

Sunshine Law, Public Records, Ethics, & Robert's Rules of Order



City of Port St. Lucie – City Attorney's Office
(772) 871-5294

Sunshine Law



Overview:



- The Florida Legislature established a right for persons to:
 - Receive notice of meetings of municipal councils and boards;
 - Attend meetings of municipal councils and boards;
 - Access the record of said meetings;
- This law is codified in Chapter 286, Florida Statutes and an amendment to the Florida Constitution was approved providing a constitutional right for any person to access public meetings.
- There is both a statutory and constitutional right to open access of municipal meetings.



What is a public meeting?

Any gathering between "two or more members" of the Council, City board, or committee to discuss a matter which foreseeably will come before them.

Must be in
the sunshine



Gatherings not in the Sunshine:



Examples:

Staff meetings; Council members attending meetings of another public board (the public board will have to comply); discussions between members of different bodies; council members attending a privately sponsored forum; council members attending a social event.



Notice:

Events & Meetings

Regular City Council

Date: 01/08/2024 1:00 PM - 4:59 PM
Location: City Hall
[121 S.W. Port St. Lucie Blvd.](#)
[Port St. Lucie, Florida 34984](#)

 [Add to my Calendar](#)

Regular City Council Meetings happen every second Monday of the month at 1 p.m. and every fourth Monday of the month at 6 p.m., except when those days fall on a holiday at which point the meeting will take place on the next business day.

[View Agenda](#)

Sign up to receive agendas by email by visiting psl.legistar.com and registering your email the top of the page.

There are 5 ways to watch a public meeting:

1. Watch in person at [Port St. Lucie City Hall](#)
2. Watch on [Facebook @cityofpsl](#)
3. Watch the [PSL TV Live Stream](#) on any device
4. PSL TV is available on channel 20 on Xfinity and Blue Stream Fiber.
5. Visit psl.legistar.com for all meeting agendas and video recordings.

Public Comments:

- [Fill out the Comments to be Heard Form](#): All comments must be received 2 hours prior to the meeting start time. City Staff will enter all comments received into the official record. Comments are subject to compliance with the rules of council and decorum. Comments submitted online will not be read aloud during the meeting but will be entered into the official record by City Staff. Any email received by the City on a non-agenda topic, requesting it to be considered at Public to be Heard, shall be distributed to the Council members prior to the meeting and retained by the City Clerk as a public record.

- Notice: rule of thumb is at least seven days notice for a regular meeting, under ideal circumstances. Different notice requirements for special meetings.
- Notice must detail the time and place of the meeting. Agenda is *always* preferred.
- Meeting site must be sufficient in size and in accessible location so that the public may attend.

Record:

City of Port St. Lucie
Planning and Zoning Board
Meeting Minutes

121 SW Port St. Lucie Blvd.
Port St. Lucie, Florida 34984

Deborah Beutel, Chair
Peter Previte, At-Large
Eric Reikenis, At-Large
Melody Creese, Alternate
Peter Louis Spatara, Alternate

Please visit www.cityofpsl.com/tv for new public comment options.

Tuesday, December 5, 2023	6:00 PM	Council Chambers, City Hall
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1.

Meeting Called to Order

A Regular Meeting of the Planning and Zoning Board of the City of Port St. Lucie was called to order by Chair Beutel at 6:00 PM on December 5, 2023, at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Florida.

2.

Roll Call

Members Present:
Deborah Beutel, Chair
Peter Previte
Eric Reikenis
Melody Creese
Peter Spatara

3.

Determination of a Quorum

Chair Beutel confirmed there was a quorum.

4.

Pledge of Allegiance

Chair Beutel led the assembly in the Pledge of Allegiance.

- Minutes of a public meeting shall be taken promptly and made available for inspection.
- Minutes may be a brief summary or a verbatim transcript.
- Video taping does not substitute for meeting minutes but can be done in addition.

Failure to Comply:



Fines or Jail Time:

A “knowing” violation is a second-degree misdemeanor punishable by a fine of up to \$500 or any higher amount equal to double the pecuniary gain to the offender or pecuniary loss suffered by the victim, 60 days in jail, and court costs.



