

RESOLUTION NO. R-13-189(PC)

A RESOLUTION OF THE MANATEE COUNTY PLANNING COMMISSION ADOPTING REVISED RULES OF PROCEDURE AND REPEALING THE ADOPTED RULES AND PROCEDURES [R-05-239(PC)], TO GOVERN MEETINGS OF THE PLANNING COMMISSION; SETTING FORTH FINDINGS; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF IF DECLARED INVALID; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Manatee County Planning Commission (the Planning Commission) is empowered under Section 302.1.8 and 302.3.4 of the Manatee County Land Development Code to adopt its own rules of procedures; and

WHEREAS, the Planning Commission adopted Resolution No. R-05-239(PC), on October 13, 2005, to provide for Rules of Procedure for the Planning Commission; and

WHEREAS, it is the intent of the Planning Commission to update their Rules of Procedure in accordance with applicable Florida law and current practices of the Board of County Commission as well as to streamline meetings, and to further protect the health, safety, and welfare of the citizens of Manatee County; and

WHEREAS, the Commission has prepared these rules in an attempt to encourage public participation during public hearings, both legislative and quasi-judicial, so as to afford all participants due process, while recognizing the need for certain procedures to maintain orderly meetings.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF MANATEE COUNTY, FLORIDA, THAT:

Section 1. The findings set forth in the preamble above are hereby adopted as findings of the Planning Commission and incorporated herein by reference.

Section 2. The Rules of Procedure entitled: "Procedures for the Manatee County Planning Commission Meetings", attached hereto as Exhibit "A" and incorporated herein by reference, are hereby adopted.

Section 3. Resolutions of the Manatee County Planning Commission shall be assigned resolution numbers from the sequential list of resolutions for the Board of County Commissioners, but shall include the initials (PC) at the end in order to differentiate from other resolutions.

Section 4. By adoption of this resolution, the Planning Commission hereby repeals Resolution No. R-05-239(PC), as amended.

Section 5. It is hereby declared to be the intention of the Planning Commission that the sections, paragraphs, sentences, clauses, and phrases of this Resolution inclusive of Exhibit "A", be deemed severable, and if any phrase, clause, sentence, paragraph or section hereof is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this resolution.

ADOPTED, in open session with a quorum present and voting this 10th day of October, 2013.

**PLANNING COMMISSION
OF MANATEE COUNTY, FLORIDA**

By: 

Chairman

**ATTEST: R. B. Shore
Clerk of the Circuit Court**

By: 

EXHIBIT "A"
PROCEDURES FOR THE MANATEE COUNTY
PLANNING COMMISSION MEETINGS
AS ADOPTED ON OCTOBER 10, 2013

**EXHIBIT “A”
PROCEDURES FOR THE MANATEE COUNTY
PLANNING COMMISSION MEETINGS**

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EXHIBIT "A"
PROCEDURES FOR THE MANATEE COUNTY

PLANNING COMMISSION MEETINGS

PREAMBLE AND STATEMENT OF INTENT

Consistent with Section 302 of the Manatee County Land Development Code and other applicable law, the Planning Commission has adopted these rules (hereinafter, the Planning Commission Procedures) to govern its meetings, hearings, and workshops. While encouraging appropriate public participation and an informal civil atmosphere, the Planning Commission intends to retain the structure and decorum required for the orderly and professional conduct of its business.

1. APPLICABILITY

The Planning Commission Procedures shall govern the meetings, hearings, and workshops of the Manatee County Planning Commission.

2. OFFICIAL PLANNING COMMISSION ACTION

2.1 Matters for Planning Commission Consideration. Any matters which relate to the Planning Commission duties, authority, or powers given to it by the Manatee County Board of County Commissioners under Section 302 of the Manatee County Land Development Code (LDC), or other applicable law, may be brought before the Planning Commission (Commission) for appropriate consideration or action.

3. COMMISSION OFFICERS

3.1 Election of Officers. The Commission shall elect a Chairman, a First Vice Chairman, a Second Vice Chairman, and a Third Vice Chairman at the first regular meeting held after October 15th of each calendar year. Officers shall hold office until a successor is elected, unless removed from such office by a majority

vote of the Commission prior thereto, or unless the officer's term of office as a Planning Commissioner ceases for any reason.

