

**MINUTES OF MEETING
BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
JANUARY 13, 2009
(9:00 A.M.)**

Proceedings of a special meeting of the Board of County Commissioners of St. Johns County, Florida, held in the Executive Board Room, County Administration Building, 500 San Sebastian View, St. Augustine, Florida.

Proof of publication of the notice of public hearing regarding the Special Meeting of the Board of County Commissioners was received, having been published in *The St. Augustine Record* on December 29, 2008.

Present were: Cyndi Stevenson, District 1, Chair
 Ron Sanchez, District 2, Vice Chair
 Mark P. Miner, District 3
 Phillip Mays, District 4
 Ken Bryan, District 5
 Michael D. Wanchick, County Administrator
 Patrick McCormack, County Attorney
 James Whitehouse, Assistant County Attorney
 Karen Pan, Public Affairs Specialist
 Stacey Stanish, Director of Administrative Affairs
 Terry Bulla, Deputy Clerk

(01/13/09 - 1 - 9:12 a.m.)
CALL TO ORDER

Stevenson called the meeting to order.

(01/13/09 - 1 - 9:12 a.m.)
ROLL CALL

Stevenson stated that all five commissioners were present.

(01/13/09 - 1 - 9:12 a.m.)
ADDITIONS/DELETIONS TO SPECIAL AGENDA

There were none

(01/13/09 - 1 - 9:13 a.m.)
APPROVAL OF SPECIAL AGENDA

Motion by Sanchez seconded by Bryan, carried 5/0 to approve the Special Agenda as submitted.

(9:13 a.m.) Wanchick explained the purpose of the meeting, to work through the rules to make them timely, accurate and consistent. He said there hadn't been a complete review of the rules in over ten years. He reviewed the procedure for the review.

(9:16 a.m.) McCormack stated that these were the Board's rules and policies for efficiency of operation, and it was for them to decide what their purpose should be. He said it helped to have a standard for decision making. He asked them to keep in mind what level of technicality they wanted to maintain. Wanchick added that decisions would be by consensus, would be worked on, and returned for approval.

(9:18 a.m.) Stevenson said she would like to have some input on how meetings were run. She said the way the rules were utilized should not prevent the civil presentation of ideas and moving forward to consensus. It was noted that they did not use Roberts Rules of Order in their meetings. Discussion ensued on its use. Wanchick said they were looking for a balance to provide some structure without being onerous. He noted they would not be looking at minor or grammatical changes, but would focus on the more substantial changes.

(01/13/09 - 2 - 9:24 a.m.)

RULES AND POLICIES OF THE BOARD OF COUNTY COMMISSIONERS

The following policy changes were discussed and proposed:

1. Page 2, discussion regarding when the Chair was under nomination, whether the Chair should hand over the floor, or if the Chair should run the vote. It was decided the Chair should run the vote.
2. Page 2, Rule 1.106, add the word "*acting*" after the word "*outgoing*" to read, "*by the outgoing or acting Chair*".
3. Page 5, Rule 1.303, addition made to clarify that the Commission Office would be run out of the County Administration office.
4. Page 5, Rule 1.304, added to acknowledge the use of e-mail, and to further allow the use of the County Seal on individual letterhead for official business.
5. Page 6, Item D, there was consensus to remove the item to allot an additional \$600 a year for the Chair, for additional expenses incurred as a result of Board representation.
6. Page 6, Item F, there was consensus to add that Commissioners serving their last ninety days in office shall not be reimbursed for travel outside the County or for education or conference expenses.
7. Page 6, Item H, there was consensus to add the ability for a commissioner to travel as a passenger in a County vehicle on official business, as reasonably determined by the County Administrator. There was discussion on grouping all travel related policies together.
8. Page 7, Item L, there was consensus to allow the Commission to rent a car without the restrictions of it being more than 100 miles one way, if it became necessary.
9. Page 7, Item M, there was consensus to rely on the County vehicle policy rather than require the purchase of liability and personal injury protection insurance coverage through the vendor at the time of vehicle rental.
10. Page 7, Part 4, there was consensus to keep all or most of the provisions from the Board Rules and Policies that pertained to the County Administrator's provisions and duties as set forth in Florida Statute, County Ordinance and Contract. Discussion ensued regarding the provision of requested reports or studies by one Commissioner to all the Commissioners.
11. Page 10, Rule 1.501B, there was consensus that paid support staff of the County Commission office should also be covered by this rule, which prohibits engaging in political activity involving candidates for St. Johns County elective office.
12. Page 11, Rule 2.101, language was discussed regarding committees to include: "*members are to be appointed so as not to constitute a majority of the Board, and to make recommendations to the Board.*" Discussion ensued regarding participation. It was decided that staff would be allowed to review the section and bring it back after researching the matter regarding organizational knowledge. A recommendation would then be made as to whether to strike the language or to change it to an abbreviated form that made sense.

