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RESOLUTION 2016-56

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PROPOSED VILLAGE CHARTER AMENDMENTS AN ANNEXATION QUESTION; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO ELECTORS OF THE PROPOSED AMENDMENTS AND ANNEXATION QUESTION; PROVIDING FOR COPIES OF THE CHARTER AMENDMENTS AND ANNEXATION QUESTION BE AVAILABLE FOR PUBLIC INSPECTION; PROVIDING FOR THE VILLAGE CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS TO PLACE THE CHARTER AMENDMENTS ON THE BALLOT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay appointed a Charter Revision Commission pursuant to the Charter, to review the Village Charter and to provide recommendations to the Village Council; and

WHEREAS, the Charter Revision Commission has made several recommendations for Charter Amendments; and

WHEREAS, based upon the foregoing, the Mayor and Village Council are submitting to the electorate proposed amendments to several sections of the Charter of the Village of Palmetto Bay, and

WHEREAS, the Council seeks the opinion of the electorate as to whether a certain annexation process should be initiated; and

WHEREAS, in order to submit the proposed amendments and annexation question to the electorate, the Council must provide ballot language, provide for copies of this charter amendment be available for public inspection and provide for the Village Clerk to utilize the services of Miami-Dade County Supervisor of Elections.

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

Section 1. Whereas Clauses. The above whereas clauses are incorporated by reference into this Resolution.

Section 2. Proposed Amendments to the Village Charter and Annexation Question. The proposed charter amendments and the annexation question are commonly referred to by the following ballot titles:

- 1 1. Powers of the Manager
- 2
- 3 2. Appointment and removal of Charter Officers and Auditors
- 4
- 5 3. Interfering with Administration
- 6
- 7 4. Non-partisan Campaigning
- 8
- 9 5. Annexation Question

10
11 **Section 3. Form of Ballot.** The form of ballot of the charter amendments and annexation
12 question provided for in this Resolution shall be as follows:

13
14 **CHARTER AMENDMENT NUMBER ONE – POWERS OF THE MANAGER**

15 Deleting from section 3.3 of the Village Charter the requirement that department directors appointed
16 by the Village Manager be approved by the Council.

17 Should this amendment be adopted?

18 Yes _____

19 No _____

20
21 **PROPOSED CHARTER AMENDMENT NUMBER TWO - APPOINTMENT AND**
22 **REMOVAL OF CHARTER OFFICERS AND AUDITORS**

23 Amending section 4.1(C) of the Village Charter to require a quorum of four members of the Village
24 Council (replacing the quorum of three members) for appointment and removal of any Charter officer
25 (Village Manager, Village Clerk, and Village Attorney) and for the appointment of auditors.

26 Should this amendment be adopted?

27 Yes _____

28 No _____

29
30 **PROPOSED AMENDMENT NUMBER THREE – INTERFERENCE WITH**
31 **ADMINISTRATION**

32 Amending section 4.2(D) of the Village Charter to provide that action by the State Attorney to enforce
33 the prohibition on interference with administration is not the exclusive remedy for enforcement; and
34 deleting confusing language which incorrectly states that the Village Manager and the Village
35 Attorney employees subject to the direction of the Village Manager.

36 Should this amendment be adopted?

37 Yes _____

38 No _____

39
40 **PROPOSED AMENDMENT NUMBER FOUR – NONPARTISAN CAMPAIGNING**

41 Amending section 5.1(B) of the Village Charter to provide that action by the State Attorney to enforce
42 the non-partisan election provision is not the exclusive remedy for enforcement.

43 Should this amendment be adopted?

44 Yes _____

45 No _____

1 **ANNEXATION QUESTION**

2 Should the Village Council, in accordance with the Village Charter, initiate the process with
3 Miami-Dade County (with subsequent steps as provided by Miami-Dade County law and the
4 Village Charter) to annex the area bounded by the Busway on the west, the Palmetto Bay
5 boundary ((Highway US 1) on the east, SW 160 Street on the north, and SW 184 Street on the
6 south, which is presently a non-residential commercial area?

7 Yes _____

8 No _____

9
10 **Section 4. Proposed Amendments and Annexation Question.** The full text of
11 the proposed amendments to the Village Charter and the annexation question are attached
12 hereto as (Exhibit 1) and are incorporated by reference into this Resolution. The proposed
13 amendments to the Village Charter are reflected by underlying in the text and strikethroughs
14 reflect items to be deleted from the Charter.
15

16 **Section 5. Charter Amendments and Annexation Question to be Available for**
17 **Public Inspection, and for the Village Clerk to Utilize the Services of Miami-Dade**
18 **County Supervisor of Elections.** The place, information, and the full text of the proposed
19 Village Charter amendments and the annexation question are available at the office of the
20 Village Clerk located at 9705 East Hibiscus Street, Palmetto Bay, Florida 33157. Copies of
21 this Resolution providing the charter amendments and annexation question subject to this
22 referendum approval is on file in the office of the Village Clerk and available for public
23 inspection during regular business hours. The Village Clerk is authorized to utilize the
24 services of Miami-Dade County Supervisor of Elections for any assistance required in the
25 administration of the election.
26

