

Meeting Date
November 21, 2017



AGENDA	
Section	Consent
Item No.	#.D.S.

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Resolution regarding Board Operating Procedures		
DEPT/OFFICE:	County Attorney's Office		
Requested Action:	Approve resolution amending Board Operating Procedures.		
Summary Explanation & Background:	<p>The Board has operating procedures in place. Over time it has become apparent there is a need to adjust certain provisions to provide clarity, improve the process, include provisions from other resolutions, or to address case law. The underlined changes are provided for those reasons. The findings of fact procedure is clarified to indicate the item will be heard on the consent agenda. The zoning procedures are amended to allow cross examination pursuant to case law and to create a consistent disclosure process prior to the board meetings. The provisions of resolution 2015-101 are also included in section 9.</p>		
Fiscal Impact:	0		
Contact Person:	Eden Bentley eden.bentley@brevardfl.gov 633-2090		
Clerk to the Board Instruction:			
Exhibits Attached:	Resolution to be signed by chairman		
Contract / Agreement (if attached):	Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/> No <input type="checkbox"/>
County Manager's Office	Public Works Department:	PR <input type="checkbox"/>	
Frank Abbate, County Manager 	Scott Knox, County Attorney 		



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

November 22, 2017

M E M O R A N D U M

TO: Scott Knox, County Attorney Attn: Eden Bentley

RE: Item II.D.5., Resolution for Amending Board Operating Procedures

The Board of County Commissioners, in regular session on November 21, 2017, adopted Resolution No. 17-231, amending the Board Operating Procedures. Enclosed is a fully-executed Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/kp

Encl. (1)

cc: County Manager

RESOLUTION 17-231

A RESOLUTION AMENDING RESOLUTION 14-21 OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AND INCORPORATING 2015-101, ALLOWING CROSS EXAMINATION OF SPEAKERS IN ZONING HEARINGS BY APPLICANTS, PROVIDING FOR DOCUMENTATION OF EX PARTE COMMUNICATIONS AND CLARIFYING THE PROCEDURE FOR FINDINGS OF FACT AND LEAVING OTHER PROVISIONS THE SAME.

WHEREAS, the Board of County Commissioners is desirous of amending its rules of procedure,

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA that the following amended rules of operating procedures are hereby established and shall govern the meetings and authority of the Board and its members.

I. Authority

1.1 These rules are enacted and adopted under the authority of Section 125.01(1)(a), Florida Statutes.

1.2 These rules shall be construed in a manner which is consistent with applicable state and federal law and to the extent of any conflict, applicable state or federal law shall prevail.

1.3 Any pre-established and adopted policy of the Board of County Commissioners shall remain in full force and effect unless there is a conflict with the provisions of these rules, in which event, these rules shall govern.

II. Robert's Rules of Order and Quorum Requirements

2.1 The Board of County Commissioners hereby adopts the Scott, Foresman *Robert's Rules of Order*, Newly Revised, 1990 Edition and any future editions of the same, as a guideline for conducting its meetings.

2.2 No action taken by the Board of County Commissioners shall be deemed invalid or otherwise unlawful for failure to strictly comply with *Robert's Rules of Order*.

2.3 To the extent of any conflict between rules or policies adopted by the Board of County Commissioners and *Robert's Rules of Order*, the adopted rules or policies of the Board of County Commissioners shall govern.

2.4 These rules and *Robert's Rules of Order* are subordinate to and governed by any applicable state or federal laws governing quorums, voting, abstention, conflicts of interest, disclosure, public meetings or any other subject matter addressed in *Robert's Rules* or these rules.

2.5 For the purposes of meeting the requirements of *Robert's Rules of Order*, the Board of County Commissioners hereby establishes the presence of three members as a quorum for any meeting.

2.6 A motion to table takes priority over other pending motions.

III. Calling and Cancellation of Meetings

3.1 The time and place of regular meetings of the Board of County Commissioners shall be established by the Board under the authority of Section 125.01(1)(a), Florida Statutes, and Brevard County Code, Section 2-26 through 2-28 and, after January 1, 1995, Section 2.8 of the Brevard County Charter with the following exceptions

(a) Zoning Board meetings shall commence at 5:00 p m

(b) Any regular or special meetings shall adjourn no later than 11:00 P.M.

3.2 Special meetings may be called by the Chair or two or more Commissioners. Special meetings may also be called by the Chair or Vice Chair of the Board of County Commissioners in the event of a bona fide emergency or when necessary, upon advice of counsel, in order to comply with state or federal law.

