

RESOLUTION 93-308-EAC

A RESOLUTION OF THE ENVIRONMENTAL ACTION COMMISSION OF MANATEE COUNTY, FLORIDA, SETTING FORTH PROCEDURES FOR THE CONDUCT OF MEETINGS, PROVIDING FOR CONSIDERATION OF MATTERS FOR OFFICIAL COMMISSION ACTION; PROVIDING FOR THE ELECTION OF OFFICERS; PROVIDING FOR DIFFERENT TYPES OF MEETINGS; PROVIDING FOR THE CONDUCT OF MEETINGS; PROVIDING FOR OFFICIAL RECORD; PROVIDING EFFECT OF RULES OF PROCEDURE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 91-412, Laws of Florida authorizes the Environmental Action Commission to set environmental policy for the entire County; and

WHEREAS, the Commission finds that its official business can most efficiently be conducted through properly noticed regular meetings, worksessions, and public hearings; and

WHEREAS, the Commission recognizes that such meetings, worksessions and public hearings must be conducted in a consistent, organized manner; and

WHEREAS, it is important that the public be afforded the opportunity to make presentations and express opinions on matters coming before the Commission; and

WHEREAS, it is essential that an official record be made and kept for all meetings, worksessions and public hearings of the Commission;

NOW, THEREFORE BE IT RESOLVED by the Environmental Action Commission of Manatee County, Florida, as follows:

**PROCEDURES FOR MEETINGS OF THE ENVIRONMENTAL ACTION COMMISSION OF MANATEE COUNTY**

**I. DEFINITIONS**

Definitions shall be as set forth in Chapter 91-412, Laws of Florida, the "Manatee County Environmental Protection Act of 1991."

**II. OFFICIAL COMMISSION ACTION.**

A. Matters for Commission Consideration. Any matters that relate to the Commission's duties, authority or powers under Chapter 91-412, Laws of Florida, or other applicable law or which relate to environmental quality in Manatee County may be brought before the Commission for appropriate consideration or action.

B. Delegation of Authority. To the extent permitted by law, the Commission may delegate authority to perform any action on behalf of the Commission. In delegating authority, the Commission shall provide sufficient guidelines and expression of its objectives to enable efficient performance of the matter for which the authority has been delegated.

**III. COMMISSION OFFICERS.**

A. Election of Officers. The Commission shall elect a Chairman, a First Vice Chairman, and a Second Vice Chairman at the first Commission meeting of each calendar year. Commission members shall hold office until a successor is elected, unless removed from office by a majority vote of the Commission prior thereto, or unless the officer's term of office as an Environmental Action Commissioner ceases for any reason.

B. Assignment of Duties. The Chairman shall have the authority to assign honorary and administrative duties to other members of the Commission.

C. Quorum and Officers. A quorum exists when four members of the Commission are present. Unless otherwise provided by law, any vote other than a tie vote, where a quorum is present, constitutes action of the Commission. In the absence of the Chairman, the First Vice Chairman shall have all duties and authority of the Chairman until the return of the Chairman. In the absence of both the Chairman and the First Vice Chairman, the Second Vice Chairman shall have all of the duties of the Chairman until the return of a higher ranking officer. In the absence of the Chairman, First Vice Chairman, and Second Vice Chairman at the time scheduled for the opening of a public meeting or worksession, the first member who notifies the Clerk of the member's intention to preside over the meeting shall have all of the duties and authority of the Chairman until the return of a Commission officer. In the absence of a quorum, those members assembled, including a single member of the Commission if only one member should be present, may:

1. take measures to obtain a quorum;
2. fix the time to which to adjourn or take a recess; and
3. continue a public hearing on any scheduled matter to a time and date certain.

In the absence of a quorum, the provisions of Section V.B.5. shall not be applicable and staff reports shall not be provided, public comments shall not be solicited, and only discussion related to those actions authorized hereunder shall be permitted. Nothing herein shall limit any rules governing the conduct of business in the event of disaster or peacetime emergency.

