

FEBRUARY 12, 2013 – WORKSHOP

The Board of County Commissioners, Walton County, Florida, held a Workshop on February 12, 2013 at 1:00 p.m. at the Walton County Courthouse Annex in Santa Rosa Beach, Florida, to receive information relating to meeting procedures and Quasi-Judicial hearings.

The following Board members were present: Commissioner Kenneth Pridgen, Chairman; Commissioner Sara Comander, Vice Chairman; Commissioner Bill Chapman; Commissioner Bill Imfeld; and Commissioner Cindy Meadows. Mr. Gerry Demers, Interim County Administrator; Attorney Mark Davis, Acting County Attorney; and Mr. Alex Alford, Clerk of Courts; were also present.

Chairman Pridgen called the meeting to order.

Attorney Mark Davis, Special Council to the Board, stated that he had been tasked by the Board to review the general meeting procedures and the Quasi-Judicial procedures. He began by discussing the current ordinance which governs the Board's Quasi-Judicial procedures. He reported that the current ordinance is in compliance with the current Statute and case law. He briefly discussed the history of Quasi-Judicial hearings in Florida and the tasks allotted to each of the governing levels (Legislative Level-Board of County Commissioners; Executive Level-County Administration; and Judicial Level-Court Judges). He stated that Quasi-Judicial hearings are neither a formal judicial hearing nor an informal executive hearing. All testimony and evidence must be submitted under oath in Quasi-Judicial hearings. He quickly discussed case law requirements as it relates to hear-say testimony and evidence; decisions based upon testimony and evidence given; and the applicable code provision. Attorney Davis discussed ex-parte contacts (F.S. 286.0115) and the need to disclose all ex-parte communications. Commissioner Imfeld stated that he liked visiting the property sites and questioned if that would be considered

ex-parte. Attorney Davis said that it would not, unless contact with the property owner is made. Commissioner Meadows questioned if a citizen could bring a lawyer to a private meeting to discuss Quasi-Judicial items. Attorney Davis discouraged meeting with citizens and their lawyers stating that that would be an ex-parte communication which is prohibited by the Florida Bar. However, the citizen would be allowed to meet with the individual Commissioner. Discussion ensued regarding the non-agenda items.

Attorney Davis submitted the Commission Chair's Guide to Conducting Quasi-Judicial Hearings and stated that all Quasi-Judicial hearings require a motion and second to open and close the hearing. He discussed the processes, exhibits, and cross examinations of witnesses. Participants, individuals who are neither the applicant nor staff, do not have the right to cross examine witnesses. Attorney Davis said that once all of the evidence and testimony has been presented, a motion and second to close the hearing will be made, then a motion and second will be made regarding the Quasi-Judicial item. The motion will be either to approve, deny, or approve with conditions. No public comment should be allowed after the motion and second are made.

Commissioner Meadows asked what would happen if no one makes a motion regarding a Quasi-Judicial item. Attorney Davis stated that the matter would continue to the next hearing. He said that a motion and second should be made prior to Board discussion of the matter. Motions can be amended after discussion. Commissioner Meadows asked if a board member could vote against their own motion. Attorney Davis stated that they could.

Commissioner Imfeld asked if no motion is made and a matter is continued to the next hearing, is it treated as a new issue or reopened from the last hearing. Attorney Davis stated that the matter is continued and re-noticed until a motion is made.

Discussion ensued on making, amending, and rescinding motions.

Commissioner Meadows questioned what would qualify as a Quasi-Judicial proceeding. Attorney Davis stated that the qualifications are clearly laid out in the ordinance. He recommended that it should be determined that there is no objection to the notice of hearing and that the notice be entered into evidence.

Commissioner Meadows asked if a motion was necessary to accept the Staff Report and recommendation into the record. Attorney Davis said that the report and recommendation is normally presented in writing prior to the meeting and should be accepted at the time of Staff presentation.

Attorney Davis briefly discussed the use of Special Magistrates and the processes to be followed.

Commissioner Meadows questioned how public comments regarding a Quasi-Judicial matter are registered if they are received after the hearing. Attorney Davis said that if the communication was not read prior to the hearing, then it is not considered ex parte and does not need to be disclosed.

Attorney Davis addressed conflicts of interests and the criteria which disqualifies the decision maker. He stated that a voting conflict form should be submitted.

Attorney Davis discussed his observations of the BCC meetings. He felt that the meetings were too long and that land use items should be presented in separate meetings. He suggested holding the land use meetings on the Thursday following the Regular Meeting. He also suggested that criteria be developed to determine which items would be placed on the Consent Agenda.

Attorney Davis discussed the recommendations listed in the Public Comment Procedures document submitted for review. He suggested that sign-up cards be used for public comment. Discussion ensued on limiting the public comment time to five minutes rather than three minutes.

Attorney Davis stated that questions presented during public comment should be directed to the Board as a whole and that no personal questions should be asked; the Board can only act corporately.

Commissioner Meadows asked if a commissioner could abstain from voting. Attorney Davis stated that only with an announced direct conflict of interest can a voting member abstain.

Discussion ensued regarding the use of roll call or a voting board and the benefits of a well ordered meeting.

Attorney Davis recommended that Board members address the Chairman and request permission to make comments on any issue.

There being no further items to discuss, the meeting adjourned at 1:42 p.m.



Kenneth Pridgen, Chairman



Alex Alford, Clerk of Court