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

3.3 Quorum and Officers. A quorum exists when a majority of duly installed members of the Commission are present. Unless otherwise provided by law, a majority vote, where a quorum is present, constitutes action of the Commission. In the absence of the Chairman, the highest ranking Vice Chairman shall have all duties and authority of the Chairman until the arrival of a higher-ranking officer. In the absence of the Chairman and all Vice Chairmen at the time scheduled for the opening of a public meeting or workshop, the first member who notifies the Clerk of the member's intention to preside over the meeting shall have all 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:

- Take measures to obtain a quorum;
- Fix the time to adjourn or take a recess; and
- Open and continue a public hearing on any scheduled matter to a time and date certain.

In the absence of a quorum, the member(s) of the Commission who are present shall take no testimony and conduct no other business except the actions authorized above.

If consideration of a matter is postponed due to lack of a quorum, the Chair of the Commission shall continue the meeting to the next Commission meeting. The Director of the Building and Development Services Department shall notify all Planning Commission members of the date of the continued meeting.

3.4 Vacancy in Office.

3.4.1 Upon occurrence of a permanent vacancy or inability to serve in the position of Chairman, the following shall occur:

3.4.1.1 The First Vice Chairman shall automatically succeed in the Chair for the remainder of the term of office thereof; and

3.4.1.2 The Second Vice Chairman shall automatically succeed to the First Vice Chairman for the remainder of the term of office thereof;

3.4.1.3 The Third Vice Chairman shall automatically succeed to the Second Vice Chairman for the remainder of the term of office thereof; and

3.4.1.4 The Commission shall elect a new Third Vice Chairman, at the first regularly scheduled meeting at which the existence of the vacancy is known. Provided, however, that, if necessary, the election of a new Third Vice Chairman may be deferred until a full board is present.

3.4.2 Upon occurrence of a permanent vacancy or inability to serve in the 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 applicable procedures set forth above for filling a vacancy in officer shall be followed as to the remaining officer positions.

4. MEETINGS

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

4.1.1 Regular Meetings. The Commission may establish and announce a regular meeting schedule. Unless otherwise scheduled, the Commission shall hold regular meetings on the second Thursday of each month.

Regular meetings shall commence at 9:00 a.m. and shall be held in such place as may be designated. Any regular meeting may be held earlier, rescheduled, postponed, or cancelled by the Chairman of the Planning Commission, the County Administrator, or their designees.

4.1.2 Special Meetings. A special meeting of the Commission may be called by the Chair of the Planning Commission, Board of County Commissioners, or the County Administrator, or the Administrator's designee, as necessary. Whenever a special meeting is called, a written notice shall be given by the Administrator to the Board of County Commissioners, the members of the Commission, the Clerk, the County Attorney, the Director of the Building and Development Services Department, 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. At least twenty-four (24) hours must elapse between the time the meeting is called and the time the meeting is to be held.

4.1.3 Workshops. The Commission may hold workshops from time to time for consideration of matters which are not ready for Commission action. No formal action may be taken at workshops. Notice of workshops shall be posted in the Building and Development Services Department.

4.1.4 Public Notice. Public notice shall be provided of all meetings and workshops in accordance with the Land Development Code and applicable law. The minutes of all meetings shall show the nature and distribution of notice.

4.2 Preparation of Agenda

4.2.1 Director of the Building and Development Services Department. The Director or the Director's 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 Director of the Building and Development Services Department, or the Director's designee. The agenda will be made available to the public at the Building and Development Services Department in sufficient time for citizens to review the materials prior to the meeting.

4.2.2 County Attorney. The County Attorney's Office may establish its portion of the agenda for Commission meetings and may add supplemental items to the agenda whenever, in the discretion of the County Attorney, or the County Attorney's designee, such items require Commission attention at that meeting.

4.2.3 Planning Commissioners. Members of the Commission may have an item placed on an agenda for the next scheduled Commission meeting at which the item can 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, be considered and acted upon at any Commission meeting.

5. CONDUCT AT MEETINGS

5.1 Generally. The business of the Commission shall be taken up in accordance with the agenda prepared for the meeting. The Chairman, at the Chair's option, may take business out of order if it is determined that such a change in the agenda's schedule will expedite the business of the Commission.

All meetings of the Commission and its committees shall be public meetings, and no business shall be transacted except in compliance with the Florida Government-in-the-Sunshine Law.

5.2 Rules of Debate

5.2.1 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 to 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 above and motions to adjourn or to lie 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 Director of the Building and Development Services Department, or the Director's designee, upon the vote of the majority of the members present. Upon the request of the County Attorney, or his designee, made prior to the final action on any matter, that the matter be deferred or continued to a future agenda, the Commission shall consider said request and shall vote on whether to defer or continue the matter as requested.