3.3 Notice of any regular or special meeting of the Board of County Commissioners shall be provided in accordance with applicable state law and adopted county ordinances. In the event of emergency meetings, the Board shall provide as much notice as is reasonable under the circumstances which shall include, at a minimum, a posting of notice of the meeting as much in advance of the meeting as is possible under the circumstances.

3.4 Any regular or special meetings may be cancelled by majority vote of the Board of County Commissioners. A special or emergency meeting may be cancelled by the Chair of the Board only under extraordinary circumstances as follows:

(a) In the case of an emergency meeting, when the emergency no longer exists as determined by the Chair and the County Manager;

(b) When the purpose of the special meeting cannot be fulfilled as determined by the Chair and the County Manager;

- (c) When holding of the special or emergency meeting would violate state or federal law, as determined by the Chair upon advice from the County Attorney.

3.5 All meetings must comply with Section 286 011, Florida Statutes, and all other applicable open-government laws, unless otherwise exempt under those laws.

3.6 Action by the Board of County Commissioners at a special meeting shall be limited to the purpose for which the special meeting was called.

IV. Authority of the Chair and Vice-Chair

4.1 The Chair shall have the authority to conduct the meetings in the manner prescribed by *Robert's Rules of Order*, by these rules and by applicable state or federal law.

4.2 The Chair shall have the authority to execute such documents, agreements or ordinances as may be authorized by the Board or under applicable state or federal law.

4.3 The Chair shall have such other authority as may be prescribed by these rules and as may be incidental to the exercise of that authority

4.4 The Vice-Chair, upon the out-of-county absence or incapacitation of the Chair, shall have and exercise the authority afforded the Chair. In the event both the Chair and Vice-Chair are absent from the County at a time when a meeting of the County Commission is necessary, due to emergency or otherwise, or in the event that it is necessary for someone to act in behalf of the absent Chair and Vice-Chair, the Chair Pro Tem is hereby declared to be the Commissioner with the lowest district number who is present in the County. In such circumstances, the temporary acting Chair shall have all authority that would otherwise have been vested in the Chair. A Chair Pro Tem can also be elected by the Commission for the purpose of exercising one or more specific functions that cannot be performed by the Chair or Vice-Chair.

V. Agenda

5.1 The rules governing the preparation, addition to and omissions from the agenda for any regular or special meeting shall be those established by Board of County Commissioners, Agenda Report Procedure Administrative Order Number AO-23, which is incorporated herein by reference.

5.2 The Chair of the Board shall have the authority to move agenda items in order to expedite the progression of a meeting, or to schedule items of high public interest for a time certain.

5.3 The Board may approve, by single motion and a majority vote, all items included on a consent agenda. Any item removed from the consent agenda must be approved by separate motion and majority vote. Items may be removed from the consent agenda for full discussion. Removal of a consent agenda item may be requested by any Board member, the County Manager, the County Attorney, or an individual filling a card seeking to speak on a specific matter at any time prior to the approval of the entire consent agenda, provided that anybody requesting removal of a consent agenda item shall make an effort, if possible, to communicate that intent before 12:00 noon on the Friday before the meeting at which the item is to be considered. Those items removed from the consent agenda at the request of the public shall be addressed after approval of the consent agenda. Those items removed by citizens and Board members or staff shall be addressed after Resolutions, Awards and Presentations.

5.4 Board action on matters requested by a Commissioner, individuals, groups and organizations shall be placed under New Business and identified by the specific action being requested.

5.5 Special presentations to the Board by other governmental officials can be scheduled under New Business, or brief presentations not requiring lengthy discussion can be scheduled as a Guest Appearance under Resolutions and Awards.

VI. Public Hearings

6.1 The procedure and content for conducting all public hearings shall be governed by applicable provisions of state or federal law.

6.2 Public hearings may be continued to a date and time certain upon majority vote approving a motion to that effect.

6.3 All persons wishing to address the Board of County Commissioners at a public hearing shall address the commission by abiding by the following requirements:

- (a) Each person shall fill out a card indicating his/her desire to appear on a specified agenda item and present the card to the person designated by the Board to collect those cards, prior to the discussion of the item.
- (b) Every person addressing the Board shall have five minutes to complete his/her remarks on each agenda item for which he/she has filled out a card.
- (c) No person may share or transfer his/her allotted five-minute period on any agenda item to any other person.
- (d) All remarks shall be made to the Board as a body. Any questions raised shall be addressed to the Chair and no speaker shall address any individual Commissioner without obtaining the permission of the Chair unless the speaker

has been asked a direct question by a particular Commissioner.