Elected Officials:

Suspension from office may occur if charged with a misdemeanor. A conviction may result in removal from office.

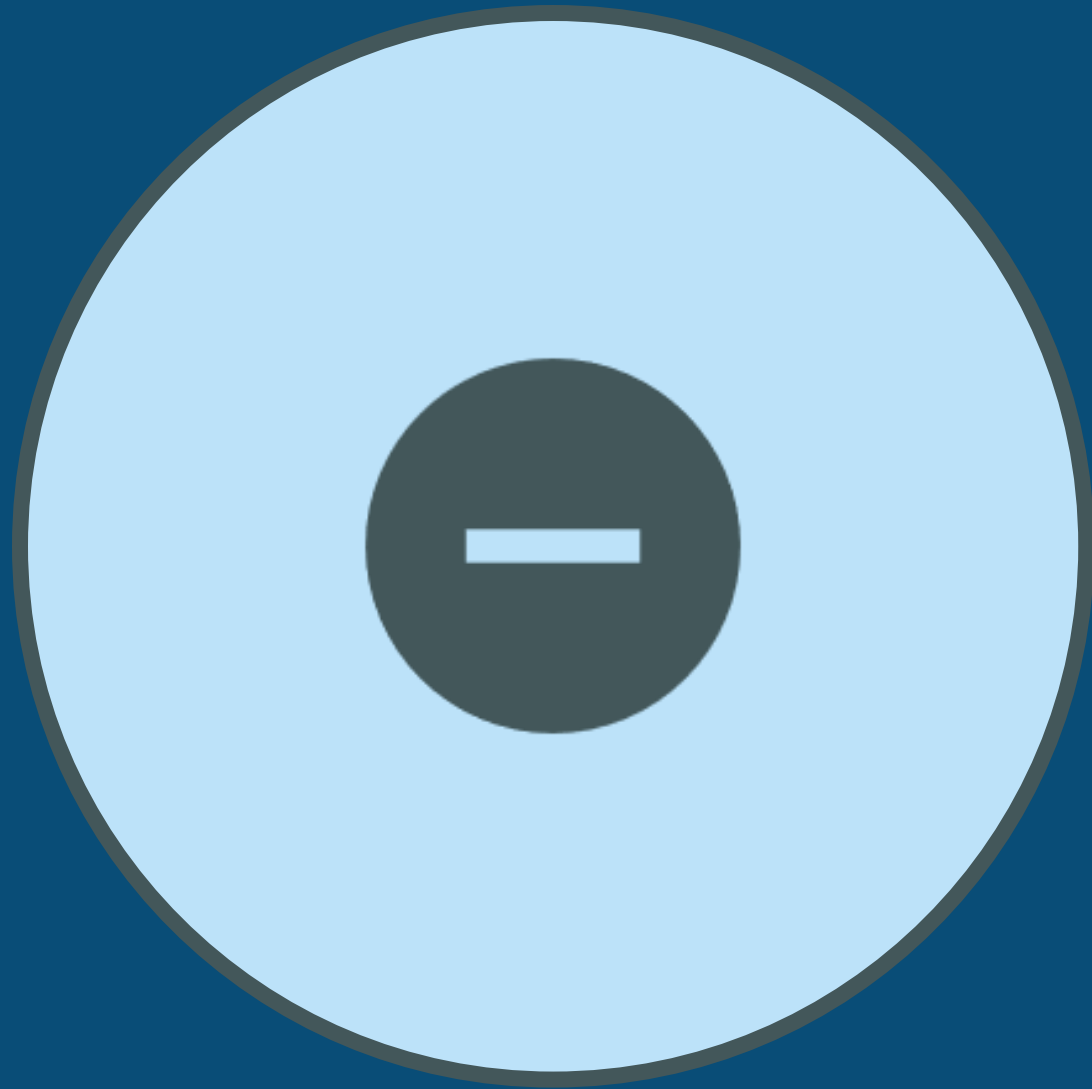


For the City:

Violations leave the City vulnerable to civil litigation and an awarding of attorneys’ fees.



Failure to Comply:



Nullify Actions at Issue:

Decisions made in violation of the Sunshine Law may be nullified costing the City time and money.



