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**RESOLUTION NO. 2016-90**

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, EXPOSING THE HIDDEN AGENDA BEHIND FLORIDA CONSTITUTION AMENDMENT 1 BALLOT QUESTION TITLED "RIGHTS OF ELECTRICITY CONSUMERS REGARDING SOLAR ENERGY CHOICE", SCHEDULED FOR NOVEMBER 8, 2016 GENERAL ELECTION BALLOT, AND INFORMING THE PUBLIC OF THE FACTS SURROUNDING THE AMENDMENT AND ITS EFFECTS AND RAMIFICATIONS; AND PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn)**

**WHEREAS**, Florida spends billions of dollars each year purchasing carbon-based fuels from other states and countries to power its homes, businesses, and vehicles, while solar power will keep energy dollars in the state and create good-paying local sales, installation, and maintenance jobs; and

**WHEREAS**, solar photovoltaic energy offers many potential benefits, including: lower electricity costs for homeowners, businesses, and governments; local jobs and economic development; reduced dependence on imported fuels; pollution-free electricity generation; no water use; and contribution to a more resilient electric grid; and

**WHEREAS**, Florida has the third-highest potential for rooftop solar energy generation in the United States, but currently ranks 14th in the nation for installed solar capacity, according to the Solar Energy Industry Association; and

**WHEREAS**, in the eastern United States, Florida has the greatest potential for rooftop solar power of any state yet, according to The Gainesville Sun news, with 9 million electric utility customer accounts, less than 12,000 customer-sited solar electric systems exist in Florida; and

**WHEREAS**, New Jersey, which only has half the population of Florida and does not enjoy the same abundance of sunlight that exists in the "Sunshine State", has over 43,000 customer-sited solar electric systems, according to The Gainesville Sun; and

**WHEREAS**, increased solar-generated electricity, including customer-sited systems on residential and commercial properties, will be a key strategy for achieving this community-wide goal of maximizing the utilization of Florida's abundance of sunlight; and

**WHEREAS**, the resounding passage of Amendment 4 which authorizes the Florida Legislature to exempt solar and other renewable energy systems from both residential and commercial property appraisals and from the tangible personal property tax by the voters on August 30, 2016 shows that a majority of Floridians want more rights and less restrictions; and

1           **WHEREAS**, Amendment 1, titled "Rights of Electricity Consumers Regarding Solar  
2 Energy Choice," will be presented to voters at the November 8, 2016 general election; and  
3

4           **WHEREAS**, Amendment 1 purports to provide a new "choice" for solar power in its  
5 title, but no choices are provided in Amendment 1 and no new solar rights are created, but  
6 instead, Amendment 1 will place critical restrictions on existing solar rights in the Florida  
7 Constitution according to Florida Supreme Court Justice Barbara Pariente in her dissent in  
8 *Advisory Opinion to Atty. Gen. re Rights of Electricity Consumers regarding Solar Energy Choice*, 188 So.3d  
9 822 (Fla. 2016); and  
10

11           **WHEREAS**, Justice Barbara Pariente wrote a minority opinion, supported by two  
12 other justices, to warn the voters of a bait and switch tactic and stated:  
13

14           “Let the pro-solar energy consumers beware. Masquerading as a pro-solar  
15 energy initiative, this proposed constitutional amendment, supported by some  
16 of Florida's major investor-owned electric utility companies, actually seeks to  
17 constitutionalize the status quo. Due to the use and definitions of certain  
18 terms within the proposed amendment, it may actually have the effect of  
19 diminishing some rights of solar energy consumers. For example, a group of  
20 environmental groups who filed a brief in opposition assert that this  
21 amendment will eliminate” [a very desirable method of payment called] “‘pay-  
22 by-the-watt’ leases by narrowly defining "lease," rendering many ordinary  
23 consumers unable to afford the "tens of thousands of dollars to purchase solar  
24 panels.”  
25

26           The minority also felt that “[t]he ballot title is affirmatively misleading by its focus on  
27 "Solar Energy Choice," when no real choice exists for those who favor expansion of solar  
28 energy.” Also the minority found that “[t]he ballot language is further defective for purporting  
29 to grant rights to solar energy consumers that are illusory; and failing, as required, to clearly and  
30 unambiguously set forth the chief purpose of the proposed amendment — to maintain the  
31 status quo favoring the very electric utilities who are the proponents of this amendment.”  
32

33           The minority opinion points out that “[w]hat the ballot summary does not say is that  
34 there is already a right to use solar equipment for individual use afforded by the Florida  
35 Constitution and existing Florida statutes and regulations. It does not explain that the  
36 amendment will elevate the existing rights of the government to regulate solar energy use and  
37 establish that regulatory power as a constitutional right in Florida. This is a glaring omission,  
38 especially since rights enshrined in the Constitution are generally intended to limit, rather than  
39 grant, governmental power.” \*\*\* “This ballot initiative is the proverbial ‘wolf in sheep's  
40 clothing.’”  
41

42           The minority noted that:

43           “[the title of the ballot question] ... does not illuminate the real purpose,  
44 namely, to place a critical restriction on those rights [to use solar equipment]  
45 through elevating state and local governments' police powers to regulate solar  
46 energy to the constitutional level.”  
47

\*\*\*

1 “The ballot summary does not make clear that the right of homeowners to  
2 own solar equipment for their own use already exists. As a result, it creates a  
3 false impression that a vote in favor of the amendment is necessary for the  
4 voter to be afforded the right at all.”

