**RESOLUTION 21 -16**

**A RESOLUTION AUTHORIZING ATTENDANCE AT MEETINGS OF THE COUNCIL OF THE VILLAGE OF BLUFFTON AND ANY COMMITTEES THEREOF BY COUNSEL MEMBER SEAN BURRELL VIA ELECTRONIC MEANS DUE TO EXTRAORDINARY CIRCUMSTANCES**

**AND DECLARING AN EMERGENCY**

WHEREAS; Sean Burrell is a duly elected and sworn member of the Council of the Village of Bluffton, Ohio, and;

WHEREAS: Sean Burrell has undergone surgery that has prevented him from leaving physically leaving his home during his convalescence to attend meetings as an active member of the Village Council, and;

WHEREAS: Sean Burrell is otherwise not prohibited from participating in the ongoing deliberations by any other issue and has expressed a desire to participate fully with the business of the Village Council and its committees to which he belongs, and;

WHEREAS: The Village Solicitor has researched this matter and approved the same, and;

WHEREAS: An emergency exists in that having all elected members of Village Council present promotes efficiency and maintains the balance of powers and promotes democracy and that this legislation is necessary for the health, safety and welfare of the Village of Bluffton, Ohio.

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF BLUFFTON, OHIO (THE REQUISITE NUMBER OF MEMBERS CONCURRING) THAT:

SECTION 1. That Council Member Sean Burrell has been physically unable to attend meetings of the Village Council or its Committees due to recent surgery. Council Member Burrell otherwise has all the legal and mental capacity to actively serve in his elected roles as a member of council. Council finds that this constitutes an extraordinary circumstance

SECTION 2. That, during his current illness, only Council Member Sean Burrell may participate in meetings of Village Council and its Committees by electronic means.

a. that would include, but not be limited to the following: Skype, FaceTime, GoToMeeting, any other internet based video conferencing service, telephone conference, speaker phone or other telecommunication’s service that allows Council Member Burrell to be heard and hear any and all discussions and debates of Council.

b. That the public must also be able to hear Council Member Burrell at all times during the meeting.

c. That all meetings in which Council Member Burrell participates, he shall NOT be counted as present for purposes of establishing a quorum. That fact must be stated in the minutes of the meeting.

d. That he may not vote on all motions, resolutions and ordinances.

SECTION 3. That the Administration of the Village make any and all arrangements forthwith.

SECTION 4. That an emergency exists for the reasons set forth herein and this resolution shall be full force and effect immediately from and after its passage as an emergency.

SECTION 5: That this resolution is applicable to Council Member Burrell only and only for this current illness.

SECTION : it is found and determined that all formal actions of the Council concerning and relating to the adoption of this ordinance were made in open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in accordance with all legal requirements of the Open Meetings Law including Section 121.22 of the Ohio Revised Code.

Passed and adopted this \_\_\_\_\_ day of October, 2014 by the Council of the Village of Bluffton, Ohio by the following vote:

Ayes: \_\_\_\_\_\_\_\_\_\_ Nays: \_\_\_\_\_\_\_\_\_\_\_\_ Abstain: \_\_\_\_\_\_\_\_\_\_\_\_\_

Attest:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Clerk Mayor

Approved as to form:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

F. Stephen Chamberlain

Village Solicitor

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End Note:

The need for public meetings and access to matters discussed and debated by Village Council for public business are clear. All discussion and debate must be conducted in public. The Village must not limit access of the public in any way to the meeting and the need to keep meetings in the “Sunshine” are all considerations in this opinion.

Based upon the sources and interpretations below, all the criterial safeguards are in place for a **single** injured and homebound member of Village Council to attend a meeting at the regular location, in real time, with the ability of the public to hear him to participate in the meeting electronically. Technology has evolved to accommodate this unique circumstance.

*Pursuant to R.C. 121.22(C), meetings of a public body of a township are public meetings that must be open to the public at all times and conducted in a location that is open to the public. In order to be considered present at a meeting of a public body of a township, and for the purpose of determining a quorum, R.C. 121.22(C) requires that a member of a public body be present in person at a public meeting. These requirements preclude the possibility of a public body of a township conducting a meeting by teleconference or by any other means that would limit the ability of the public or a majority of the members of a public body to attend the meeting in person.*

2009 Ohio Atty.Gen.Ops. No. 2-230. With this temporary arrangement, the meeting is open, at the same public location and applies only on a 1 member minority. All other members are attending at the regular location. There is minimal disruption of the regular meeting process and the spirt of the law is preserved and openness is paramount.

*R.C. 121.22 prohibits any private prearranged discussion of public business by a majority of the members of a public body regardless of whether the discussion occurs face to face, telephonically, by video conference, or electronically by e-mail, text, tweet, or other form of communication.*

*White v. King, 147 Ohio St.3d 74, 2016-Ohio-2770 (2016).*

As the case above states, the evil that the open meetings law seeks to avoid are **private** discussions and debates. This temporary solution only allows meetings in open and in public.