Public Records Law



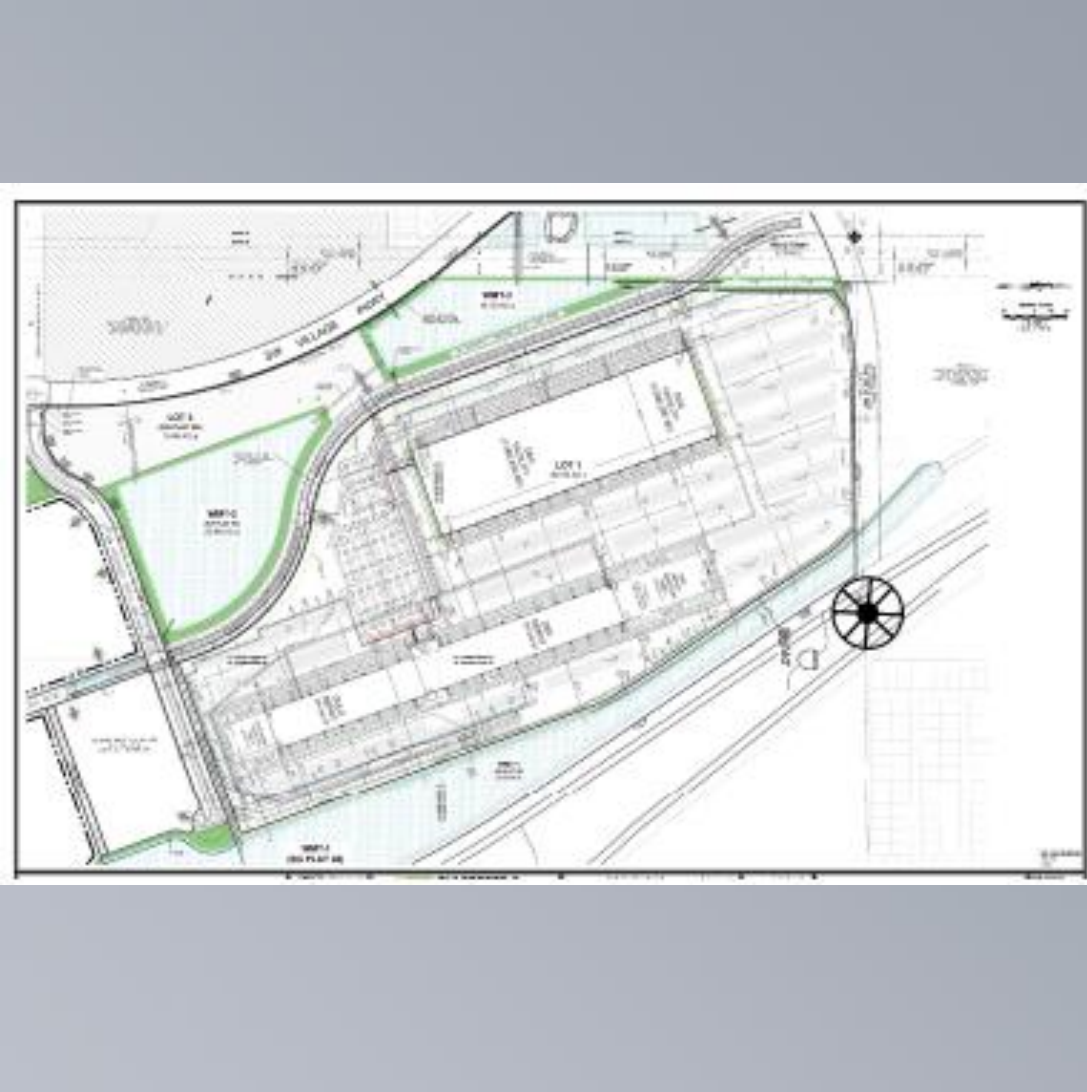
Overview:



- First Public Record Law was in 1909, entitling “citizens” to access municipal records.
- Has expanded since and entitles “any person” access to municipal records. Codified in Chapter 119, Florida Statutes and in 1992, an amendment to the Florida Constitution.
- There is a statutory and constitutional right to access municipal records.