- (e) Any speaker may supplement his/her presentation by presenting written comments to the Board.
- (f) All new evidence or documentation which is not presented to the Planning & Zoning Board shall be submitted to the County staff at least two weeks prior to the date of the public hearing at which the Board of County Commissioners will consider the matter. In the event new materials are submitted at the public hearing, the new materials shall constitute grounds for the Board of County Commissioners to continue the item to the next zoning meeting or for a minimum of thirty (30) days to consider the new evidence submitted.
- (g) In cases of appeals of administrative interpretations and vested rights determinations and zoning cases, as determined by the Board, where it is apparent that a particular issue is controversial and subject to objections or opposing evidence, or is denied, the Board of County Commissioners shall adopt a resolution stating its determination. The resolution shall be drafted upon the vote of the Board of County Commissioners after the close of the public hearing and returned to the Board of County Commissioners for final adoption at a publicly advertised meeting as a consent item. Any party affected by the Board of County Commissioners decision on an appeal of an administrative interpretation, vested rights determination, or zoning case shall have 30 days from the date the resolution is executed to file an appeal in the circuit court.

6.4 Public hearings at which applications for rezoning, site-specific land use amendments or other site-specific development orders are considered shall be governed by the procedures set forth in Section 6.3 as supplemented by the following procedures.

- (a) The administrative staff shall present a summary of the application and its findings or recommendation on that application.
- (b) The applicant shall have a choice of being given a total of 15 minutes to present its application or dividing the 15 minutes between multiple persons. If the applicant chooses the 15 minute option, the applicant may, in any manner it deems appropriate, divide the 15 minutes between its initial application and any rebuttal it may wish to present. The applicant shall be allowed to cross examine other speakers at the end of the speaker's presentation on material and relevant issues. The time required for the cross examination shall be deducted from the total amount of time allotted to the applicant. If the applicant chooses to use the entire 15 minutes for the initial presentation, the applicant will be deemed to have waived any right or opportunity for cross examination of other speakers. In addition to, or in lieu of cross examination, the applicant may request an additional seven (7) days

beyond the date of the hearing to submit evidence in rebuttal of testimony presented by persons presenting evidence in opposition to the applicants.

- (c) Any person who has filled out a card, as provided for in Section 6.3, and who is interested in addressing the Board of County Commissioners on the matter under consideration, shall be given five minutes within which to make his/her presentation.
- (d) At the conclusion of the five-minute presentations by all persons filling out cards, the applicant shall be given whatever time period has been reserved within which to rebut any arguments, facts or positions presented during the public hearing..
- (e) At the conclusion of the presentations made by the staff, the applicant and any speakers, the Board of County Commissioners shall submit the matter under consideration to discussion among the Board members. Any Board member may ask any question of the applicant or staff or any other person. At the conclusion of the discussion of the matter, the applicant shall be given an additional two minutes to rebut any facts, positions or information presented in response to questions posed during the discussion.
- (f) Any documentary or physical evidence presented to the Board of County Commissioners in support of, or in opposition to, an application shall be offered into the record by submitting a copy of the same to the Clerk to the Board, who shall keep such documentary and physical evidence as part of the record of the proceeding. It shall be the responsibility of the party offering the evidence to make sure that it is received by the Clerk to the Board as part of the record. The staff report presented on any application and all applicable Brevard County codes and ordinances shall be deemed part of the record in all applications considered by the Board.
- (g) In cases of appeals of administrative interpretations and vested rights determinations and zoning cases as determined by the Board, the Board of County Commissioners shall adopt a resolution stating its determination. The resolution shall be drafted upon the vote of the Board of County Commissioners after the close of the public hearing and returned to the Board of County Commissioners for final adoption at a continuation of the public hearing. Any party affected by the Board of County Commissioners decision on an appeal of an administrative interpretation shall have 30 days from the date the resolution is executed to file an appeal in the circuit court.
- (h) It shall be the responsibility of any person deciding to appeal any decision made by the Board of County Commissioners with respect to any matter considered at a public hearing under this section, to ensure that a verbatim record of the

proceedings is made, which record shall include the testimony and evidence upon which any such appeal is to be based. It shall further be the responsibility of any such person to ensure that the Clerk to the Board receives copies of any such transcript or evidence.

6.4 Any person, not otherwise prohibited by statute, Charter provision, or ordinance, may discuss, with any Board member, any matter on which action may be taken by the Board of County Commissioners whether the matter is quasi-judicial in nature or not. If the matter is quasi-judicial (rezoning, site specific plan amendment, development of regional impact or appeal of administrative interpretation) the following procedures must be complied with in order to remove any presumption of prejudice which may arise from the ex parte communication with the County Commission member. In addition, as to appeals of administrative interpretations, staff conferences shall be disclosed as described below.