D. Vacancy in Office.

1. Upon the occurrence of a permanent vacancy or inability to serve in the position of Chairman, the following shall occur:
  - a. the First Vice Chairman shall automatically succeed to the Chairmanship for the remainder of the term of office thereto;
  - b. the Second Vice Chairman shall automatically succeed to the First Vice Chairmanship for the remainder of the term of office thereto;
  - c. the Commission shall, at the first regularly scheduled meeting at which the existence of the vacancy is known, elect a new Second Vice Chairman.
2. Upon occurrence of a permanent vacancy or inability of a member to serve in a position of vice chairman to which he has been elected, the next highest ranking official shall automatically succeed to fill the existing vacancy for the term of office thereof, and the procedures established in paragraph III.D.1.c., above, shall be followed.

IV. MEETINGS.

A. Types of Meetings. The Commission shall have the authority to hold the following types of meetings:

1. Regular Meetings. The Environmental Action Commission shall hold regular meetings on every Tuesday, except the fourth Tuesday of each month. Regular meetings shall commence at 9:00 a.m. and shall be held in the County Commission Chambers or such other place as may be approved at a regular meeting by a majority of the Commission members present. Any regular meeting may be held earlier, postponed or canceled pursuant to motion

adopted at a regular meeting by a majority of the Commission members present.

2. Special Meetings. A Special Meeting of the Commission may be called by the Chairman or by a majority of the Commission members present at a meeting of the Commission. Whenever a Special Meeting is called, written notice shall be given by the Environmental Director to the members of the Commission, the Commission's Attorney, or any persons entitled, as a matter of law, to written notice, and the press, stating the date, hour and place of the meeting and the purpose(s) for which the meeting is called. Twenty-four hours must elapse between the time the meeting is noticed and the time the meeting is to be held. The minutes of the Special Meeting shall show the manner and method of notice.
3. Emergency Meetings. An Emergency Meeting of the Environmental Action Commission may be called by the highest ranking officer of the Commission available. An Emergency Meeting of the Commission may be called only when the person calling the meeting believes that an emergency exists which requires immediate consideration or action by the Commission. Whenever such Emergency Meeting is called, the person calling the meeting shall make a good faith effort to notify each member of the Commission, the Clerk of the Court, the Commission's Attorney, any person entitled to notice as a matter of law, and the press, stating the date, hour and place of the meeting, the nature of the emergency and the purpose for which the meeting is being called. If possible, this notice shall be in writing. No other business shall be transacted at the meeting. The minutes of each Emergency Meeting shall show the nature of the emergency, and the manner and method of notice.
4. Worksessions. The Commission may hold worksessions from time to time for consideration of matters which are not ready for Commission action. No formal action may be taken at worksessions. Notice of worksessions shall be posted at the Environmental Action Commission office.
5. Regulation Adoption Hearings. The Commission shall hold two advertised public hearings on proposed regulations implementing Chapter 91-412, Laws of Florida. Notice for the hearings shall be published in a newspaper of general circulation in the County at least once, fifteen (15) days in advance of the scheduled hearing date. The display advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The Commission shall hold two advertised public hearings on any rule or regulation of the Commission. Both hearings shall be held after 5:00 p.m. on a weekday.
6. Administrative Appeals.
  - a. Setting of a Hearing

Upon the receipt of an appropriate, timely filed appeal governed pursuant to the terms of Article 1 of the Manatee County Code of Environmental Regulations, the Commission shall, after ten (10) days or at the next regularly scheduled Commission meeting, which ever occurs later, set a time for a hearing before the full Commission or refer the matter to a hearing officer for a hearing and the entry of a recommended order, containing findings of fact and conclusions of law. The Commission shall provide the Hearing Officer with a copy of the Notice of Appeal, any pending motions not disposed of by the Commission, any orders of the

Commission and any other documents received by the Commission, regarding the administrative appeal.

b. Referral to Division of Administrative Hearings

The Commission shall rule on a request of the Appellant to have the appeal heard by a Division of Administrative Hearings' Hearing Officer. If the case is to be referred to the Division, the original of all pleadings, papers, documents, or notices shall be filed with the Clerk of the Division until such time as the Hearing Officer issues his/her recommended order to the Commission.

c. Freedom from Improper Influence

(1) No person who is or may become a party of record before the Commission nor anyone appearing on behalf of a party of record before the Hearing Officer or the Commission shall communicate ex parte with any Commission member about an appeal currently under review.