5.2.2 Motions by the Chair. The Chair may second any motion or, after relinquishing the chair, may make any motion. The Chair shall not resume the chair until the Commission has acted upon his or her motion

5.2.3 Discussion. Every member desiring to speak for a purpose shall notify the presiding officer, and upon recognition, shall confine himself to the question under debate. Provided, however, the Chairman may allow Commissioners to dialogue with each other to obtain information or clarification on an issues under discussion.

5.2.4 Interruption. A member, once recognized, shall not be interrupted when speaking, unless it is to call that member 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, that member 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 Commission present. A question of privilege for purposes of this Rule is defined as a pressing situation

affecting a right or privilege of the Commission or an individual member 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.

5.3 Addressing the Commission. A member of County staff who addresses the Commission shall first be identified for the record and shall utilize the speaker's podium or microphones made available for staff so as to allow his comments to be recorded. Each other person who addresses the Commission shall speak from the speaker's podium, or when appropriate use a portable microphone, and shall provide the speaker's name, address, and whether the speaker speaks on behalf of others. Time restrictions on members of the public addressing the Commission shall be as set forth below, or otherwise established by the Chairman of the Commission or the Chairman's designee and shall be kept by the Clerk.

5.3.1 Citizens' Comments at Regular & Special Meetings. Subject to Board Procedures sections 5.4.1 through 5.4.3, near the beginning of regular and special meetings, the Board shall allow individual residents of Manatee County to address the Board for two (2) minutes to bring to the Board's attention a matter that is appropriate for the Board's action under Board Procedures section 2.1. The matters that may be addressed by citizens at this time are limited to matters that are heard by the Board when they are acting in a capacity that is **not quasi-judicial**. Quasi-judicial hearings include individual parcel zoning atlas amendments; development agreements if accompanied by a quasi-judicial development application; developments of regional impacts (DRIs); vested rights determinations; consideration of general development plan or site plan applications; and such other hearings as may be required by law to be treated as quasi-judicial. If a person's comments relates to a quasi-judicial public hearing, the person shall be heard when the Board takes up the agenda item rather than during Citizen Comments.

A person who desires to address the Board at Citizens' Comments shall sign up to do so with the designated county staff

person regarding matters that are not quasi-judicial prior to the meeting, indicating his or her identity and address, whether he or she speaks for others, and the topic about which he or she desires to address the Board. The Chairman, without objection, may allow a person who has not signed up to speak on such subjects, provided the person provides the information required above before addressing the Board. As to items not on the agenda, the Board shall not ordinarily take action at the same meeting wherein an item is first raised, but may direct that the item be placed on a future agenda. This section 5.3.1 and section 5.3.2 are not intended to create a general public forum for the discussion of any topic.

5.3.2 Citizens' Comments at Workshops. At workshop meetings, the Board may allow individual residents of Manatee County to speak during a specified portion of the meeting for two minutes each on the subject of the meeting or workshop, if the persons have signed up to do so as provided in paragraph 5.3.1 prior to the meeting or workshop. The Chairman, without objection, may also allow persons who have not signed up to speak on such subjects in the same manner as provided in paragraph 5.3.1. The remaining portion of the meeting or workshop shall be devoted to discussion among Commissioners and their staff, consultants, attorneys, and other persons with knowledge or expertise deemed helpful to the Board.

5.4 Orderly Meetings.

5.4.1 The Chairman or the highest ranking Vice-Chairman present shall preside at the meetings and shall initially decide all procedural questions. The ruling of the Chairman on a procedural issue can only be overturned by a majority vote of the Commissioners present.

5.4.2 All persons in attendance at a Commission meeting, hearing, or workshop shall conduct themselves in a civil manner and refrain from action that disrupts the meeting or hinders the Commission in performing its duties. To these ends such persons are prohibited from:

5.4.2.1 committing acts of violence toward any person;

5.4.2.2 making threats of violence or speaking “fighting words” that are likely to provoke violence;

5.4.2.3 disrupting the proceedings with excessive commotion or excessively loud shouting or other noise or use of obscene or crude language;

5.4.2.4 interfering with the rights of others to speak, hear, see, or attend the proceedings;

5.4.2.5 being unduly repetitious or presenting matters not relevant to the agenda item under consideration;

5.4.2.6 making personal attacks or insults against any person;

5.4.2.7 speaking on a subject about which the Commission has already taken a position or about which the Commission has voted not to receive further comment;

5.4.2.8 continuing to speak after the allotted time has expired or after having been ruled out of order;

5.4.2.9 speaking on a subject that is clearly outside the purview of Section 2.1.

