

RESOLUTION 24-06-50

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AUTHORIZING THE PAYMENT OF \$2,610.00 TO JOSEPH B. PINDER III FOR REIMBURSEMENT FOR LEGAL SERVICES PERFORMED BY MESSER CAPARELLO, P.A. RELATING TO THE REPRESENTATION OF MAYOR PINDER IN HIS OFFICIAL CAPACITY AS A COUNCILMEMBER; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on or about September 25, 2023, an ethics complaint was filed against Mayor Pinder with the Florida Commission on Ethics in connection with his official capacity as a member of the Village Council; and

WHEREAS, Section 2-33(b) of the Village Code states as follows: "Defense of Officials. The village council shall reimburse any Official for his/her Legal Expenses incurred in successfully defending any criminal, civil, ethics, and/or administrative legal action brought against the Official for any action taken by the Official while acting within the scope of his/her duties and responsibilities. This provision includes instances when such Official is charged with a violation of any provision of the Code of Ethics for Public Officers and Employees, Part III, Chapter 112, Florida Statutes, or any applicable Village ethics ordinances. The provision of Legal Defense is limited to the payment of Legal Expenses to Counsel for the purpose of defending actions or proceedings in accordance with the provisions of this section. This section shall not apply to any action brought or initiated by the Village against an Official."; and

WHEREAS, Section 2-33(d) of the Village Code further states, *inter alia*, that "[s]uch reimbursement shall be authorized by the village council only at such time as it is finally determined in the litigation that the Official (if he/she is still serving as such) is not liable for his/her actions taken within the scope of his/her duties and responsibilities as an Official."; and

WHEREAS, Section 2-33(g) of the Village Code also states, *inter alia*, that "[t]he provisions of this section shall apply to all actions and proceedings pending upon or instituted after the effective date of this section. As used herein, an action shall be construed to be pending where the action has not been tried, or if tried where the judgment has not become final by reason of the completion of any appellate proceedings."; and

WHEREAS, on or about April 19, 2024, the Florida Commission on Ethics found no probable cause and dismissed the complaint; and

WHEREAS, in addition to the provisions of the Village Code, Florida common law allows for the reimbursement of legal expenses in connection with the defense of a matter challenging actions taken in an official capacity in certain circumstances; and

WHEREAS, former Mayor Pinder incurred \$2,610.00 in legal fees relating to a matter involving his official capacity as a Village official; and

WHEREAS, the Village Council finds the fees to be reasonable and agrees to pay for such legal fees and authorizes the Village Manager to take all steps necessary to effectuate the intent and purpose of this Resolution; and

WHEREAS, the Village Council finds that the ethics complaint here arises out of and/or is in connection with performance of Mayor Pinder's official duties and serves a public purpose; and

WHEREAS, the Village Council finds that this Resolution is in the best interest and welfare of the residents of the Village.

NOW THEREFORE BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Payment of Legal Fees Approved.** The Village Council hereby approves payment of \$2,610.00 to Joseph B. Pinder III for reimbursement of expenses for legal services performed by Messer Caparello, P.A. in connection with their representation of Mayor Pinder in his official capacity as a councilmember.

Section 3. **Authorization.** The Village Manager is hereby authorized to take all steps necessary to effectuate the intent and purpose of this Resolution.

Section 4. **Effective Date.** This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 11th day of June, 2024.

Motion to adopt by Mark Gregg. Seconded by Elizabeth Jolin.

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FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Joseph B. Pinder III	Yes
Vice Mayor Sharon Mahoney	Yes
Councilman Mark Gregg	Yes
Councilwoman Elizabeth Jolin	Yes
Councilman Henry Rosenthal	Yes

PASSED AND ADOPTED THIS 11th DAY OF JUNE, 2024.

DocuSigned by:

Joseph B. Pinder III

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JOSEPH B. PINDER III, MAYOR

ATTEST:

DocuSigned by:

Marne K. McGrath

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MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS:

DocuSigned by:

John J. Quick

362BFAA7FDD417...

JOHN J. QUICK, VILLAGE ATTORNEY