- (a) the subject of the communication and the identity of the person, group, or entity with whom the communication took place, must be disclosed and made a part of the record before the final action on the matter.
- (b) written communications must be made a part of the record before final action on the matter;
- (c) the existence of investigations, site visits, or expert opinions obtained on a particular matter must be made a part of the record before final action on the matter;

(d) the law requires the disclosures made pursuant to paragraphs (a), (b), and (c) to be made before or during the public meeting at which the vote is taken on such matters so that persons who have opinions contrary to those expressed in the ex parte communications are given reasonable opportunity to refute or respond to the communication. The Board chooses to use a uniform system for reporting and disclosing such contacts. Prior to the meeting, all commissioners shall provide a written summary of any ex parte contact with any applicants or citizens on any item on the agenda. The summary shall contain the names of the people who met with the commissioner, the location of the meeting and the topics discussed in the meetings. The written summary shall be sent to the Zoning Director to be placed in the official zoning file. In the event such disclosure is not provided prior to the meeting, the disclosure may be made at the public hearing immediately before the item is heard by the Board of County Commissioners.

VII. Resolutions, Awards and Presentations

7.1 Requests for presentation of resolutions and/or awards must be made with a Commission Office or the County Manager and scheduled as part of the agenda under the heading of Resolutions, Awards and Presentations. Requests should be directed to a

Commission Office or County Manager. A written summary, with appropriate supporting or background material, is required to be included.

7.2 A Guest Appearance may be scheduled for an individual to make a brief presentation under Resolutions, Awards and Presentations by a Commissioner, County Manager or County Attorney.

VIII. Public Comments

8.1 The agenda shall provide a section for public comment limited to thirty (30) minutes following approval of the consent agenda during each Regular County Commission Meeting. The purpose of public comment is to allow individuals to comment on any topic relating to County business which is not on the meeting agenda. Individuals delivering public comment shall be restricted to a three-minute time limit on their presentation. During this thirty (30) minute segment of public comment, speakers will be heard in the order in which they turned in a pink card asking to be heard. Any speaker not heard during the first thirty minute segment will be heard during a second public comment segment held at the conclusion of business specified on the regular Commission agenda. With the exception of emergency items, the Board will take no action under the Public Comment section, but can refer the matter to another meeting agenda.

IX. Rules of Decorum For Public Comment

9.1 **Addressing the Board/Subject Matter.** Speakers who wish to address the Board, whether on an agenda item or under public comment, shall fill out a card specifying the agenda item or subject they wish to address.

- (a) Any person addressing the Board on an agenda item shall limit his or her comments to the agenda item that has been specified in the card filled out by the speaker.
- (b) Public comment shall be scheduled at the beginning of the meeting after the Resolutions, Awards and Presentations portion of the agenda of each regular meeting. A speaker shall limit comments made during public comment to matters that are within the control, authority and jurisdiction of the County Commission and to those items where the Board has traditionally expressed a position for the betterment of the community interest.
- (c) The Board's findings and conclusions set forth in the Resolution Adopting a Formal Policy Relating to Traditional Ceremonial Pre-Meeting Prayer, enacted on July 7, 2015, are hereby incorporated into this policy. In view of the requests by secular, humanist, atheist and Secular Humanist organizations to provide a secular, Secular Humanist or an atheist invocation, the Board hereby clarifies the intent of

the Board's existing policies allowing Public Comment to include individual or representative comments intended to instruct the Board; to petition for redress of grievances; to comment upon matters within the control, authority and jurisdiction of the Board; and to comment on matters that are relevant to business of the County Commission, as well as matters upon which the Board has traditionally expressed a position for the betterment of the community interest. Secular invocations and supplications from any organization whose precepts, tenets or principles espouse or promote reason, science, environmental factors, nature or ethics as guiding forces, ideologies, and philosophies that should be observed in the secular business or secular decision making process involving Brevard County employees, elected officials, or decision makers including the Board of County Commissioners, fall within the current policies pertaining to Public Comment and must be placed on the Public Comment section of the secular business agenda. Pre-meeting invocations shall continue to be delivered by persons from the faith-based community in perpetuation of the Board's tradition for over forty years.