5.4.3 The Chairman shall rule out of order any person(s) violating these provisions for orderly meetings. In appropriate situations, e.g., if such person(s) refuse to cease such violations, the Chairman may have such person(s) removed from the meeting, hearing, or workshop by law enforcement personnel or take such other actions as may be reasonably necessary to enforce these requirements.

5.5 Public Hearings

5.5.1 Explanation of Terms. For purposes of the Commission Procedures, unless the context requires otherwise, the following terms have the definitions set forth or the usages explained below:

5.5.1.1 “Public Hearing” - refers to a hearing where the public is entitled to be heard on a matter pending before the Board. Some examples are hearings to consider adoption, repeal, or amendment of ordinances, or in some cases, resolutions.

5.5.1.2 “Quasi-judicial Hearing” - refers to a type of public hearing in which the Board is required to assume a more adjudicatory role, as distinguished from a legislative role. In quasi-judicial hearings certain procedural requirements are imposed by law. The following types of public hearings shall be conducted as quasi-judicial hearings: individual parcel zoning atlas amendments; development agreements if accompanied by a quasi-judicial development application; developments of regional impacts (“DRI”); vested rights determinations; consideration of a General Development Plan or site plan application; such other hearings as may be required by law to be treated as quasi-judicial.

5.5.1.3 “Applicant(s)” - means persons who have duly made formal application for Board action or approval in a quasi-judicial context of an item affecting their legal or property rights.

5.5.1.4 “Proponent(s)” - in a quasi-judicial setting means person(s) other than an applicant, who support an applicant’s position; or, in other settings, means persons who favor adoption of an ordinance or resolution or an affirmative decision on a matter under consideration by the Board.

5.5.1.5 “Opponent(s)” - in a quasi-judicial setting means person(s) who oppose an applicant’s position; or, in other settings means persons who oppose adoption of an ordinance or resolution or an affirmative decision on a matter under consideration by the Board.

5.5.1.6 “Affected Person(s)” - means an applicant in a quasi-judicial hearing or an opponent or proponent

whose interest and involvement in a public hearing matter is such that he or she would have legal standing under Florida law as a party in court or administrative litigation challenging Board action in the matter.

5.5.2 Conduct of Public Hearings (Non-quasi-judicial). Public hearings involving a non-quasi-judicial matter(s) shall ordinarily proceed in the following manner:

5.5.2.1 Initial Presentation by Staff. County staff shall make the initial presentation to the Commission regarding any item under consideration.

5.5.2.2 Public Comment. After presentation by staff, the Chairman shall open the public comment portion of the public hearing for the purpose of hearing person(s) who want to be heard on the item under consideration.

5.5.2.3 Closing of Public Comment. The Chairman shall close the public comment portion of the public hearing upon the conclusion of the comments of the last appropriate speaker or the expiration of the speaking times allowed under the procedures. Thereafter, unless time for public comment is extended or public comment is re-opened in accordance with these procedures, no additional public comments shall be allowed except in specific response to questions by staff or Commissioners.

5.5.2.4 Staff Response and Summary. After public comment is closed, staff shall be allowed an opportunity to respond, to summarize, or to further explain staff's position and to advise of changes in staff's position, if any.

5.5.2.5 Inquiry, Clarification and Comments During Presentations. It is the intent of the Commission that its public hearings be orderly and to that end interruption of presentations is ordinarily to be avoided. It is also the intent of the Commission that a complete record of relevant facts be established and a complete understanding of the matters under consideration be obtained. Accordingly, the Chairman, at any time during a public hearing, may allow Commissioners to comment or make inquiry of persons

addressing the Commission, or of staff or other persons in attendance or may allow staff, the County Administrator, or the County Attorney to comment or make such inquiries.

5.5.3 Conduct of Quasi-judicial Public Hearings.

5.5.3.1 Oath or Affirmation. Prior to addressing the Commission at a quasi-judicial public hearing, each person who intends to address the Commission shall declare, pursuant to oath or affirmation administered by the Clerk, or other duly authorized person, that the factual statements or representations that he or she will present shall be truthful and accurate. The form of oath or affirmation shall be substantially similar to that provided in "Attachment 1" hereto. Any person who knowingly makes a false statement or representation under oath or affirmation shall be subject to criminal and other sanctions as provided by law, in addition to any consequences provided for under the Planning Commission Procedures or any Manatee County ordinance.

5.5.3.2 Introduction by Staff. County staff shall introduce the quasi-judicial matter to the Commission so as to provide an overview of the proposed matter, and identify issues for the Commission's consideration.