What are Public Records?



1

Materials made or received by the City;



2

In connection with official business and used to;



3

Perpetuate, communicate or formalize knowledge of some type.



Materials:



Include:

Papers (documents, letters, maps, faxes, books, etc.), electronic files/papers (email, data processing files, calendar, text messages, and internet posts, such as social media), photographs, videos, audio recordings.



Official City Business



Include:

Materials sent or received by employees in connection with their job, materials sent or received by Council or Board members in connection with their official capacity. Those of a personal nature are not City business.



Intended to perpetuate, communicate or formalize knowledge:



Include:

Email sent or received by Council members to constituents about an upcoming ordinance vote, draft documents shown to others for review or comment, taking meeting minutes, surveys sent out by the City, notes used to create documents for distribution. Intent and purpose is important.



Who must comply with Public Records:



- Members of the City Council, City officials and all City employees, City Board and Committee members, and City Volunteers.
- Store public records in your control in an organized filing system. You are the custodian of any record under your control.
- Only the City Clerk's office is permitted to destroy records in accordance with the Record Retention Schedule

How does a person gain access to a public record?

- A person may contact any City employee to make public records request to inspect and/or copy a record.
- The request may be in writing OR made verbally and no explanation or reason is needed (request may be anonymous).
- A person may take photographs of the record while they are in the possession, custody and control of the records custodian.

How does the City respond:

- Response is a governmental service and must be done promptly and the request must be acknowledged within 48 hours of receiving the request.
- Compiles the request, whether electronically or paper copies, and provides necessary equipment for inspection or copying.
- There are 1,084 exemptions and whether it is exempt or confidential is a question directed towards the City Attorney's Office

Exempt v. Confidential

- If information is designated confidential in the statutes, the information is not subject to inspection by the public and may only be released to the persons or organizations in the statute.
- If records are not confidential but are only exempt from the Public Records Act, the exemption does not prohibit the showing of such information.

119.071 General exemptions from inspection or copying of public records.—
(1) **AGENCY ADMINISTRATION.—**
(a) Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution. A person who has taken such an examination has the right to review his or her own completed examination.
(b)1. For purposes of this paragraph, “competitive solicitation” means the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.
2. Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.
3. If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.
(c) Any financial statement that an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution.
(d)1. A public record that was prepared by an agency attorney (including an attorney employed or retained by the agency or employed or retained by another public officer or agency to protect or represent the interests of the agency having custody of the record) or prepared at the attorney’s express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the agency, and that was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or that was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings, is exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution until the conclusion of the litigation or adversarial administrative proceedings. For purposes of capital collateral litigation as set forth in s. [27.7001](#), the Attorney General’s office is entitled to claim this exemption for those public records prepared for direct appeal as well as for all capital collateral litigation after direct appeal until execution of sentence or imposition of a life sentence.
2. This exemption is not waived by the release of such public record to another public employee or officer of the same agency or any person consulted by the agency attorney. When asserting the right to withhold a public record pursuant to this paragraph, the agency shall identify the potential parties to any such criminal or civil litigation or adversarial administrative proceedings. If a court finds that the document or other record has been improperly withheld under this paragraph, the party seeking access to such document or record shall be awarded reasonable attorney’s fees and costs in addition to any other remedy ordered by the court.
(e) Any videotape or video signal that, under an agreement with an agency, is produced, made, or received by, or is in the custody of, a federally licensed radio or television station or its agent is exempt from s. [119.07\(1\)](#).
(f) Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in s. [812.081](#), and agency-produced data processing

Failure to Comply:



1

A “knowing” violation is a first-degree misdemeanor;



2

All other violations are noncriminal and punishable by fines;