13. Page 11, Rule 2.201, there was consensus to increase the notice of special meetings to Commissioners from twenty-four (24) hours to seventy-two (72) hours. Additionally, that a copy of such notice would be posted on the County Administration building bulletin boards. There was also discussion regarding removing the specific name of the newspaper and replacing it with the legal definition of "the newspaper with general circulation within the county." It was noted that legal notices were very expensive to advertise. There was discussion regarding including "all available reasonable means of dissemination including the County web site."
14. Page 13, Rule 2.206 there was consensus to leave in the word "recorded".
15. Page 13, Rule 2.301, Part A, there was consensus to add that committee members needed to file all the appropriate paperwork, financial disclosure, etc. prior to being able to vote on items with the appropriate office.
16. Page 14, D, there was consensus to add, that private business solicitation should be done at another time, separated from official County business, not during the meeting or during the recess, and their official position could not be used for personal gain.
17. Page 14, F, there was consensus to add the reference regarding correspondence to all County Commission-appointed Board/Committee members being signed by the initiating commissioner or staff liaison and copied to all the Commissioners.
18. Page 14, Rule 2.302, there was consensus that the highlighted materials on pages 15 through 17, all existing information currently within the *Guidelines for Boards Committees and Commissions*, should be done away with and those guidelines be put into the current document for ease of reference. There was discussion regarding the attendance requirements, and attendance as it pertained to ADA and other federal requirements. McCormack said he would check into it and make some recommendations.
19. Page 16, E 1, there was discussion of term limits, and it was agreed that terms would be for two years and they could be reappointed up to three more times (4 two-year terms) for a total of eight years, if the Board chose to do so. It was agreed that on E2, the verbiage "a record of attendance would be included for members seeking reappointment" should be added. It was also agreed to remove the first sentence on E2. It was noted that the reference to two-year terms would be changed throughout the document. It was noted that all new terms would be for two years.
20. Page 17, Item 8, it was agreed that section would be reworked. Under Rule 2.303 A, it was agreed that the highlighted sentence be deleted.
21. Page 18 E, it was agreed that the *Policy Guidelines for Board, Committees etc.* would be removed, and notice of changes in the rules would be provided to all Commissioners, and item F would be removed.
22. Page 19, K, it was agreed to allow the addition of how concerns, regarding membership, would be handled and resolved.
23. Page 21, there is a long section on committee appointments where a lot of the redundancy was cleaned up. It was agreed to accept that change.
24. Page 22, D, there was consensus to allow applications on file for six months to be rolled over and remain active for another six months, but that an application would not last for more than one year.
25. Page 22, Rule 2.309, it was agreed that a reference to "veteran status" be included in the first sentence. Additionally, it was agreed that the highlighted items would be removed and placed in the Administrative Code.

The Board recessed at 10:31 a.m. and reconvened at 10:49 a.m.