27 **Section 6. Providing for Inclusion in the Charter.** It is the intention of the
28 Village Council and it is hereby ordained that the provisions of this Resolution shall become
29 and made a part of the charter of the Village of Palmetto Bay, Florida, as to each charter
30 amendment measure approved by a majority of voters on such measure in such election; that
31 the sections of this Resolution may be re-numbered or re-lettered to accomplish such
32 intentions; and the word "Resolution" shall be changed to "Section" or other appropriate
33 word.
34

35 **Section 7. Providing for Adoption of Enabling Resolution.** The Village
36 Council shall enable the submittal of the proposed amendments to the electorate pursuant to
37 Section 6.03 of the Miami-Dade County Charter.
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1 **Section 8. Effective Date.** This Resolution shall become effective upon adoption,
2 and each of the Charter Amendment measures provided herein shall be effective only upon
3 approval of a majority of electors voting on the measure, effective upon certification of the
4 election results. If conflicting amendments are adopted at the same election, the one receiving
5 the greatest number of affirmative votes shall prevail to the extent of such conflict.
6
7

8 **Section 9. Jurisdiction.** If any section, clause, sentence, or phrase of this
9 Resolution is for any reason held invalid or unconstitutional by a court of competent
10 jurisdiction, the holding shall not affect the validity of the remaining portions of this
11 Resolution.
12
13

14 This Resolution shall take effect immediately upon approval.

15
16 PASSED AND ADOPTED this 11th day of July, 2016.

17
18 Attest:

19 Missy Arocha
20 Village Clerk

21 Eugene Flinn
22 Mayor

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

25 Dexter W. Lehtinen
26 Dexter W. Lehtinen
27 Village Attorney
28
29
30
31

32 FINAL VOTE AT ADOPTION:

33
34 Council Member Karyn Cunningham YES
35
36 Council Member Tim Schaffer YES
37
38 Council Member Larissa Siegel Lara YES
39
40 Vice Mayor John DuBois YES
41
42 Mayor Eugene Flinn YES
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EXHIBIT 1

VILLAGE OF PALMETTO BAY

PROPOSALS FOR ELECTION OF 2016

PROPOSAL NUMBER ONE

Section 3.3 Powers and Duties of the Village Manager.

The Manager shall:

(1) Be responsible for the appointing, hiring, promoting, supervising and removing of all Village employees, except the Village Attorney and the Village Clerk. ~~However, the Village Manager may not appoint any department director without first obtaining majority approval of the Council.~~

PROPOSAL NUMBER TWO

Section 4.1 Council Meeting Procedure.

(C) *Quorum and Voting.* A majority of the Council shall constitute a quorum but a smaller number may in absence of quorum make a motion to compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. Voting on ordinances shall be by roll call on final reading. Voting on all other matters shall be by voice vote unless a Council member or the Village Clerk requests otherwise. In the event that three or more Council members are unavailable to vote on a particular matter due to required abstention pursuant to State law, then the remaining members of the Council may vote and approve such matter by unanimous vote. A quorum of four is required for the appointment or removal of any Charter Officers and for the appointment of auditors.

PROPOSAL NUMBER THREE

Section 4.2(B) Interference With Administration.

(1) Except for the purpose of inquiries and investigations made in good faith and in accordance with a resolution adopted by the Council, the Council and any of its individual members shall deal with Village employees who are subject to the direction and supervision of the Village Manager solely through the Village Manager, and neither the Council nor its members shall give orders to any such employee, ~~except the Village Manager and the Village Attorney,~~ either publicly or privately. It is the express intent of this Charter that recommendations for improvement in Village government operations by individual Council members are made solely to and through the Village Manager. Council members may discuss with the Village Manager any matter of Village business; however, no individual Council member shall give orders to the Village Manager.

(2) Any willful violation of this Section by the Mayor or any Council member shall be grounds for his/her removal from office by an action brought in the Circuit Court by the State Attorney of Miami-Dade County. Action by the State Attorney is not the exclusive remedy for a violation of this section.

PROPOSAL NUMBER FOUR

Section 5.1 Elections.

(B) *Nonpartisan Elections.* All elections for the Council, Vice-Mayor and Mayor shall be conducted on a nonpartisan basis. The ballot nor any campaign literature shall show the party designation of any candidate. Nonpartisan office means an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation. A willful violation of this provision shall be enforced by the State Attorney. A judicial determination of a violation shall be grounds for removal from elected office and subject the individual to a fine up to \$1000, per willful

1 violation, and not to exceed a total of \$10,000. Action by the State Attorney is not the exclusive
2 remedy for a violation of this section.

3

4 **ANNEXATION QUESTION**

5 Should the Village Council, in accordance with the Village Charter, initiate the process with
6 Miami-Dade County (with subsequent steps as provided by Miami-Dade County law and the
7 Village Charter) to annex the area bounded by the Busway on the west, the Palmetto Bay
8 boundary ((Highway US 1) on the east, SW 160 Street on the north, and SW 184 Street on the
9 south, which is presently a non-residential commercial area?