5.5.3.3 Ex-parte Communications. Commission members may enter into the record factual matters which are not already contained in the record, when such Commission members have personal knowledge pertaining to the physical characteristics of a site, its surroundings, or other communications relevant to the matter being heard. (See Resolution No. 05-179 for a description the types of ex-parte communications that are required to be entered into the record.)

5.5.3.4 Applicant's(s') Presentation. After staff introduction, the applicant(s) shall be allowed to make a presentation to the Commission. The applicant has the burden of proving that the proposal is consistent with the comprehensive plan and complies with the standards for approval in the Land Development Code.

5.5.3.5 Staff's Presentation. After applicant's(s') presentation, the staff shall present the staff's report and recommendation.

5.5.3.6 Public Comment. After presentations by the applicant(s) and staff, the Chairman shall open the public comment portion of the quasi-judicial hearing for the purpose of hearing persons who want to be heard on the item under consideration.

5.5.3.7 Closing of Public Comment. The Chairman shall close the public comment portion of the public hearing upon the conclusion of the comments of the last appropriate speaker or the expiration of the speaking times allowed under these procedures. Thereafter, unless time for public comment is extended or public comment is re-opened in accordance with these procedures, no additional public comments shall be allowed except in specific response to questions by staff or Commissioners.

5.5.3.8 Staff Response and Summary. After the closing of public comment, staff shall be allowed an opportunity to respond, to summarize, or further explain staff's position and to advise of changes in staff's position, if any.

5.5.3.9 Applicant's(s') Rebuttal Presentation. After staff's response, Applicant's(s') rebuttal shall be allowed in quasi-judicial matters. Rebuttal shall only address comments made in the previous presentations.

5.5.3.10 Factual Errors. Any person(s) who believe that the rebuttal presentation includes an error of fact may be allowed an opportunity to point out such error of fact. This relates to a demonstrable falsehood or misstatement of objective fact. It is not an opportunity to argue the merits of a proposal.

5.5.3.11 Commission and Staff Inquiry. After staff and applicant(s), have made presentations as outlined above and the public comments portion of the hearing is closed, the Commission shall have a final opportunity to comment or ask questions of any applicant(s), staff member, or other persons who

provided testimony. The Chairman may allow staff to respond to comments of an applicant(s) or citizen this time.

5.5.3.12 Inquiry, Clarification and Comments during Quasi-Judicial Presentations. It is the intent of the Commission that its quasi-judicial public hearings be orderly and to that end interruption of presentations is ordinarily to be avoided. It is also the intent of the Commission that a complete record of relevant facts be established and a complete understanding of the matters under consideration be obtained. Accordingly, the Chairman, at any time during a public hearing, may allow Commissioners to comment or make inquiry of persons addressing the Commission, or of staff or other persons in attendance or may allow staff, the County Administrator, or the County Attorney to comment or make such inquiries. In quasi-judicial hearings, affected person(s) during their presentation may ask questions, through the Chairman, of the person(s) who made a presentation to the Commission in accordance with the above stated intent of the Commission.

5.5.4 Time Periods for Public Hearing Matters. The following time limits shall apply to presentations in public hearings:

5.5.4.1 an applicant in a quasi-judicial matter shall be entitled to a total of fifteen (15) minutes without interruption;

5.5.4.2 persons who have been authorized in writing to represent an organization with five (5) or more members or a group of five (5) or more affected person(s) shall be entitled to speak ten (10) minutes without interruption; (See Secs. 5.5.5.1 and 5.5.5.3)

5.5.4.3 all other persons shall be entitled to speak three (3) minutes each without interruption; and,

5.5.4.4 an applicant's rebuttal shall be limited to five (5) minutes, unless otherwise set by the Chairman.

5.5.4.5 Factual Errors shall be limited to one (1) minute, unless otherwise set by the Chairman.

5.5.5 Other Procedural Guidelines.

5.5.5.1 Registration of Speakers Persons who desire to make presentations at a public hearing shall, prior to the time at which the item is to be heard, register with the designated staff on the forms provided, and shall provide such information as required to organize the agenda and order of presentation. Five (5) or more persons associated together as proponent(s) or opponent(s) of an item may be required to designate a spokesperson in writing.

5.5.5.2 Limit on Presentations. No person who has made a presentation for or against an item at a given meeting shall be allowed to make additional comments as of right except where due process requires it.