26. Page 23, Rule 3.101, it was agreed upon that the Board did hold consensus votes from time to time and the words "official action" were not clearly defined. McCormack said he would take a look at it and report back to the Board.
27. Page 24, Rule 3.205, it was agreed to remove the highlighted language, as it was already in Ordinances, and in the Land Development Code.
28. Page 25, Rule 3.206, it was agreed that the Vice Chair would run the public comment, and that the time limit would be addressed later. McCormack said he would work on the rules as they reflected on the public comment practice.
29. Page 27 and 28 contained suggestions regarding Regular and Workshop Meetings. In December 2007, these updates appeared as an agenda item but were not updated in the Rules and Policies. It was agreed that they would remove the area on miscellaneous communication.
30. Page 29, Rule 4.102, there was consensus that the meeting dates be the first and third Tuesday of each month. Discussion ensued regarding rules that would govern workshops.
31. Page 30, Rule 4.103, there was consensus on changing the number of hours required for the notice of special meetings from twenty-four (24) to seventy-two (72) and each Commissioner would be notified in writing. Meetings may be canceled with twenty-four hours notice pursuant to that Rule. There was discussion on who could call an emergency meeting, and there was consensus that the County Administrator be given the ability to call the BCC together for that purpose.
32. Page 31, Rule 4.301, there was consensus to change the date agenda items had to be turned in from Monday the week prior to the meeting to Wednesday, 13 days prior to the Tuesday Board Meeting/Workshop. Discussion ensued regarding the timing, agenda review and prioritization by the Chair and the County Administrator.
33. Page 34, Rule 4.505, discussion ensued regarding voting procedures and it was agreed that the proposed changes be implemented. There was discussion on the clarity of motions and it was agreed that it would be helpful to have motions written out. It was agreed to reword the section on Proxy Voting.
34. Page 34, Rule 4.506, it was agreed to remove the rule regarding the Commissioner's right to explain his/her vote prior to or during a vote, including a roll-call vote.
35. Page 35 B, it was agreed to round off the dollar amount to \$10,000.
36. Pages 35-37 Rule 4.602, discussion ensued regarding whether that section was even needed. It was agreed that McCormack would take a look at that section to see if there was a better format. On Page 37, Rules 4.607 and 4.608, it was agreed to remove those sections.
37. Page 38, Rule 4.613, it was agreed to delete that section.
38. Page 39, Rule 4.704, it was agreed to initially assign three minutes for public speakers and to have a clock so that everyone would know that it was counting down. Additionally speakers would not be allowed to assign their time to another speaker, as it was a circumvention of the rule, unless someone was designated as an official spokesperson for a group, then the Board may decide how much additional time the spokesperson may be allocated.
39. It was discussed that though the speakers were allowed to make their presentations, the expectation that Board members had to respond or to take action on the issue should be made clear. The Board member would either follow up or give consideration to the issue at another time, not during that meeting. It was suggested that a statement be placed on the speaker cards and/or on the agenda: *"It is not reasonable to expect that Board members will engage in debate or deliberation about matters on which the Board has received no prior information as part of the agenda packet."* McCormack said he would adjust

the language a bit, in case someone had sent an e-mail or had received other communication on the matter. Additional discussion ensued on how follow-up should be done.

40. It was agreed to pull out the public comment section and create a separate section so that it would be easy to find.
41. Page 40, Rule 4.804, Purpose of Standing Rules, it was agreed that the whole Part 8 Section would be moved to the front, and become the first part of the document to define the purpose of the rules.

It was agreed that the document would be re-worked, a draft prepared and it would be presented to the Board for additional input, and afterwards it would be placed on the agenda for formal action.

(01/13/09 - 5 - 11:25 a.m.)

OTHER BUSINESS AS NECESSARY

(11:25 a.m.) McCormack said the Administrative Law Judge had ruled in the "Water Wars" Case, and the judge was going to allow Seminole County to withdraw the requested amount of water. He explained the particulars of the decision. He said the recommended order then would go to the Water Management District (WMD) for their final order and in all likelihood they would approve what the Administrative Law Judge had ruled. He said it required Seminole County and the WMD to do more homework in determining what harm could be done to the river, which resulted in the additional safeguard which was put into the order. He said it was just the first 2-3 percent of the future withdrawal from the river by Central Florida. Miner asked if there was an appeal process. McCormack said there was, and he might return to the Board in a closed meeting to discuss it. He said once the WMD made their final order, it could be appealed. Discussion ensued regarding water issues.

(11:36 a.m.) Stevenson asked to return to the Rules and Policies on page 32 regarding the Consent Agenda. She said she would like to see it spelled out that the Consent Agenda would be after Public Comment. Additionally under Absence From Meetings, that once notice was conveyed to either the Board Chair or the County Administrator, that the notice also be conveyed to the other Commissioners. She noted that as a matter of Policy, they should not put something on the agenda which was "raw" to the Board, where there had been no formal process for washing the issues prior to the meeting.