(2) No member of the Commission shall communicate ex parte with any Hearing Officer about an application currently before the Commission. Communication between the Hearing Officer and the Commission acting as a collegial body shall be undertaken only at a noticed public meeting.

(3) In order to assure that the Commission members are free from improper influence, a Commission member shall neither initiate nor consider ex parte communications concerning a pending appeal.

(4) Ex parte communications as contemplated herein shall not include the required transmission of official documents by the Hearing Officer or staff nor shall it include discussions with the Commission's attorney representing the Director, regarding discussions not related to a specific Administrative Appeal to be heard before them.

d. Issuance of Recommended Order

At the conclusion of the proceeding before a Hearing Officer, the Hearing Officer shall file his recommended order with the Commission and serve copies on all parties. Within ten (10) days of receipt of the Hearing Officer's recommended order, the parties may file exceptions with the Commission. Such exceptions shall be filed with the Clerk of the Commission, with copies to all parties of record.

e. Hearing before the Commission on Exceptions

(1) If no exceptions are filed, the Commission shall enter a final order adopting the Hearing Officer's recommended order.

(2) If exceptions have been filed, the Commission shall set a hearing, at the next regularly scheduled Commission meeting for which notice can be given for argument, on the exceptions by parties of record.

(3) The hearing before the Commission unless being held pursuant to subsection F, shall consist of oral argument on the exceptions filed based on relevant case law and the record below. No public comment shall be taken. Each party to the Appeal shall have twenty minutes for their presentation to the Commission, unless the Commission decides based on the administrative appeal before them to shorten or lengthen this time.

f. De Novo Hearing before the Commission

(1) The Commission, upon the vote of five members, may hear an administrative appeal de novo. The decision to hear an appeal shall be made prior to the referral of an appeal to a Hearing Officer.

(2) The Commission shall follow the procedures set out in Article I - Administrative Appeals Procedures, Section 1-1.01(4), 1-1.01(6), 1-1.02 and 1-1.03 except that references to the Hearing Officer shall be construed to be references to the Commission.

(3) The Commission shall set a time for filing recommended orders by the parties at the conclusion of the evidentiary hearing.

(4) A public comment section shall be provided during the hearing. The public may be subject to cross examination and their testimony must be relevant, subject to the same requirements of any witness testimony in the proceedings. Cross examination of the public shall be done through the Chairman of the Commission.

g. Final Order

The Commission shall issue a final order within ninety (90) days after the recommended order is submitted and copies are mailed to all parties. Final orders of the Commission shall be subject to judicial review pursuant to law.

B. Attorney-Client Conferences.

1. Generally. The Commission's Attorney and other attorneys representing the Commission may meet in private with the Commission and the Environmental Director to discuss pending litigation to which the Environmental Action Commission is a party before a court or administrative agency.
2. Prior Announcement. Prior to holding an Attorney-Client Conference (Conference), the Commission's Attorney shall advise the Commission at a public meeting that the Commission's Attorney desires advice concerning the litigation. The Commission's Attorney shall provide public notice of any Conference and the names of persons who will be attending the Conference. Reasonable notice shall be provided prior to any Conference. A Conference shall commence at an open meeting at which the Chairman shall announce the commencement and estimated length of the scheduled Conference and the names of the persons attending.
3. Conference. Conference discussions shall be confined to settlement negotiations or strategy sessions related to litigation expenditures. No part of a Conference shall be off the record. At the conclusion of a Conference, the Commission meeting shall be reopened and the Chairman shall announce the termination of the session.
4. Transcription and Record. Each Conference shall be recorded by a certified court reporter retained by the Commission's Attorney. The reporter shall record the times of commencement and termination of each Conference, all discussions and proceedings, the names of all persons present at all times and the names of all persons speaking. The court reporter's notes shall be fully transcribed and filed with the Clerk of the Circuit Court and such transcript and other parts of the record of any Conference shall be made a part of the public record only

upon the conclusion of the litigation.