5.5.5.3 Authorization of Group Representatives. Before a person representing an organization or group speaks, that person shall state whom he or she represents and establish how he or she received authorization to speak on behalf of such organization or group of persons, which shall include written authorization, unless the Chairman waives this requirement. In quasi-judicial hearing matters, anyone representing an organization must present written evidence of their authority to speak on behalf of the organization in regard to the matter under consideration, unless the Chairman waives this requirement, in accordance with Sec. 502.6.2, Land Development Code. The Commission may make further inquiry into the representative authority of such person. Only one ten minute time allotment per hearing is allowed for each organization or group of persons represented at the hearing.

5.5.5.4 Interruption of Presentations. Notwithstanding any provisions herein, the Chairman of the Commission, the County Administrator, the Building and Development Services Department Director as to Land Use items, or the County Attorney may interrupt and advise termination or other appropriate limitation of any presentation or discussion of matters that should not appropriately or legally be considered by the Commission under applicable Florida Statutes, decisions of Florida or federal courts, County ordinances or County code provisions in deciding the item then under consideration.

5.5.5.5 Experts. In quasi-judicial proceedings, persons purporting to offer expert testimony shall identify any educational, occupational, and other expertise that they possess that is relevant to their qualifications to speak regarding the matter under consideration. Persons purporting to offer expert testimony in other contexts such as legislative proceedings may likewise be required to identify their expertise. Any Commissioner, the County Administrator, the Planning Director as to land use items, or the County Attorney may inquire further as to such expertise.

5.5.5.6 Additional Time for Presentations. The Commission or the Chairman, without objection, may allow more than the allotted time for presentations by an applicant or other speaker regarding an item, if the additional time is requested. In order to conserve time and facilitate an orderly meeting, preference shall be given to such requests when they are made in advance of the meeting to the Building and Development Services Department Director. If more than a total of one-half (1/2) hour is requested by an applicant, or other speaker, the request must be submitted in writing not later than the day before the meeting at which the item is to be heard; provided, however, even in the absence of a timely request for additional time to make a presentation, the Chairman, without objection, or the Commission may grant such extension where, in its discretion, it is necessary to do so because of the considerations of law, equity, or fairness.

5.5.5.7 Continued Public Hearings.

5.5.5.7.1 Generally. In any matter where it is known that a scheduled public hearing will be continued to a future date certain, the staff report may be postponed or abbreviated and public comment may be limited to those persons who state that they believe they cannot be available to speak on the date to which the public hearing is being continued. Such persons shall be allowed to make their comments at the then current meeting if there is a quorum; provided, however, that upon making their comments, such persons shall waive the right to repeat or make substantially the same presentation at any subsequent meeting on the same subject. This waiver shall not preclude such persons from making different

presentations based on new information or from offering response to other persons' presentations, if otherwise allowable, at any subsequent meeting.

5.5.5.8 Non-Public Hearing Matters. If appropriate, the Commission, or the Chairman, without objection, may allow for public comments after staff presentation on matters that are not the subject of a public hearing. Each person allowed to address the Commission on such matters shall be allowed a maximum of three (3) minutes to comment. Extensions of time for public remarks may be granted by the Chairman, without objection, or by the Commission.

5.5.5.9 Termination of Presentations. At any Commission proceeding, the Chairman, unless overruled by a majority of the Commissioners present, may restrict or terminate presentations which in the Chairman's judgment are irrelevant, frivolous, unduly repetitive, out of order, or in violation of the Planning Commission Procedures.

5.5.5.10 Written Comments. Applicant(s) or other speakers of any matter under consideration by the Commission shall be entitled to submit timely written comments for consideration by the Commission. Relevant and admissible written comments submitted shall be considered and entered into the record of the meeting as provided elsewhere in the Planning Commission Procedures. Written comments received by Commissioners regarding a matter that is the subject of a quasi-judicial public hearing shall be distributed to all Commissioners, the Building and Development Services Department and the County Attorney and shall be made available for review by the applicant and the public in a project reading file maintained by the Planning Director.

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

5.5.6 Voting, Motions, and Reconsideration.

5.5.6.1 Voting. Unless otherwise provided by law, when the Commission has finished discussion and is ready to vote a question, the Chairman shall call for the vote. Each Commissioner shall vote “aye” or “nay” or abstain from voting when legally required to do. Immediately prior to, or after the vote, the Chairman may allow any Commissioner to give a brief statement to explain his or her vote, which shall not be used to further argue in favor of or against the motion. A Commissioner shall have the privilege of filing with the Clerk a written explanation of his or her vote which shall become part of the record of the proceeding. The vote upon any question shall be by voice vote unless any Commissioner requests that a roll call vote or show of hands be taken. Provided, that when necessary for the purpose of accurately ascertaining the outcome of a vote or for compliance with legal requirements, the Clerk may require a roll call vote or show of hands.