(11:38 a.m.) McCormack said the ex-parte communications issue, particularly outside counsel and private counsel, had been in front of the Florida Bar, and an opinion was asked about contacting the members of the State agency that regulated banking and under what conditions they could be contacted. The Florida Bar ethics staff person provided a letter of reply, with fairly strict regulations about that type of contact. That staff opinion was appealed up to the next level, The Professional Ethics Council, a Florida Bar Committee. He said the President of the Florida Association of County Attorneys, Herb Tebrio of Leon County, asked McCormack to provide input on behalf of the Florida Association of County Attorneys on the matter. He said he had provided the position that the governmental entities ought to be able to set the parameters of when that contact occurred. He said that if they wanted to have open contact, the County could have open contact or if they wanted to restrict it to a certain level, they should be able to do that. He said that was the gist of the response. He said he would copy each of them with his letter on that matter. He said it did not represent the position of St. Johns County, but pertained to the Florida Association of County Attorneys. He noted the committee would be reviewing it the following Friday, and even from there they may not overrule the staff opinion. He said the question was whether to revise it or overturn it. He said he wanted to make the Commission aware

of that, and they might want to discuss it as a Board, and make it the topic of a future workshop. He said the position of the County Attorney's office was that they were going to do what their client, the Board, wanted them to do. Minor said that should be Wanchick's decision pertaining to staff. McCormack said he was conservative on that kind of thing and he did not want private counsel asking for interpretation by County staff. Bryan said this might have happened in the past and had caused problems. He said individual representatives should not be allowed to go to staff to solicit, lobby or anything of that nature. Miner said he did not want protectionism to inhibit. McCormack said the intent was not to inhibit the ability of people to find information from the County, but the issue was how to do that, and in what circumstances there should be consent and in what circumstances it should at least be noticed. He cited Riverdale PUD regarding what was considered contiguous. He said an attorney had contacted the staff and said if you read it such and such a way it was contiguous. He said the applicant had relied upon that and down the road it became an issue. He said the County Attorney's office should have been aware of that early on. Minor said that Wanchick and McCormack needed to get together on that. McCormack said the other issue was, on what context there should be ex parte contact with the Commissioners without consent or knowledge of the County Attorney's office. He reviewed the rule. He said he would be looking for clarification on what instances there should be that type of contact or not. (11:48 a.m.) Miner said that speaking individually, if he felt he needed McCormack or his staff, he would contact them. He said it should be individual preference and their prerogative. He said the Board should not be involved with staff decisions, but the Chief Executive of the County could get with McCormack and determine the level of appropriateness between the coordination of their two offices as to what was necessary to protect the Board without inhibiting what they did. Stevenson said if there was a conflict, he and Wanchick could bring it to the Board. Mays said personal responsibility was an issue and we had gotten so far away from that in this country. Wanchick said the rules were written for the most extreme circumstances which bound everyone else. He said it was appropriate to have rules of engagement to protect the County's interest. He said he would get with Patrick to develop some structure. Discussion ensued. Bryan said they were also looking for guidance on ex parte. McCormack cited the general rule: the lawyer that knows that a person is represented, may not speak to that person about that matter, without consent of that representative person's lawyer. He said he would not be prepared to defend the County, as well as he should be, if he was unaware of any legal ex parte communication by members of the Board. He noted that he was concerned about that. He said he did not want to cut off other legal contacts, but he was concerned about not even knowing about the contact in which certain expectations were made or other advice was given. Miner said he would like to make his own determination as to where and when he needed McCormack's counsel. Mays said he agreed, and it could include discussions with contractors or engineers as well as attorneys. There was consensus that it was an individual choice for each Commissioner.

(11:59 a.m.) Wanchick said that the Chair and he had discussed adopting a code of ethics. Stanish distributed some codes of ethics from Huntington Beach, CA and other areas for their review (Exhibit A). He asked them to review that material, think it over, and let him know whether they thought they should adopt a Code of Ethics. Stevenson said it might help with staff and commissioners to annually sign such a renewal, to refresh their thoughts on the matter. There was agreement by several board members. Wanchick said they could work on it. They were advised to read it with careful judgment.

(12:05 p.m.) McCormack spoke regarding Riverdale, and said he had used it as an illustration, as not the most efficient way for the County, as a whole, to come to a decision on anything.

(12:05 p.m.) Motion by Bryan, second by Sanchez carried 5/0, to adjourn the meeting.

With there being no further business to come before the Board, the meeting adjourned at 12:05 p.m.

Approved _____ February 3 _____, 2009

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Cyndi Stevenson
Cyndi Stevenson, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By: Lynne King
Deputy Clerk

