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MEMORANDUM

TO: Mayor and Town Commission
FROM: William P. Doney, Town Attorney
DATE: February 18, 2021
RE: Town Commission Reminders

With a new Town Commissioner about to take office and the Town's annual organizational meeting nearly at hand, I have been asked to provide a Memorandum that might be helpful to the Town's new Commissioner and serve as a reminder to current Commissioners.

1. **Powers, duties and authority of Town Commissioners.** The Town Charter and Town Code provide little information or guidance pertaining to the powers and functions of Town Commissioners other than the Town Commission is designated as the governing body of the municipality. The Mayor is designated as the chief executive officer of the Town and Chairman of the Commission. As an elected legislative body, the Town Commission's principal job is to set policy for the Town. This is typically accomplished by the adoption of Ordinances and Resolutions. Once a policy decision is made, it is generally a function of Town administrative staff to implement the policy so adopted. As such, Town Commissioners should not typically act on behalf of the Town by directing Town residents to perform or refrain from performing a particular act. For example, if there is a potential Code enforcement issue, a Town Commissioner should not directly approach or confront a resident to seek enforcement but rather should direct the matter to Town staff for handling. While Town Commissioners certainly are permitted to discuss issues or

matters with Town residents, any discussion related to a change in policy matters should be referred to the Town Commission for discussion at a public meeting. Also, a Town Commissioner should not represent that he or she is speaking for or representing the entire Town Commission unless the Commissioner has been specially designated to do so.

2. **Sunshine Law.** In a nutshell, the Florida Sunshine Law prohibits elected officials from discussing matters that may come before the Town Commission for vote unless the discussion takes place at a public meeting. This prohibition applies to face-to-face meetings, telephone calls, emails, text messages or other any other means of communication. The law does not preclude discussions of an elected official with Town staff members or legal counsel. However, staff or legal counsel may not be utilized to convey information by or between elected officials.
3. **Public Record Law.** Each Commissioner is provided an email account through the Town's computer system. This email account should be utilized for all Town business and communications. All such emails, including telephone text messages, are public records and must be retained in order to comply with the State's public records and records retention laws. In the event of a public records request or in the course of litigation, any items or matters sent or received on a personal email account may be required to be produced and, if deleted, could constitute a public records law violation and raise additional issues in litigation. Please keep in mind that all emails related to Town business, whether or not on a personal email account or computer, are public records and must be retained and produced if requested.
4. **Ethics Training.** Town Commissioners are subject to ethics laws adopted by both the State of Florida and Palm Beach County. Periodic ethics training courses are required for all elected officials. If in doubt as to an ethical issue or concern, please contact me directly for advice and guidance. If need be, I can obtain an advisory opinion from the Palm Beach County Commission on Ethics.
5. **Voting.** Town Commissioners are required to vote on all matters before the Town Commission unless there is a prohibited conflict of interest. In the event of such a conflict of interest, a Memorandum of Voting Conflict form must be completed.