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**RESOLUTION 2016-81**

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE LEGISLATIVE FUNCTION OF THE COUNCIL AND COMMUNICATIONS BY COUNCIL MEMBERS; DEFINING LEGISLATIVE FUNCTIONS OF THE COUNCIL AND COUNCIL MEMBERS, AND PROHIBITING CERTAIN INTERFERENCE WITH ADMINISTRATION WITHIN THE MEANING OF THE CHARTER PROHIBITION ON INTERFERENCE WITH ADMINISTRATION; REQUIRING DISCLOSURES IN CERTAIN COMMUNICATIONS BY COUNCIL MEMBERS; AND PROVIDING FOR AN EFFECTIVE DATE.** (Sponsored by Councilmember Larissa Siegel-Lara)

**WHEREAS**, under the Charter the Mayor is the Council Member designated to represent the Village in dealings with other government entities (section 2.1(4) and no Member of the Council should communicate with other government entities, officials or employees in such a fashion as to appear to be speaking for or on behalf of the Village or the Council as a whole (section 2.1(A)(4)); and

**WHEREAS**, under the Charter, the Council acts as a legislative body operating on majority-based principles of decisionmaking and policymaking; and individual Council Members are not empowered or authorized (1) to negotiate for or on behalf of the Village or Council with any party or government entity, or (2) to represent or portray themselves as speaking for or on behalf of the Village or Council, or (3) to communicate in general in such a fashion as to appear to be speaking for or on behalf of the Village or the Council as a whole (sections 2.2 and 4(1)(C); and

**WHEREAS**, the Charter of the Village of Palmetto Bay provides for a Council-Manager form of government (section 1.2), vesting "all legislative powers" in the Council (section 2.2) and vesting "the administration of all Village affairs" in the Manager (section 3.1); and

**WHEREAS**, the Charter prohibits Council Members from interfering with the administration of the Village or interfering with the activities of the Manager undertaken or performed on behalf of the Village (section 4.2(B)); and

**WHEREAS**, because the dates of Village events and meetings frequently change, Council Members should make reasonable efforts to confirm the accuracy of listings of Village events and meetings with the Manager before publishing calendars or announcements of such events and meetings.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**

**Section 1** The Village Council adopts the following guidance regarding legislative functions of Council Members:

1 (a) The Mayor is the Council Member designated to represent the Village in dealings with  
2 other government entities. Council Members shall not communicate with other government  
3 entities, officials or employees in such a fashion as to appear to be speaking for or on behalf of  
4 the Village or the Council as a whole.  
5

6 (b) The Village Council acts as a legislative body and operates on majority-based  
7 principles of decisionmaking and policymaking. The Manager is responsible for implementing all  
8 such decisions and policies. Therefore, individual Council Members are not empowered or  
9 authorized to, and are hereby prohibited from:  
10

11 (1) negotiating, whether preliminarily or finally, for or on behalf of the Village or  
12 Council with any party or government entity,  
13

14 (2) representing or portraying themselves, whether directly or indirectly, as  
15 speaking for or on behalf of the Village or Council; and  
16

17 (3) communicating in general at any time in such a fashion as to appear to be  
18 speaking for or on behalf of the Village or the Council as a whole, including such words as "we"  
19 and "the Village" when purporting to represent the positions, policies, or beliefs of the Village or  
20 the Council as a whole.  
21

22 (c) Under the Council-Manager form of government established by the Village Charter,  
23 Council Members are legislators and may not interfere with the administration of the Village by  
24 the Manager. In order to maintain majority decisionmaking by the Council, and in order to  
25 promote operational effectiveness of the Manager in executing actions of the Council and in  
26 conducting Village business and of non-Village governmental administrative personnel, individual  
27 Council Members shall not:  
28

29 (1) interfere with meetings the Manager may from time to time attend or conduct  
30 with other persons, including officers or employees of other governments or the Village  
31 government; or use their position or influence to seek to have themselves or other persons attend  
32 such meetings without consultation with and the consent of the Manager; or  
33

34 (2) request any governmental action on behalf of the Village, or request that any  
35 action be taken by any government employee of the Village or any other government within the  
36 scope of their government duties, excluding normal private interaction with any government by a  
37 Council Member in their private capacity for a private purpose.  
38

39 **Section 2** - The Village Council adopts the following procedures regarding certain  
40 communications by Councilmembers and Village event calendars:  
41

42 (a) Definitions. For the purposes of this section, the following definitions apply:  
43

44 (1) "Public Newsletter or Mass Communication" is a newsletter or other  
45 communication by a Council Member which is posted on the Village website by the Manager at  
46 the request of the Council Member.  
47

1 (2) "Private Newsletter or Mass Communication" means a newsletter or other  
2 communication by a Council Member, whether in paper or electronic form, whether placed on a  
3 non-Village website or transmitted electronically to e-mail addressees, and whether mailed or  
4 circulated by hand distribution or other form of distribution, but excluding:

5  
6 (i) e-mail transmissions to not more than ten individual person addresses,  
7 which are not transmitted in substantially the same form and/or content to any other individual  
8 person addressees, and  
9

10 (ii) paper communications distributed or circulated to no more than ten people  
11 and not made available, directly or indirectly by the Council Member or by others people, to the  
12 public in any fashion which is likely to result in the receipt of the paper communication by more  
13 than ten people.  
14

15 (b) Disclosure on Private Newsletters or Mass Communications by Council Members.  
16 Private newsletters or mass communications by a Council Member shall display at the top and  
17 bottom of each page, in type size equal to the type size otherwise most commonly used in the  
18 newsletter or communication, the following statement: "This is a communication by Council  
19 Member [insert name] and is not an official communication of the Village of Palmetto Bay. The  
20 accuracy of the contents has not been verified by the Village government. Other Council  
21 Members or Village officials may not be aware of the contents of this communication."  
22

23 (c) Council Members should make reasonable efforts to confirm the accuracy of listings  
24 of Village events with the Manager before publishing calendars or announcement of such events  
25 in private newsletters and mass communications.  
26

27 **Section 3. Effective Date.** This Resolution shall take effect immediately upon  
28 enactment.  
29

30 **PASSED and ADOPTED** this 19<sup>th</sup> day of September, 2016.  
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35 Attest: Missy Arocha  
36 Missy Arocha  
37 Village Clerk  
38

39  
40  
41 Eugene Flinn  
42 Eugene Flinn  
43 Mayor  
44

45 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
46 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:  
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49  
50  
51 Dexter W. Lehtinen  
52 Dexter W. Lehtinen  
53 Village Attorney

1 FINAL VOTE AT ADOPTION:  
2  
3 Council Member Karyn Cunningham NO  
4  
5 Council Member Tim Schaffer YES  
6  
7 Council Member Larissa Siegel Lara YES  
8  
9 Vice-Mayor John DuBois YES  
10  
11 Mayor Eugene Flinn YES