3

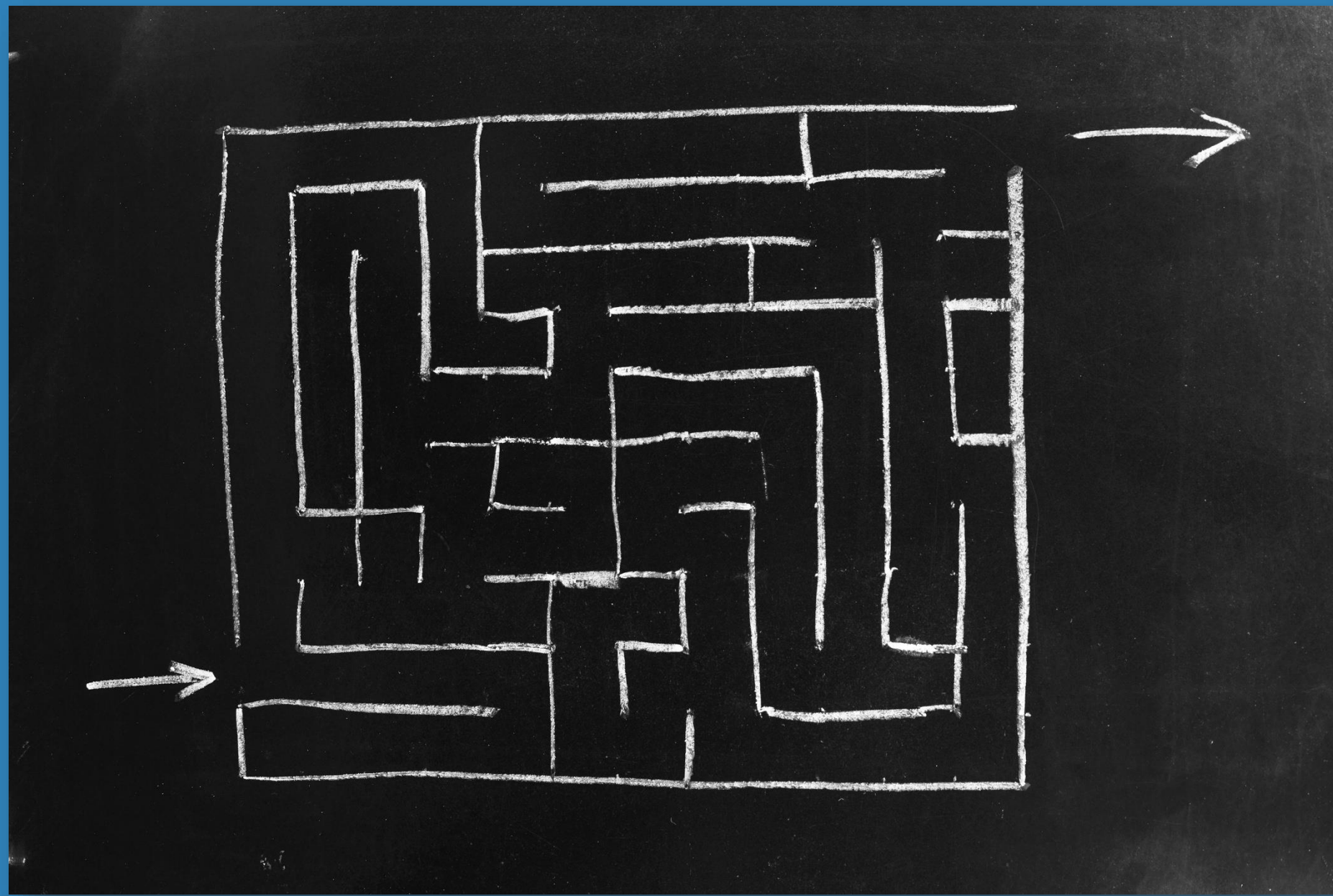
Violations leave the City vulnerable to civil litigation and an awarding of attorneys fees.



Ethics



Overview:



- There are several legal restrictions and reporting requirements falling within four categories:
 - Laws pertaining to prohibited or restricted conduct (including misuse of public position, conflicts of interest, nepotism, voting conflicts, prohibited disproportionate benefit, etc.
 - Laws pertaining to bribes, gifts, honoraria, and expenditures, etc.
 - Government transparency laws involving financial disclosure
 - Laws pertaining to executive branch lobbying activity



Public Officers per s. 112, Florida Statutes



Definition:

Includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.



