

RESOLUTION 04-09-26-01

A RESOLUTION GRANTING A "LIMITED WAIVER" OF THE ATTORNEY-CLIENT PRIVILEGE BETWEEN THE VILLAGE OF PLEASANTVILLE AND ITS VILLAGE ATTORNEYS, BRADLEY S. NICODEMUS AND JON M. BROWNING, and DECLARING AN EMERGENCY.

Sponsored by: _____

WHEREAS, the village of Pleasantville, Fairfield County, Ohio is identified as the "client" and attorneys Bradley S. Nicodemus and Jon M. Browning are identified as "attorneys" representing the village, and as this relationship generally entitles the village to the benefits of the attorney-client privilege;

WHEREAS, the attorney-client privilege prohibits the village attorneys from disclosing the client's confidential information, and the client cannot be forced to disclose this information;

WHEREAS, the purpose of the attorney-client privilege is to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice; the privilege recognizes that sound legal advice or advocacy serves the public ends and that such advice or advocacy depends upon the lawyer's being fully informed by the client; and by protecting client communications designed to obtain legal advice or assistance, the client will be more candid and will disclose all relevant information to its attorney, even potentially damaging and embarrassing facts.

WHEREAS, the attorney-client privilege begins when the following conditions are met:

- (1) where legal advice of any kind is sought from the village or its officers and officials,
- (2) from a lawyer in his or her capacity as such,
- (3) the communications relating to that purpose,
- (4) made in confidence,
- (5) by the village or its officers and officials,
- (6) are permanently protected,
- (7) from disclosure by the village or its officers and officials or by the legal adviser,
- (8) unless the protection is waived.

WHEREAS, the attorney-client privilege belongs to, and is generally controlled by, the village, the village can waive the attorney-client privilege by agreeing to waive the attorney-privilege through a resolution enacted by a majority vote;

WHEREAS, the village can grant a “limited waiver” of the attorney-client privilege to the attorney, thereby consenting to the disclosing of specific privileged information, usually for a narrow purpose, without waiving the privilege for all communications;

WHEREAS, granting a “limited waiver” of the attorney-client privilege may benefit state authorities investigating alleged past criminal and ethical misconduct by permitting the village attorneys to disclose communications and legal advice offered to the village and its officers and officials;

WHEREAS, such a “limited waiver” could be limited in scope and duration to the investigation of alleged criminal and ethical misconduct alleged to have since June 2023;

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF PLEASANTVILLE, FAIRFIELD COUNTY, OHIO

SECTION I. Council hereby grants attorneys Bradley S. Nicodemus and Jon M. Browning a “limited waiver” of the attorney-client privilege.

SECTION 2. The purpose of the “limited waiver” is to allow a thorough investigation of alleged past criminal and ethical misconduct that may have occurred since June 2023.

SECTION 3. Attorneys Bradley S. Nicodemus and Jon M. Browning are permitted to cooperate with, and to divulge otherwise privileged communications to, investigators from the Ohio Ethics Commission and the Ohio Auditor of State and any other law enforcement agency investigating breaches of the Ohio revised code within the village since June 2023.

SECTION 4. This matter is declared to be an emergency resolution necessary for the public peace, health, and welfare of the village, in that village council seeks a speedy and thorough investigation of possible employee misconduct, as evidence of misconduct may otherwise be lost, and this resolution shall go into effect upon signing by the mayor.