9.2 Rules of Decorum

- (a) The County Commission declares it to be Board policy to promote the maximum participation in County affairs by affected or interested citizens in accordance with the First Amendment protections guaranteed under the United States Constitution. However, it is also the Board policy, to the fullest extent possible, to protect individuals from comments that assault their character. In furtherance of that policy, no person who addresses the County Commission shall make slanderous, profane or other remarks that are not protected by the First Amendment, with full recognition that public figures are not subject to the same degree of protection from critical comments as other individuals.
- (b) In the event serious allegations of misconduct or incompetence are alleged against any County employee, the Board may abate the matter and request the County Manager to investigate the allegations. The Board shall also offer the employee, at the employee's discretion, the opportunity to be present during the proceeding in order to address the allegations. The County Manager may offer the County employee administrative leave to allow the employee the opportunity to investigate the allegation and appear at a subsequent meeting to address such allegations.
- (c) Persons speaking under the public comment portion of the agenda may address topics or issues under the jurisdiction or control of the County Commission or that are relevant to business of the County Commission.
- (d) It is the policy of the Board of County Commissioners to respect minority views as well as differing opinions conclusions backgrounds and beliefs. The Board finds that input from differing perspectives enriches public discussion and helps to build a better consensus. It is therefore the objective of the Board to conduct business in a

manner that facilitates and encourages the presentation of diverse views while maintaining civility during all Board proceedings.

- (e) Since the County Commission has no jurisdiction or authority over the charging of prosecution of criminal violations any allegation of criminal behavior against a person or organization should be presented to the State Attorney, Sheriff or other law enforcement agency with jurisdiction. The foregoing sentence shall not be construed to restrict, prohibit or affect the ability of any person to bring to the attention of the County Commission possible violations of the Code of Ethics for Public Officers and Employees, the Florida Sunshine Law, the Florida Public Records Law, other laws relating to county business, or violations of other laws over which the Commission has jurisdiction or authority to take corrective action.

X. Video Tape Presentations

10.1 Video tape presentations are to be limited to no longer than five minutes, and must be reviewed by County production staff and the County Manager no less than twenty-four (24) hours prior to the meeting to ensure that the Board, live and broadcast audiences are not subjected to unsuitable videos which could contain material considered in conflict with accepted community standards regarding obscenity and pornography.

10.2 Only a separate sleeved video tape, of no more than five (5) minutes in length, will be accepted. Lengthy tapes for more than one presenter that require stopping and starting the same tape will not be accepted.

10.3 A person presenting a videotape must state so on the speaker's card. The presenter must be familiar with the content of the videotape and be able to address any questions relating to the tape that may be raised by the Board, staff, or other citizens.

10.4 Any videotape that contains news footage, broadcast or organization/ agency/ commercial programming will not be shown unless presenter provides a written waiver for re-broadcast use from the entity holding the copyright.

10.5 No videotape promoting a commercial enterprise will be shown unless related to relevant agenda items.

XI. Ordinances and Resolutions

11.1 All ordinances and resolutions shall be adopted in the manner prescribed by law.

11.2 All notices required to be published for re-zonings or site-specific land use amendments shall state the specific action being requested of the Board. Such notice shall also

indicate that the Board may grant "such other less intense zoning or land use classification as may be deemed appropriate.

XII Suspension of Rules

12.1 Any provision of these rules, including the provisions of Robert's Rules of Order as incorporated by these rules, may be suspended by majority vote of the Board of County Commissioners to the extent that such a suspension would not be inconsistent with applicable law.

XIII By-Laws

13.1 These procedures shall be considered by-laws for the purposes of Robert's Rules of Order.

XIV. Amendments

14.1 These rules may be amended by resolution adopted by majority vote of the Board of County Commissioners.

**BOARD OF COUNTY COMMISSIONERS BREVARD
COUNTY, FLORIDA**

BY: 
RITA PRITCHETT, CHAIRWOMAN
(As approved by the Board on Nov. 21, 2017)

ATTEST:



Scott Ellis, Clerk



AGENDA REPORT

SUBJECT:

Resolution regarding Board Operating Procedures.

FISCAL IMPACT:

Zero fiscal impact.

DEPT/OFFICE:

County Attorney Office

REQUESTED ACTION:

Approve resolution amending Board Operating Procedures.

SUMMARY EXPLANATION and BACKGROUND:

The Board has operating procedures in place. Over time it has become apparent there is a need to adjust certain provisions to provide clarity, improve the process, include provisions from other resolutions, or to address case law. The underlined changes are provided for those reasons. The findings of fact procedure is clarified to indicate the item will be heard on the consent agenda. The zoning procedures are amended to allow cross examination pursuant to case law and to create a consistent disclosure process prior to the board meetings. The provisions of resolution 2015-101 are also included in section 9.

CLERK TO THE BOARD INSTRUCTIONS:

Return a copy of the resolution signed by the chairman.