5. This section shall not apply to Administrative Appeals before the Commission.

C. Preparation of Agenda.

1. Director. The Environmental Director, or his/her designee, shall prepare the agendas and assemble the accompanying back-up or background information for the Commission meetings. Except as stated below, no item may be added to the agenda without the approval of the Environmental Director, or his/her designee.
2. Environmental Action Commissioner. Any Environmental Action Commissioner may have any item placed on an agenda for the next scheduled Commission meeting at which the item may be considered, consistent with all applicable notice requirements. Matters that do not require public notice may, with the consent of the majority of the Commissioners present, be considered and acted upon at any Commission meeting.
3. Agendas for both the Board of County Commissioners and the Environmental Action Commission meetings, on days which the Board of County Commissioners and the Environmental Action Commission will be meeting, for which the Administrator has the responsibility to prepare the Board of County Commissioners' agenda, the County Administrator or his/her designee shall include items submitted by the Environmental Director for agendas his/her office has responsibility for preparation.

V. CONDUCT OF MEETINGS.

- A. Generally. At the hour set for each meeting, members of the Commission, the Commission's Attorney, the Environmental Director, and the Clerk or their designated representatives shall be seated, and the business of the Commission shall be taken up in accordance with the agenda prepared for the meeting. The Chairman, at his/her option, may take business out of order if he/she determines that such a change in the agenda's schedule will expedite the business of the Commission.
- B. Rules of Debate.
  1. Question Under Consideration. When a motion is presented and seconded, it is under consideration and no other motion shall be received thereafter, except to amend, to substitute, to adjourn, to lay on the table (i.e., to postpone indefinitely), to defer to a date uncertain (i.e., to postpone until the occurrence of an independent event which will definitely occur at an unknown time), or to continue or defer to a date certain until the question is decided. These types of motions shall have preference in the order in which they are mentioned, and motions to adjourn or to lay on the table shall be decided without debate. Final action upon a pending matter may be continued until a date certain or deferred to a date to be scheduled by the Environmental Director or his/her designee upon the vote of the majority of the members present. Upon the request of the Environmental Director or his/her designee, made prior to final action on any matter, that the matter be deferred or continued to a future Commission agenda, the Commission shall consider said request and shall vote on whether to defer or

continue the matter as requested.

2. Chairmanship. The Chairman may second any motion or, after relinquishing the chair, may make any motion. The Chairman shall not resume the chair until after the Commission has acted upon the matter under consideration when he/she relinquished the chair.
3. Discussion. Every member desiring to speak for a purpose shall address the presiding officer, and upon recognition, shall confine him/herself to the question under debate.
4. Interruption. A member, once recognized, shall not be interrupted when speaking, unless it is to call him/her to order or as herein otherwise provided. If a member, while speaking, is called to order, or if a question of person privilege is raised, the member who had the floor shall cease speaking until the question of order or privilege is determined by the presiding officer, and if in order, he/she shall thereafter be permitted to proceed. The ruling of the presiding officer on the point of order can only be overturned by a majority vote of the Commissioners present. A question of privilege for purposes of this Resolution is defined as a pressing situation affecting a right or privilege of the Commission or an individual Commissioner which permits interruption of pending business to state an urgent request or motion. Examples are the need to deal with disruptive noise, inadequate ventilation, or introduction of a legally confidential subject in the presence of those not entitled to knowledge thereof.
5. Public Comment. A member of the Environmental Action Commission staff or County Commission staff who addresses the Commission shall first identify him/herself for the record and shall utilize the speaker's lectern or microphones made available for staff so as to allow his/her comments to be recorded. Each other person who addresses the Commission shall speak from the speaker's lectern and shall provide his/her name, address and whether speaking for him/herself, a group of persons or a third party. Time restrictions on members of the public addressing the Commission as set forth below shall be kept by the Clerk of the Circuit Court, or his/her designee.