5  
6 \*\*\*

7 “The impact is that the constitutional right that the amendment purportedly  
8 creates in the first section [of Amendment 1] is seriously diminished in the  
9 second section [of Amendment 1]. The proposed amendment would have the  
10 practical effect of maintaining the status quo with the balance of power in the  
11 hands of the utility companies.”

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14 “Clearly, this is an amendment geared to ensure nothing changes with respect  
15 to the use of solar energy in Florida — it is not a "pro-solar" amendment.”

16  
17 **WHEREAS**, Amendment 1 will establish a constitutional right and then give the  
18 government unbridled discretion to limit that right by later defining the meaning of the word  
19 “subsidy”; and

20  
21 **WHEREAS**, Amendment 1 will insert in the Florida Constitution an unsupported,  
22 misleading, and inaccurate presumption that solar rooftop customers are "subsidized" by solar  
23 customers; and

24  
25 **WHEREAS**, Amendment 1 implies that the solar customers are not paying their fair  
26 share of the cost of the grid and that FP&L will be forced to charge the non-solar customer to  
27 pay for the cost not being paid by the solar customers. There has been no evidence that this  
28 has occurred but even if it does, there is no need for a constitutional amendment since the state  
29 has the right to regulate what FPL charges its customers without a constitutional amendment.  
30 Moreover, solar electricity is more efficient than electricity generated at a power plant. The  
31 electricity that starts at the power plant dissipates as it travels along the transmission lines and  
32 requires that extra electricity be generated to compensate for the loss in the transmission  
33 process whereas solar electricity that is put into the grid reduces the cost to all customers since  
34 the solar electricity is used locally. In addition, and currently, at the end of the year, solar  
35 customers who have a net gain are only paid a fraction of what the power company charges its  
36 customers; and

37  
38 **WHEREAS**, Amendment 1, if it passes, can be used to weaken or eliminate the state's  
39 net metering policy; and

40  
41 **WHEREAS**, the Florida Center for Investigative Reporting (“FCIR”) reported that, as  
42 early as April of 2015, there was already legislation circulating in Tallahassee in an attempt to  
43 stop homeowners with solar power from selling extra energy back to utility companies; and

44  
45 **WHEREAS**, FCIR found that from 2010 to 2015 utility companies had invested \$12  
46 million into the campaigns of state lawmakers. When FCIR asked one West Palm Beach  
47 lobbyist who represents solar companies why we don’t have a bigger solar industry in Florida,

1 the lobbyist said: "The answer is simple. Every kilowatt of solar you produce on your roof is  
2 one less kilowatt that the utilities can sell you."; and

3  
4 **WHEREAS**, Amendment 1 is sponsored by an organization called Consumers for  
5 SmartSolar which appears to be primarily bankrolled by the state's big power companies all of  
6 whom appear to be opposed to the current net metering policy; and

7  
8 **WHEREAS**, the ballot question for Amendment 1 is titled "Rights of Electricity  
9 Consumers Regarding Solar Energy Choice" and, as it is described above, it is detrimental to  
10 the Village of Palmetto Bay's previously expressed support for efforts to increase solar energy  
11 generation and other forms of renewable energy in the Village of Palmetto Bay, and in the State  
12 of Florida.

13  
14 **NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE OF**  
15 **PALMETTO BAY, FLORIDA, THAT:**

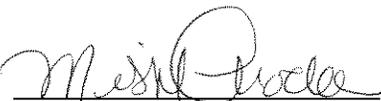
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17 **Section 1.** The Village Council finds that the recital set forth hereinabove are true  
18 and correct and they are hereby adopted by reference as if set forth in full herein.

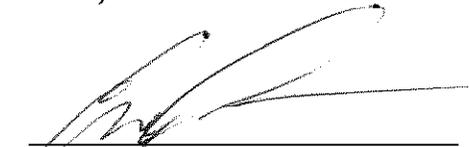
19  
20 **Section 2.** The Village Clerk is hereby instructed to send a copy of this Resolution  
21 to all the voters of the Village of Palmetto Bay as well as to all the Cities and Counties in the  
22 state of Florida for the purpose of informing them of the facts surrounding Amendment 1, the  
23 effect that the amendment will have on the consumers of electricity, the ramifications of the  
24 amendment and the apparent agenda of the supporters of this proposed constitutional  
25 amendment.

26  
27 **Section 3.** This Resolution shall take effect immediately upon its passage and  
28 adoption.

29  
30 **PASSED and ADOPTED** this 17<sup>th</sup> day of October, 2016.

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34 Attest:

  
35 Missy Arocha  
36 Village Clerk

  
37 Eugene Flinn  
38 Mayor

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

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42  
43  
44   
45 Dexter W. Lehtinen  
46 Village Attorney  
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1 FINAL VOTE AT ADOPTION:  
2  
3 Council Member Karyn Cunningham NO  
4  
5 Council Member Tim Schaffer NO  
6  
7 Council Member Larissa Siegel Lara YES  
8  
9 Vice-Mayor John DuBois YES  
10  
11 Mayor Eugene Flinn YES  
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