to terminate. At such subsequent
6 Council meeting the Council may terminate the Manager effective immediately.

7 **6.3 TERMINATION FOR CAUSE** - The Council may also terminate this
8 Contract for cause as specified below.

9 **CAUSE DEFINED** - The Council may terminate for cause at any time as
10 specified for any of the following reasons which constitute cause: (1) the breach of
11 any material term or condition of this Contract; (2) the violation of any applicable
12 Federal or State law; (3) misconduct in office including but not limited to misfea-
13 sance, malfeasance and/or nonfeasance in the performance of the duties and respon-
14 sibilities specified in the Village Charter; (4) gross insubordination; (5) willful ne-
15 glect of duty; (6) conviction or a plea of guilty or no contest to a misdemeanor or
16 felony crime, whether or not adjudication is withheld (except for non-felony traffic
17 violations) (7) the violation of any Village policy, rule or regulation which would
18 subject any other Village employee to termination; (8) the commission of any fraud-
19 ulent act against the interests of the Village; (9) the commission of any act which

1 involves moral turpitude; (10) a knowing or intentional violation of the Florida, Mi-
2 ami-Dade, or Village of Palmetto Bay conflict of interest laws or code of ethics laws.

3 **6.4 PROCEDURES** - Any proposal to terminate for cause must be noticed
4 on a Council meeting agenda at least seven days (7 days) prior to a Council meeting,
5 specifying the reason as enumerated from the immediately preceding list of reasons
6 with a brief description of the factual basis for the proposed termination. Such de-
7 scription need be in no greater detail than reasonably necessary to provide general
8 notice to the Manager. After allowing an opportunity to address the reason(s) within
9 the 30-day period, the Council may decide the issue of termination for cause. Upon
10 such termination for cause, the Manager shall not be entitled to severance benefits
11 except for the return of any 401(a) funds voluntarily contributed by the Manager and
12 any then accrued PTO.

13 **6.5 SEVERANCE BENEFITS** - Upon termination at-will and without cause
14 (but not upon termination for cause), the Manager shall receive severance benefits
15 as defined herein for the benefits period. The benefits period shall be ten weeks (10
16 weeks) plus one additional week (1 week) for each complete four-month period em-
17 ployed, not to exceed twenty weeks (20 weeks), consisting of salary, including com-
18 pensation contributions by the Village, and accrued (PTO).

19

1 **6.6 TERM OF CONTRACT**

2 The term of this Contract is for a period of three years (3 years).

3 **SECTION 7. OUTSIDE EMPLOYMENT**

4 The Manager shall have no outside employment.

5 **SECTION 8. EVALUATION AND PERFORMANCE GUIDELINES**

6 The Village Council and the Manager shall meet in order to establish all goals and
7 objectives of the office.

8 **SECTION 9 MISCELLANEOUS PROVISIONS**

9 **9.1 SOVEREIGN IMMUNITY** - The Village does not waive sovereign im-
10 munity except for breach of Contract and then for only the amounts based on any
11 remaining term. The Village does not waive sovereign immunity for, and shall not
12 be liable for, prejudgment interest, consequential damages or attorney's fees at trial
13 and appellate levels.

14 **9.2 NO PROPERTY RIGHTS CREATED** - This Contract does not create
15 a property right to employment and does not create any due process rights to en-
16 forcement. The exclusive remedy is for breach under the terms of this Contract.

17 **9.3 REDUCTION IN SALARY** - Contributions or Benefits - If at any time
18 the Council is unable to pay the salary, contributions or benefits as specified herein

1 due to a shortfall in revenue, without increasing taxes or fees, the Manager may
2 consider such reductions to be a termination of the Contract at will and without
3 cause. In such a case, the Manager shall notify the Council at the next regularly
4 scheduled Council meeting to consider the reductions to be such a termination. The
5 Council shall have a thirty-day (30) period to eliminate the reductions. If the deduc-
6 tions are not eliminated, the Manager shall be entitled to the severance benefits for
7 termination at will and without cause. Alternatively, the Manager may choose to
8 accept such reductions at the Council meeting. In such a case, this Contract will be
9 deemed amended to reflect the reductions. If any reductions are imposed and the
10 Manager accepts the reductions, the Council, as a matter of good faith, but not as an
11 enforceable commitment, decides in its sole discretion to restore or otherwise com-
12 pensate for the reductions imposed whenever possible.

13 **9.4 PROFESSIONAL DEVELOPMENT** - The Village shall pay for mem-
14 berships in professional government management associations, for attendance at
15 meetings of such associations, and for attendance at relevant seminars and confe-
16 rences as are approved in the Village's annual budget or as otherwise approved by
17 the Council. Attendance at local civic and governmental organization events is en-
18 couraged. Documented expenses up to two hundred fifty dollars (\$250) for any such
19 event may be requested then and approved by the Mayor, while documented ex-
20 penses exceeding this amount may be approved by the Council.

1 **9.5 SURETY BOND** - The Manager shall secure a surety bond, at the ex-
2 pense of the Village, to be approved by the Council pursuant to Village Charter,
3 Article III, Section 3, in the amount determined by the Council.

4 **9.6 DISPUTE RESOLUTION** - Claims and disputes arising out of this Con-
5 tract shall be pursued in good faith as specified below.

6 **9.7 MEDIATION** - Any claim or dispute arising out of this Contract shall
7 be subject to mediation as a condition precedent to instituting legal or equitable pro-
8 ceedings in court. The use of a mediator or the mediation may be waived by joint
9 agreement of the Parties. If a mediator is used, costs shall be shared equally. The
10 mediation shall be held in Miami-Dade County unless otherwise agreed. Agreements
11 reached in mediation which the Parties characterize as enforceable may be enforced
12 as a settlement agreement in the Miami-Dade County Circuit Courts. The Parties
13 waive any claim or right to arbitration.

14 **9.8 APPLICABLE LAW AND VENUE** - This Contract shall be interpreted
15 and enforced in accordance with the laws of the State of Florida. Venue for any legal
16 or equitable action shall be in Miami-Dade County, Florida, and the Parties waive
17 the right to trial by jury.

18

