

RESOLUTION 2016-__

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; REPEALING RESOLUTION NO. 2016-81 RELATING TO THE LEGISLATIVE FUNCTIONS OF THE COUNCIL AND COMMUNICATIONS BY COUNCIL MEMBERS; AND PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Vice Mayor John DuBois)

WHEREAS, the Village Council has reconsidered the wisdom of Resolution No. 2016-81 relating to defining legislative functions of the Council and communications by Council Members, and prohibiting certain interference with administration within the meaning of the charter prohibition on interference with administration and requiring disclosures in certain communications by Council Members.

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 hereby repeals Resolution No. 2016-81 (attached hereto as Exhibit A) adopted by the Village Council on September 19, 2016 relating to the legislative functions of the Council and communications by Council Members.

Section 2. Effective Date. This Resolution shall take effect immediately upon enactment.

PASSED and ADOPTED this 17th day of October, 2016.

Attest: Missy Arocha Village Clerk

Eugene Flinn Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

Dexter W. Lehtinen Village Attorney

1 FINAL VOTE AT ADOPTION:
2
3 Council Member Karyn Cunningham _____
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5 Council Member Tim Schaffer _____
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7 Council Member Larissa Siegel Lara _____
8
9 Vice-Mayor John DuBois _____
10
11 Mayor Eugene Flinn _____

RESOLUTION 2016-81

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3 A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF
4 THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE
5 LEGISLATIVE FUNCTION OF THE COUNCIL AND
6 COMMUNICATIONS BY COUNCIL MEMBERS; DEFINING
7 LEGISLATIVE FUNCTIONS OF THE COUNCIL AND COUNCIL
8 MEMBERS, AND PROHIBITING CERTAIN INTERFERENCE WITH
9 ADMINISTRATION WITHIN THE MEANING OF THE CHARTER
10 PROHIBITION ON INTERFERENCE WITH ADMINISTRATION;
11 REQUIRING DISCLOSURES IN CERTAIN COMMUNICATIONS BY
12 COUNCIL MEMBERS; AND PROVIDING FOR AN EFFECTIVE
13 DATE. (Sponsored by Councilmember Larissa Siegel-Lara)
14

15 WHEREAS, under the Charter the Mayor is the Council Member designated to
16 represent the Village in dealings with other government entities (section 2.1(4) and no Member of
17 the Council should communicate with other government entities, officials or employees in such a
18 fashion as to appear to be speaking for or on behalf of the Village or the Council as a whole
19 (section 2.1(A)(4)); and
20

21 WHEREAS, under the Charter, the Council acts as a legislative body operating on
22 majority-based principles of decisionmaking and policymaking; and individual Council Members
23 are not empowered or authorized (1) to negotiate for or on behalf of the Village or Council with
24 any party or government entity, or (2) to represent or portray themselves as speaking for or on
25 behalf of the Village or Council, or (3) to communicate in general in such a fashion as to appear
26 to be speaking for or on behalf of the Village or the Council as a whole (sections 2.2 and 4(1)(C);
27 and
28

29 WHEREAS, the Charter of the Village of Palmetto Bay provides for a Council-Manager
30 form of government (section 1.2), vesting "all legislative powers" in the Council (section 2.2) and
31 vesting "the administration of all Village affairs" in the Manager (section 3.1); and
32

33 WHEREAS, the Charter prohibits Council Members from interfering with the
34 administration of the Village or interfering with the activities of the Manager undertaken or
35 performed on behalf of the Village (section 4.2(B)); and
36

37 WHEREAS, because the dates of Village events and meetings frequently change,
38 Council Members should make reasonable efforts to confirm the accuracy of listings of Village
39 events and meetings with the Manager before publishing calendars or announcements of such
40 events and meetings.
41

42 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE
43 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
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45 Section 1 The Village Council adopts the following guidance regarding legislative
46 functions of Council Members:
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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 (1) negotiating, whether preliminarily or finally, for or on behalf of the Village or
11 Council with any party or government entity,
12

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

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

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

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

33 (2) request any governmental action on behalf of the Village, or request that any
34 action be taken by any government employee of the Village or any other government within the
35 scope of their government duties, excluding normal private interaction with any government by a
36 Council Member in their private capacity for a private purpose.
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38 **Section 2** - The Village Council adopts the following procedures regarding certain
39 communications by Councilmembers and Village event calendars:
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41 (a) Definitions. For the purposes of this section, the following definitions apply:
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43 (1) "Public Newsletter or Mass Communication" is a newsletter or other
44 communication by a Council Member which is posted on the Village website by the Manager at
45 the request of the Council Member.
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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.
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27 **Section 3. Effective Date.** This Resolution shall take effect immediately upon
28 enactment.
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30 **PASSED and ADOPTED** this 19th day of September, 2016.
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35 Attest: Missy Arocha
36 Missy Arocha
37 Village Clerk
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Eugene Flinn
Eugene Flinn
Mayor

40 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
41 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:
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45 Dexter W. Lehtinen
46 Dexter W. Lehtinen
47 Village Attorney
48

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