Public Officers cannot:



- Solicit or accept anything of value, including a gift, loan reward, promise of future employment, favor, or service, based upon any understanding of a vote, official action, or judgment being influenced.
- Acting in official capacity, directly or indirectly purchase, rent, or lease any realty goods, or services for his/her own agency from any business entity of which the officer or director spouse or child is a director has a material interest.
- Accept any compensation or payment that such officer should or, with the exercise of reasonable care, should know, that it was given to influence a vote or action.

Cont'd:



- Corruptly use or attempt to use their position to secure a special privilege, benefit, or exemption.
Have or hold any employment or contractual
- relationship that will create a continuing or reoccurring conflict
- Hold any employment or contractual relationship with any business entity or agency which is subject to the regulation of, or is doing business with, the agency of which he or she is an officer or employee
- Use information not disclosed to the public for personal gain or benefit.

Voting Conflicts



Conflict:

No municipal officer shall vote in a capacity upon any measure which would inure to his or her special private gain or loss.

Must:

Publicly state to the assembly the nature of the officer's interest in the matter and, within 15 days after the vote, disclose the nature of the interest in a memorandum filed with the Clerk.

Special Private Gain or Loss:

Size of the class affected by the vote, the nature of the interests involved, the degree to which the interests of all members of the class are affected by the vote, or the degree to which the officer receives a greater benefit or harm.



Robert Rules of Order



ROBERTS RULES CHEAT SHEET

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority
Recess	"I move that we recess until..."	No	Yes	No	Yes	Majority
Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Suspend further consideration of something	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question"	No	Yes	No	No	2/3
Postpone consideration of something	"I move we postpone this matter until..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by..."	No	Yes	Yes	Yes	Majority
Introduce business (a primary motion)	"I move that..."	No	Yes	Yes	Yes	Majority

The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Ask for vote by actual count to verify voice vote	"I call for a division of the house"	Must be done before new motion	No	No	No	None unless someone objects
Object to considering some undiplomatic or improper matter	"I object to consideration of this question"	Yes	No	No	No	2/3
Take up matter previously tabled	"I move we take from the table..."	Yes	Yes	No	No	Majority
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	Yes	Yes	Only if original motion was debatable	No	Majority
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	No	Yes	No	No	2/3
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).



Role of the Chairperson:



Includes:

Calling the meeting to order, announces the purpose and topic of items to be discussed, recognizes members on the floor who are going to speak, protects quorum from digressing from topic on the floor, protects integrity of meeting from disruption or distraction

Does not:

Make motions or proposals, close debate before every member has had the opportunity to speak



Decorum in debate:



- The speaker must be recognized by the Chairperson before speaking, should limit speech to ten minutes, and should not speak more than twice on the motion. Decorum should be kept at all times including confining statements to merits of pending questions., not attacking a member's motives for a motion, not speaking adversely on an item that is not pending or has been finalized.
- A member may not interrupt except in urgent situations such as a point of order, raising a question of privilege, or calling attention that that speaking rules are not being observed.

Accomplish in meetings:



Main Motion

“Madame Chairman, I move that...”



Amending a Motion

“I move that the motion be amended by adding the following words/striking the following words/striking and adding in their place...”



Limit Discussion

“Madam Chair, “I move to limit discussion to two minutes per speaker”



Additional considerations:



- Quorum: the minimum number of voting members who must be present at a properly called meeting to conduct business.
- Motions cannot be made by the Chair and motions must be seconded by someone other than the Chair and the person making the motion.
- Only one motion can be discussed at a time. Everyone has the right to participate in a discussion but only urgent matters may interrupt a speaker.

Resolution 24-R59



City Rules and Regulations



- Quorum is a majority of the board's size regardless of vacant seats.

Alternate Members shall be contacted and substitute for absent members on a rotating basis.

- Alternate members shall have all rights afforded to voting members except making motions, engaging in discussion/debate once a motion is on the table, and voting. Alternate members may not discuss during quasi-judicial proceedings.

Cont'd



- Any board member wishing to resign shall submit a written notice to the City Clerk announcing their resignation and shall not be eligible for reappointment for a period of one year from resignation, unless good cause is shown.
- Alternate members may be elevated to voting members or new applications may be reviewed to fill vacant seats
- A member may only serve as chair for one consecutive year

Thank you

Any questions?