ATTACHMENTS:

Description

No Attachments Available

REVIEWERS:

Department

Reviewer

Action

No Reviewers Available

RESOLUTION 1744 _____

A RESOLUTION AMENDING RESOLUTION 14-21 OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AND INCORPORATING 2015-101 BY ALLOWING CROSS EXAMINATION OF SPEAKERS IN ZONING HEARINGS BY APPLICANTS, PROVIDING FOR DOCUMENTATION OF EX PARTE COMMUNICATIONS AND CLARIFYING THE PROCEDURE FOR FINDINGS OF FACT AND LEAVING OTHER PROVISIONS THE SAME.

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has been asked a direct question by a particular Commissioner.

- (e) Any speaker may supplement his/her presentation by presenting written comments to the Board.
- (f) All new evidence or documentation which is not presented to the Planning & Zoning Board shall be submitted to the County staff at least two weeks prior to the date of the public hearing at which the Board of County Commissioners will consider the matter. In the event new materials are submitted at the public hearing, the new materials shall constitute grounds for the Board of County Commissioners to continue the item to the next zoning meeting or for a minimum of thirty (30) days to consider the new evidence submitted.
- (g) In cases of appeals of administrative interpretations and vested rights determinations and zoning cases, as determined by the Board, where it is apparent that a particular issue is controversial and subject to objections or opposing evidence, or is denied, the Board of County Commissioners shall adopt a resolution stating its determination. The resolution shall be drafted upon the vote of the Board of County Commissioners after the close of the public hearing and being returned to the Board of County Commissioners for final adoption at a ~~continuation of the publicly advertised meeting hearing as a consent item.~~ Any party affected by the Board of County Commissioners decision on an appeal of an administrative interpretation, vested rights determination, or zoning case shall have 30 days from the date the resolution is executed to file an appeal in the circuit court.

6.4 Public hearings at which applications for rezoning, site-specific land use amendments or other site-specific development orders are considered shall be governed by the procedures set forth in Section 6.3 as supplemented by the following procedures.

- (a) The administrative staff shall present a summary of the application and its findings or recommendation on that application.
- (b) The applicant shall have a choice of being given a total of 15 minutes to present its application or dividing the 15 minutes between multiple persons. If the applicant chooses the 15 minute option, the applicant may, in any manner it deems appropriate, divide the 15 minutes between its initial application and any rebuttal it may wish to present. The applicant shall be allowed to cross examine other speakers at the end of the speaker's presentation on material and relevant issues. The time required for the cross examination shall be deducted from the total amount of time allotted to the applicant. If the applicant chooses to use the entire 15 minutes for the initial presentation, the applicant will be deemed to have waived any right or opportunity for cross examination of other speakers. In addition to, or in lieu of cross-examination, the applicant may request an additional seven (7)

days beyond the date of the hearing to submit evidence in rebuttal of testimony presented by persons presenting evidence in opposition to the application.

- (c) Any person who has filled out a card, as provided for in Section 6.3, and who is interested in addressing the Board of County Commissioners on the matter under consideration, shall be given five minutes within which to make his/her presentation.
- (d) At the conclusion of the five-minute presentations by all persons filling out cards, the applicant shall be given whatever time period has been reserved within which to rebut any arguments, facts or positions presented during the public hearing..
- (e) At the conclusion of the presentations made by the staff, the applicant and any speakers, the Board of County Commissioners shall submit the matter under consideration to discussion among the Board members. Any Board member may ask any question of the applicant or staff or any other person. At the conclusion of the discussion of the matter, the applicant shall be given an additional two minutes to rebut any facts, positions or information presented in response to questions posed during the discussion.
- (f) Any documentary or physical evidence presented to the Board of County Commissioners in support of, or in opposition to, an application shall be offered into the record by submitting a copy of the same to the Clerk to the Board, who shall keep such documentary and physical evidence as part of the record of the proceeding. It shall be the responsibility of the party offering the evidence to make sure that it is received by the Clerk to the Board as part of the record. The staff report presented on any application and all applicable Brevard County codes and ordinances shall be deemed part of the record in all applications considered by the Board.
- (g) In cases of appeals of administrative interpretations and vested rights determinations and zoning cases as determined by the Board, the Board of County Commissioners shall adopt a resolution stating its determination. The resolution shall be drafted upon the vote of the Board of County Commissioners after the close of the public hearing and returned to the Board of County Commissioners for final adoption at a continuation of the public hearing. Any party affected by the Board of County Commissioners decision on an appeal of an administrative interpretation shall have 30 days from the date the resolution is executed to file an appeal in the circuit court.
- (h) It shall be the responsibility of any person deciding to appeal any decision made by the Board of County Commissioners with respect to any matter considered at a public hearing under this section, to ensure that a verbatim record of the

proceedings is made, which record shall include the testimony and evidence upon which any such appeal is to be based. It shall further be the responsibility of any such person to ensure that the Clerk to the Board receives copies of any such transcript or evidence.