(a) Public Hearings.

- (1) The Commission shall allow public comments in matters requiring public hearings in the following manner:

- aa. Initial Presentation by Staff. Commission staff shall make the initial presentation to the Commission regarding any item under consideration. The Commission may make inquiries of staff at any time.
- bb. Organizational or Group Speakers. After staff has made the initial presentation, and the Commission has made inquiries of staff, the Commission shall entertain questions

or comments from the public. Prior to a person representing an organization of a group of people other than him/herself speaks, that person shall indicate who he/she represents and how he/she received authorization to speak on behalf of such organization of group of persons. The Commission or the Commission's Attorney may make further inquiry into the represented authority of such person if necessary.

- cc. Interruption of Discussion. Notwithstanding any provisions herein, the Chairman or the Commission's Attorney may interrupt and/or stop any presentation which discuss matters which are not germane to the discussion at hand.
- dd. Time for Presentations The Commission may establish time limits at the start of each public hearing. The Commission may allow more than the allotted time for presentations by a member of the public, if the majority of the Commission consents to additional time for the speaker.
- ee. Worksessions Worksessions may be open or closed to public comment at the Commission's discretion. If open, the Commission may establish time limits for persons speaking at worksessions.
- ff. Termination of Presentations At any Commission meeting, the Chairman, unless overruled by a majority of Commission members present, may restrict or terminate presentations which, in his/her judgment are frivolous, unduly repetitive, or out of order.
- gg. Written Comments Members of the public shall be entitled to submit written comments for consideration by the Commission. Written comments shall be considered and entered into the record of the meeting.

6. Closing of Public Comment

For those matters in which public comment is heard by the Commission, the Chairman shall close the public comment portion of the meeting on that item upon the conclusion of the last appropriate speaker's comments. No additional public comments shall be allowed, except as specific responses to questions by members of the Commission, the Commission's Attorney, or if an extension of time for public comment is approved by the Commission.

7. Privilege of Closing Debate

The Commissioner moving the adoption or rejection of the item before the Commission shall have the privilege of closing the debate.

8. Elected Officials

Notwithstanding other provisions hereof, the Commission may allow any elected or appointed public official, or representative thereof, to appear and make presentations at any time with regard to matters under consideration.

C. Voting and Reconsideration

1. Voting. Unless otherwise provided by law, ordinance, or statute, when the Commission has finished discussion and is ready to vote a question, the Chair shall call for the vote, and except as provided in paragraph V.C.2. below, there shall be no further discussion by any member voting. Each member shall vote aye or nay and silence shall be considered an "aye" vote. After the vote, any member may give a brief explanation of his/her vote. A member shall have the privilege of filing with the Clerk a written explanation of his/her vote. The vote upon any question shall be made by voice unless the Chairman or any Commissioner requests a roll call vote be taken.
2. Preparation or Modification of Motions. Prior to a vote on any matter, a Commissioner may move to have staff prepare or modify the motion during a recess called for that purpose. Alternatively, if advisable in the Commission's discretion, the public comments portion of the public hearing, if applicable, may be closed and staff may be instructed to prepare the motion to be brought back to the Commission for motion and vote at a subsequent meeting of the Commission. The Commission's Attorney or Director may request that motion and vote be delayed to allow preparation or revision of a motion, as provided hereunder.
3. Reconsideration When a question has been decided by the Commission, a member of the Commission voting on the prevailing side may move for reconsideration of the question at the same meeting or the next regular meeting of the Commission. If the question was decided by a tie vote, any member of the Commission may move for reconsideration of the question at the same meeting or at the next regular meeting of the Commission where a full Commission is present. Upon a finding by a majority of the Commission at any time that there is reason to believe that a previous vote of the Commission was based upon material mistake of fact or erroneous information, the matter may be brought up for reconsideration. Upon a finding of a majority of the Commission at any time that its previous vote on any matter was based upon material mistake of fact or erroneous information received, the vote may be rescinded and all rights, duties, or liabilities thereunder modified or rendered null and void ab initio. Prior to rescinding such a vote, the Commission shall, where necessary to ensure due process of law, grant notice and opportunity to be heard by all persons who would be affected by such action. Any member of the Commission may move at any time for correction of

clerical or typographical errors inadvertently included in any matter previously passed by the Commission.