5.5.6.2 Preparation or Modification of Motions. Prior to a vote on any matter, a Commissioner may request that staff prepare or modify the motion during a recess called for that purpose. Alternatively, if advisable in the Commission’s discretion, staff may be instructed to prepare wording to be brought back to the Commission later for motion and vote at that meeting or a subsequent meeting of the Commission. The County Attorney, the County Administrator, or the Building and Development Services Department Director may request that a motion and vote be delayed to allow preparation or revision of a motion, as provided hereunder.

5.5.6.3 Tie Votes. When the vote of the Commission is equally divided, the status quo ante shall be maintained. In such an event, a person who sought a change in status quo shall be considered to have had the request denied and shall have available the same remedies or rights of review that one would have had if the request had been denied by a majority vote of the Commission, unless, at the same meeting, the Commission votes to approve the requested action with conditions or stipulations attached, or to table, defer, or continue the matter in an attempt to obtain action by a majority vote.

5.5.6.4 Routine Reconsideration. When a question has been decided by the Commission, a Commissioner voting on the prevailing side may move for reconsideration of the question at the same meeting, or the next regular or special meeting of the Commission. If the question was decided by a tie vote, any Commissioner may move for reconsideration of the question at the same meeting or at the next regular or special meeting of the Commission. In no event shall the motion to reconsider be made later than thirty (30) days after a vote on a quasi-judicial matter

5.5.6.5 Effect of Approvals and Denials of Motions. When a matter is brought forward to a vote based on a motion to approve it or approve it with modifications, and such motion fails, the status quo ante shall be maintained and the matter shall be considered to have been denied. A denial shall not preclude a subsequent motion to approve with different modifications at the same meeting. When a matter is brought to a vote based upon a motion to deny it, and said motion fails, the matter shall not be considered granted and shall be treated as if no action has been taken on the matter. Such a vote shall not preclude a subsequent motion at the same meeting to approve or approve with modifications.

6. THE RECORD

6.1 Automatically Included in the Record. The following documents shall automatically be included in the records of the Planning Commission:

6.1.1 the records of the Commission maintained by the Clerk of the Circuit Court; which include agenda packets, staff reports and all items placed in the record under Section 6.2; and

6.1.2 the development approval application, site plan, if any, and all accompanying documents submitted by the applicant; and

6.1.3 all documents in the Building and Development Services Department's and the reviewing departments' files for the development approval application; and

6.1.4 the most recent copies of résumés previously filed with the Clerk of the Circuit Court of County staff and agents speaking on the matter that had been considered; and

6.1.5 comments, documents and exhibits previously entered into the record at a prior Commission meeting on the particular matter or on file with the Clerk of the Circuit Court, County Administrator or Building and Development Services Department prior to the public hearing including written communications to members of the Commission and staff, if any; and,

6.1.6 the following codes, ordinances and plans of Manatee County: Comprehensive Plan of Manatee County as initially adopted in Ordinance 89-01, (a/k/a the “2020 Comprehensive Plan”); Manatee County Land Development Code (a/k/a the “Land Development Code” or “LDC”); Manatee County Code of Ordinances, and the Manatee County Code of Resolutions, all as may be amended; and

6.1.7 memoranda from the County Attorney directed to the Planning Commission or other County staff on that item.

6.2. Items Which Shall Be Placed in the Record. Any photographs, tapes, discs, or other recordings, documents, exhibits, diagrams, petitions, letters, or other materials presented to the Commission in support of, or in opposition to, an item to be considered by it shall be entered into the record. The Commission may accept legally inadmissible items into the record for the purposes of preserving the record for appellate review, provided that members of the Commission shall not consider those items, or parts thereof, which are inadmissible in reaching their decision. In the event the Commission has any questions as to the relevancy and admissibility of any item presented for placement into the record, the Commission may defer admission of the item pending an opinion from the County Attorney Attorney’s Office.

6.3 Custodian. The Clerk of the Circuit Court shall be custodian of all of the documents entered into the record at any public hearing. The Building and Development Services Department and the reviewing departments for a specific development approval

application (i.e. those departments who have submitted review comments to the Building and Development Services Department) shall be responsible for maintaining the documents pertinent to their respective review of the development approval application.

6.4 Records. The Clerk shall keep minutes of all Planning Commission proceedings, including evidence presented, the name of all witnesses giving testimony, findings of fact by the Planning Commission, and the vote of each member, or if absent, or, failing to vote, such fact. The Clerk shall be the custodian of the official record of the Planning Commission and shall keep indexed records of all Resolutions, transactions, findings, and determinations. All such records shall be official public records and shall be covered by all Florida Statutes pertaining to public records.