6.4 Any person, not otherwise prohibited by statute, Charter provision, or ordinance, may discuss, with any Board member, any matter on which action may be taken by the Board of County Commissioners whether the matter is quasi-judicial in nature or not. If the matter is quasi-judicial (rezoning, site specific plan amendment, development of regional impact or appeal of administrative interpretation) the following procedures must be complied with in order to remove any presumption of prejudice which may arise from the ex parte communication with the County Commission member. In addition, as to appeals of administrative interpretations staff conferences shall be disclosed as described below.

- (a) the subject of the communication and the identity of the person, group, or entity with whom the communication took place, must be disclosed and made a part of the record before the final action on the matter.
- (b) written communications must be made a part of the record before final action on the matter;
- (c) the existence of investigations, site visits, or expert opinions obtained on a particular matter must be made a part of the record before final action on the matter:

(i) the law requires the disclosures made pursuant to paragraphs (a), (b), and (c) to must be made before or during the public meeting in at which the vote is taken on such matters so that persons who have opinions contrary to those expressed in the ex parte communications are given reasonable opportunity to refute or respond to the communication. The Board chooses to use a uniform system for reporting and disclosing such contacts. Prior to the meeting, all commissioners shall provide a written summary of any ex parte contact with any applicants or citizens on any item on the agenda. The summary shall contain the names of the people who met with the commissioner, the location of the meeting and the topics discussed in the meetings. The written summary shall be sent to the Zoning Director to placed in the official zoning file. In the event such disclosure is not provided prior to the meeting, the disclosure may be made at the public hearing immediately before the item is heard by the Board of County Commissioners.

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VII. Resolutions, Awards and Presentations

7.1 Requests for presentation of resolutions and/or awards must be made with a Commission Office or the County Manager and scheduled as part of the agenda under the

heading of Resolutions, Awards and Presentations. Requests should be directed to a Commission Office or County Manager. A written summary, with appropriate supporting or background material, is required to be included.

7.2 A Guest Appearance may be scheduled for an individual to make a brief presentation under Resolutions, Awards and Presentations by a Commissioner, County Manager or County Attorney.

VIII. Public Comments

8.1 The agenda shall provide a section for public comment limited to thirty (30) minutes following approval of the consent agenda during each Regular County Commission Meeting. The purpose of public comment is to allow individuals to comment on any topic relating to County business which is not on the meeting agenda. Individuals delivering public comment shall be restricted to a three-minute time limit on their presentation. During this thirty (30) minute segment of public comment, speakers will be heard in the order in which they turned in a pink card asking to be heard. Any speaker not heard during the first thirty minute segment will be heard during a second public comment segment held at the conclusion of business specified on the regular Commission agenda. With the exception of emergency items, the Board will take no action under the Public Comment section, but can refer the matter to another meeting agenda.

IX. Rules of Decorum For Public Comment

9.1 **Addressing the Board/Subject Matter.** Speakers who wish to address the Board, whether on an agenda item or under public comment, shall fill out a card specifying the agenda item or subject they wish to address.

- (a) Any person addressing the Board on an agenda item shall limit his or her comments to the agenda item that has been specified in the card filled out by the speaker.
- (b) Public comment shall be scheduled at the beginning of the meeting after the Resolutions, Awards and Presentations portion of the agenda of each regular meeting. A speaker shall limit comments made during public comment to matters that are within the control, authority and jurisdiction of the County Commission and to those items where the Board has traditionally expressed a position for the betterment of the community interest.
- (c) The Board's findings and conclusions set forth in the Resolution Adopting a Formal Policy Relating to Traditional Ceremonial Pre-Meeting Prayer, enacted on July 7, 2015, are hereby incorporated into this policy. In view of the requests by secular, humanist, atheist and Secular Humanist organizations to provide a secular,

Secular Humanist or an atheist invocation, the Board hereby clarifies the intent of the Board's existing policies allowing Public Comment to include individual or representative comments intended to instruct the Board; to petition for redress of grievances; to comment upon matters within the control, authority and jurisdiction of the Board; and to comment on matters that are relevant to business of the County Commission, as well as matters upon which the Board has traditionally expressed a position for the betterment of the community interest. Secular invocations and supplications from any organization whose precepts, tenets or principles espouse or promote reason, science, environmental factors, nature or ethics as guiding forces, ideologies, and philosophies that should be observed in the secular business or secular decision making process involving Brevard County employees, elected officials, or decision makers including the Board of County Commissioners, fall within the current policies pertaining to Public Comment and must be placed on the Public Comment section of the secular business agenda. Pre-meeting invocations shall continue to be delivered by persons from the faith-based community in perpetuation of the Board's tradition for over forty years.