**VI. THE RECORD**

- A. Automatically Included in the Record. The following documents shall automatically be included in the records of the Environmental Action Commission:
1. Agenda packet or staff report.
  2. Letters and other documents previously entered into the record at a prior Commission meeting on the particular matter.
- B. Items Which Shall be Placed in the Record. Any documents, exhibits, diagrams, petitions, letters or any other materials presented to the Commission in support of, or in opposition to, an item to be considered by them shall be entered into the record, unless legally inadmissible.
- C. Custodian. The Clerk of the Circuit Court shall be custodian of the record.
- D. Correction of Errors in the Record. In the event the Commission determines that there was an error, either of commission or omission regarding the placement of an item into the record, any member of the Commission may move to correct such errors and such act of correction shall be done upon a majority vote of the members of the Commission.
- E. Exhibits. Unless an oversized exhibit is absolutely essential, documentary paper or photographic exhibits shall not exceed 24 inches by 36 inches and, if mounted on a backboard, shall be removed therefrom.
- F. Substitution of Copies of Exhibits. A person submitting an exhibit for the Commission's consideration in a pending matter must file the original thereof with the Clerk. The Commission may approve substitution of a copy or duplicate thereof after viewing the original and the copy or duplicate. In the case of a written document, the person may furnish the Clerk with an exact duplicate and, upon verification thereof, the Clerk may return the original to said person. Alternatively, the Clerk may, in his/her discretion, and at the expense of the person requesting the return of the original, make or arrange for the making of a copy of the exhibit after which the original may be returned to the person requesting it.

**VII. EFFECT OF THESE RULES OF PROCEDURE.**

- A. Conflict with Laws. In any instance where the procedure established by this Resolution is in conflict with State law, Commission Regulation or court order, or has the effect of violating any applicable law, Regulation, or ruling, or order of a court or administrative agency, or rights thereunder, the procedures established hereunder shall be inoperative to the extent of such conflict or violation.
- B. Roberts Rules of Order. In all cases not covered by this Resolution, Roberts Rules of Order shall be used as a general guide and may be followed by the Chairman, unless the Commission overrules him/her.
- C. Witnesses Sworn. Witnesses in public hearings shall be sworn in by the Clerk of the Court.

**VIII. SEVERABILITY**

In the event that any provision of this Resolution is declared by a court of competent jurisdiction to be void, unconstitutional, or unenforceable, all remaining provisions and portions of this Resolution shall remain in full force and effect. All of the provisions of this Resolution are severable and the legality and enforceability of any one or more of them is not contingent or dependent upon the validity of any other provision.

**IX. EFFECTIVE DATE**

This Resolution shall take effect upon filing with the Clerk of the Environmental Action Commission.

PASSED AND DULY ADOPTED, WITH A QUORUM PRESENT AND VOTING, BY THE ENVIRONMENTAL ACTION COMMISSION OF MANATEE COUNTY, FLORIDA, this, the 16<sup>th</sup> day of December, 1993.

ENVIRONMENTAL ACTION COMMISSION  
OF MANATEE COUNTY, FLORIDA

BY: Joe McClash  
CHAIRMAN

ATTEST: R.B. SHORE  
Clerk of the Circuit Court

[Signature]  
[Seal]



**COPIES TO:**

Dentist-copy-Pammy, (Atty. office)  
Sharon-EAC - was sent a copy earlier. ru

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DATE 1/18/94  
BY RU