



20 June 2017

The Honorable Pete Weldon, Commissioner
The City of Winter Park
401 South Park Avenue
Winter Park, FL 32789

Re: Anne Mooney, Editor, *Winter Park Voice*

Dear Commissioner Weldon:

We have been contacted by Ms. Anne Mooney, editor of the *Winter Park Voice*, concerning a series of emails you have sent her in response to her publication of an email she received from you with the subject line, A Few Trees, Lots of Concrete, Little Expanded Park, Lots of Your Money (A Few Trees).

Specifically, Ms. Mooney received your A Few Trees email on June 2; it was sent to her personal email account and was titled "Dear Anne." In the email, you asked "Fellow Winter Park Residents" to "Please share with friends and neighbors." The email was signed by you as Vice Mayor of Winter Park. Ms. Mooney then shared your email by posting to the *Winter Park Voice* (WPV) on June 2. In response to your requests, Mooney later clarified the post by changing the heading to, "*Emailed to residents by Peter Weldon and posted here by WP Voice staff.*"

In subsequent emails sent by you to Ms. Mooney on June 3 - 6, you claim that Ms. Mooney's post of your A Few Trees email was "fraudulent" and demanded she remove both the post and a comment by John Dough, threatening her with legal action if she failed to comply with your demand. Ms. Mooney received another email from you yesterday with the subject line, "Using my Name without my permission," in which you again demand that she remove the post.

LEGAL ANALYSIS

Florida has a long and rich tradition of providing access to public records, Commissioner Weldon. Our public records law was first codified in 1909, and in 1992, Florida voters overwhelmingly approved a constitutional right of access to the records of all three branches of state government. Article I, s. 24(a), Fla. Con.

Section 119.07(1), F.S., affords every person a right to inspect and copy all non-exempt public records, and "[e]ven though a public agency may believe that a person or group are fanatics, harassers or are extremely annoying, the public records are available to all" *Salvadore v. City of Stuart*, No. 91-812 CA (Fla. 19th Cir. Ct. December 17, 1991). Furthermore, our courts have historically and regularly held

that the motivation of a person seeking access to public records is immaterial. *See, e.g., State ex rel. Davis v. McMillan*, 38 So. 666 (Fla. 1905) and *Curry v. State*, 811 So.2d 736 (Fla. 4th DCA 2002).

The term “public records” is broadly defined as

all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, *or other material, regardless of physical form, characteristics, or means of transmission*, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. Section 119.011(12), F.S. Emphasis added.

As a city commissioner, you fall within the statutory definition of “agency” for the purposes of the Public Records Act. Section 119.011(2), F.S.

Your June 2 A Few Trees email, addressed to Winter Park residents and signed by you as Vice Mayor of Winter Park, is clearly a public record under Florida law. In that email you take Ms. Mooney, as editor of the *Winter Park Voice*, to task, asserting city residents “deserve, [sic] city policy driven by full and thoughtful debate, not driven by political manipulation . . .” You then provide a link to winterparkperspective.org, your blog post, wherein you state that the views on the post are yours and “should not be construed as the views of other members of the city commission, or of the city.” One can only conclude that the A Few Trees email which includes a link to your blog post as a city commissioner is a public record, Commissioner Weldon. As such, Ms. Mooney has a right under Florida law to publish and/or post the A Few Trees email.

Additionally, the right to publish information lawfully obtained – in this case, a public record email sent, presumably, to all city residents – is protected by the First Amendment and as a public official, you cannot prohibit or constrain Ms. Mooney’s publication of a public record which she legally acquired. *New York Times Co. v. United States*, 403 U.S. 713 (1971).

Ms. Mooney simply published a public record email sent to her by you with the entreaty that the email be shared. There is nothing illegal in her actions and we strongly suggest that you cease your attempts to force Ms. Mooney to remove the post and related comment from the *Winter Park Voice* website.

Additionally, in your most recent June 19 email, you admonish Ms. Mooney “to better understand [her] responsibility as a paid commentator,” claiming that she has used your name without permission. We think it important to remind you that Ms. Mooney, as editor of the *Winter Park Voice*, is a journalist protected by the First Amendment, and that you, sir, as Vice Mayor of Winter Park, are a public figure.

Sincerely,



Barbara A. Petersen, President

Cc: Anne Mooney, Editor, *Winter Park Voice*