9.2 Rules of Decorum

- (a) The County Commission declares it to be Board policy to promote the maximum participation in County affairs by affected or interested citizens in accordance with the First Amendment protections guaranteed under the United States Constitution. However, it is also the Board policy, to the fullest extent possible, to protect individuals from comments that assault their character. In furtherance of that policy, no person who addresses the County Commission shall make slanderous, profane or other remarks that are not protected by the First Amendment, with full recognition that public figures are not subject to the same degree of protection from critical comments as other individuals.
- (b) In the event serious allegations of misconduct or incompetence are alleged against any County employee, the Board may abate the matter and request the County Manager to investigate the allegations. The Board shall also offer the employee, at the employee's discretion, the opportunity to be present during the proceeding in order to address the allegations. The County Manager may offer the County employee administrative leave to allow the employee the opportunity to investigate the allegation and appear at a subsequent meeting to address such allegations.
- (c) Persons speaking under the public comment portion of the agenda may address topics or issues under the jurisdiction or control of the County Commission or that are relevant to business of the County Commission.
- (d) It is the policy of the Board of County Commissioners to respect minority views as well as differing opinions, conclusions, backgrounds and beliefs. The Board finds that input from differing perspectives enriches public discussion and helps to build a

better consensus. It is therefore the objective of the Board to conduct business in a manner that facilitates and encourages the presentation of diverse views while maintaining civility during all Board proceedings.

- (e) Since the County Commission has no jurisdiction or authority over the charging of prosecution of criminal violations any allegation of criminal behavior against a person or organization should be presented to the State Attorney, Sheriff or other law enforcement agency with jurisdiction. The foregoing sentence shall not be construed to restrict, prohibit or affect the ability of any person to bring to the attention of the County Commission possible violations of the Code of Ethics for Public Officers and Employees, the Florida Sunshine Law, the Florida Public Records Law, other laws relating to county business, or violations of other laws over which the Commission has jurisdiction or authority to take corrective action.

X. Video Tape Presentations

10.1 Video tape presentations are to be limited to no longer than five minutes, and must be reviewed by County production staff and the County Manager no less than twenty-four (24) hours prior to the meeting to ensure that the Board, live and broadcast audiences are not subjected to unsuitable videos which could contain material considered in conflict with accepted community standards regarding obscenity and pornography.

10.2 Only a separate sleeved video tape, of no more than five (5) minutes in length, will be accepted. Lengthy tapes for more than one presenter that require stopping and starting the same tape will not be accepted.

10.3 A person presenting a videotape must state so on the speaker's card. The presenter must be familiar with the content of the videotape and be able to address any questions relating to the tape that may be raised by the Board, staff, or other citizens.

10.4 Any videotape that contains news footage, broadcast or organization/ agency/ commercial programming will not be shown unless presenter provides a written waiver for re-broadcast use from the entity holding the copyright.

10.5 No videotape promoting a commercial enterprise will be shown unless related to relevant agenda items.

XI. Ordinances and Resolutions

11.1 All ordinances and resolutions shall be adopted in the manner prescribed by law.

11.2 All notices required to be published for re-zonings or site-specific land use amendments shall state the specific action being requested of the Board. Such notice shall also

indicate that the Board may grant "such other less intense zoning or land use classification as may be deemed appropriate.

XII Suspension of Rules

12.1 Any provision of these rules, including the provisions of Robert's Rules of Order as incorporated by these rules, may be suspended by majority vote of the Board of County Commissioners to the extent that such a suspension would not be inconsistent with applicable law.

XIII By-Laws

13.1 These procedures shall be considered by-laws for the purposes of Robert's Rules of Order.

XIV. Amendments

14.1 These rules may be amended by resolution adopted by majority vote of the Board of County Commissioners.

**BOARD OF COUNTY COMMISSIONERS BREVARD
COUNTY, FLORIDA**

BY: _____
~~Curt Smith~~ ~~Rebin Fisher~~, Chairman
(As approved by the Board on _____, 20174)

ATTEST:

Scott Ellis, Clerk