6.5 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.

6.6 Exhibits. Unless an oversized exhibit is absolutely essential, documentary paper or photographic exhibits shall not exceed 11 inches by 17 inches and, if mounted on a backboard, shall be removable therefrom.

6.7 Substitution of Copies of Exhibits. A person submitting an exhibit for the Commission's consideration in support of, or in opposition to 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 the Clerk's 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.

7. EFFECT OF THESE RULES OF PROCEDURE

7.1 Conflict with Laws. In any instance where the procedure established by this Resolution is in conflict with state law, county ordinance or court order, or has the effect of violating any applicable law, ordinance 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. If any portion hereof is finally held by a court of competent jurisdiction to be invalid, such portion shall be deemed severable from the remainder and, to the extent possible the remainder shall be operative without the invalid portion.

7.2 Roberts Rules of Order. In all cases not covered by this Resolution, the most recent edition of Roberts Rules of Order shall be used as a general guide and may be followed by the Chair, unless the Commission overrules the Chair.

8. PUBLICATION

Upon adoption of this Resolution and any amendment hereof, the County Administrator shall cause same to be published in a form suitable for distribution to the public. Copies shall be provided by the Director of Planning to all persons who request them. Copies shall be available for review at all meetings of the Commission.

ATTACHMENT 1

Do you swear or affirm, that the factual statements and factual representations which you are about to give or present before or to this Commission, during this public hearing will be truthful and accurate?

MANATEE COUNTY GOVERNMENT

AGENDA MEMORANDUM

SUBJECT	Adoption of Amended Rules of Procedure	TYPE AGENDA ITEM	Consent
DATE REQUESTED	10/10/13 PC	DATE SUBMITTED/REVISED	10/02/13
BRIEFINGS? Who?	No	CONSEQUENCES IF DEFERRED	Risk Non-Compliance with Applicable Florida Law and Potential Litigation
DEPARTMENT/DIVISION	Building & Development Services Department/Comprehensive Planning and Public Hearings	AUTHORIZED BY TITLE	Sarah A. Schenk, Assistant County Attorney Lisa Barrett, Planning Manager <i>LB</i>
CONTACT PERSON TELEPHONE/EXTENSION	Sarah A. Schenk, Assistant County Attorney x 3750 Lisa Barrett, Planning Manager x 6884	PRESENTER/TITLE TELEPHONE/EXTENSION	Sarah Schenk, Assistant County Attorney, 941-748-4501 ext. 3750
ADMINISTRATIVE APPROVAL			

ACTION DESIRED INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED
I move to adopt the amended Rules of Procedure in the agenda packet attached to this memo.

ENABLING/REGULATING AUTHORITY Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy
Manatee County Comprehensive Plan and Manatee County Land Development Code.

BACKGROUND/DISCUSSION
<ul style="list-style-type: none"> • Senate Bill 50 was passed by the Florida Legislature in 2013 and amended the Florida Statutes so as to create Section 286.0114, Florida Statutes, effective October 1, 2013. • The County Attorney's Office has advised that all boards of Manatee County currently covered by the open meeting requirements of the Sunshine Law, including advisory boards, are subject to Section 286.0114, Florida Statutes, and must provide citizens an opportunity to speak on legislative matters. • The right to comment on pending land development applications that are quasi-judicial (i.e., rezoning, site plans, etc.), would remain during the advertised public hearing portion of the agenda. • Since the Planning Commission does not have a specified segment on the agenda for citizen comments for legislative matters, the Rules of Procedure are required to be amended. The new text is indicated by redlined on the attached document. • No other substantive changes have been made to the Rules of Procedure. • The County Attorney's Office recommends a motion to adopt the amended Rules of Procedure for the Planning Commission at the meeting on October 10, 2013 in order to comply with the Florida Statutes as amended in 2013.

COUNTY ATTORNEY REVIEW	
Check appropriate box	
<input checked="" type="checkbox"/>	REVIEWED Written Comments: <input type="checkbox"/> Attached <input type="checkbox"/> Available from Attorney (Attorney's initials: SAS)
<input type="checkbox"/>	NOT REVIEWED (No apparent legal issues.)
<input type="checkbox"/>	NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)
<input type="checkbox"/>	OTHER

ATTACHMENTS: (List in order as attached)		INSTRUCTIONS TO BOARD RECORDS:	
Amended Rules of Procedure			
COST:	N/A	SOURCE (ACCT # & NAME):	N/A
COMMENTS:		AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)	