

Town of Ponce Inlet



Annual Board & Committee Training Packet

Town of Ponce Inlet
Board & Committee Annual Training Packet

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Disclaimer:

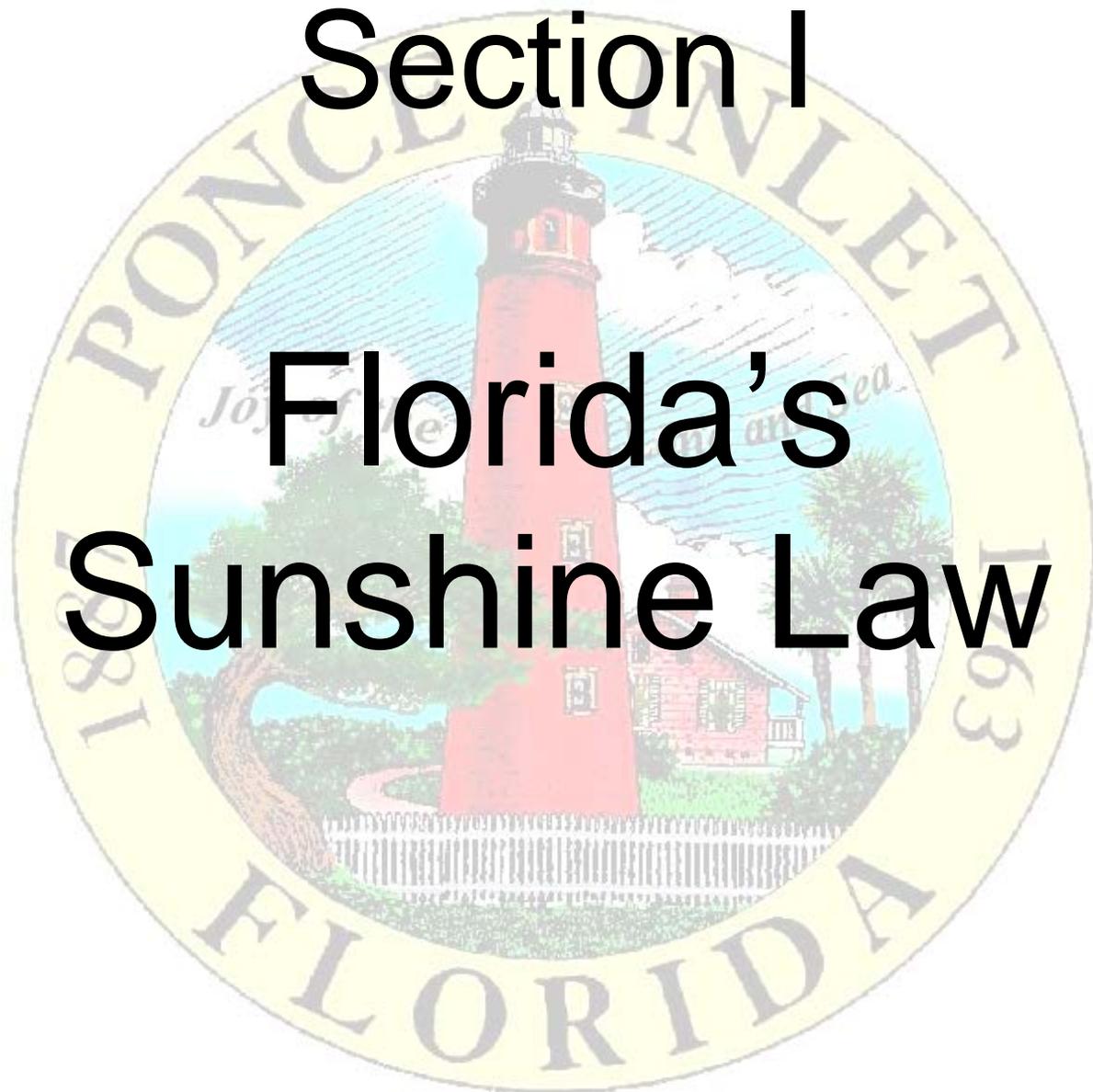
The information contained herein is provided as a **Guide**; it is not intended to be all-inclusive. Always refer to the appropriate State Statute or contact Town staff if ever a question arises.

Approval(s):

- 12/2014 & 1/2017– Contents reviewed and approved by Attorney Hand (Town Attorney)
- 09/2015 – Contents reviewed and approved by Ms. Witt, Town Manager

In order to conserve resources, only this title page is included with the original agenda packet; the complete training packet is included in the Board's meeting agenda packet.

/ph



Section I

Florida's Sunshine Law



FLORIDA'S SUNSHINE LAW



The Sunshine Law in a nutshell: The public's business must be conducted in public.

- Do not talk to each other in private about any matter that could foreseeably come before this Board.
- What is foreseeable? Any topic related to the Board's function and duties upon which it could conceivably make a recommendation or decision (vote). Such discussions between Board members must be held at meetings of the Board.
- Notice of the Board meetings must be published in advance, the meetings must be held in a place where the public can attend, and the proceedings must be recorded and made available to the public afterward.
- Assume a decision you've made in the past could come back to the Board for further decision.

What Board Members *Can* Do

- Talk with Town staff, members of other Boards, and the Town Council.

What Board Members *Cannot* Do

- No chat rooms, no blogging, no Facebook, no Twitter, no e-mails, no talking during breaks in Board meetings, no whispering or talking among yourselves at the dais, no talking in the parking lot at Town Hall, at the country club, or on the golf course!
- You can't use other people as a go-between (think of the game "Post Office").
- You cannot send e-mails to other Board members communicating your position on a particular matter which will come before the Board. Send your e-mails to the planning staff for dissemination in the Board agenda packet.

Penalties:

- Non-criminal infraction with a fine up to \$500.00 (Section 286.011, Fla. Statutes).
- A knowing violation is a second-degree misdemeanor subject to prison for up to 60 days and a fine of up to \$500.00 (Section 286.011, Fla. Statutes). If found guilty, the officials could be removed from office (Section 112.52, Fla. Statutes).
- If a Sunshine violation cannot be "cured," the action of the entire Board at a subsequent meeting is void.

RULE OF THUMB: When in Doubt, Don't.

FLORIDA SUNSHINE, PUBLIC RECORDS, AND CODE OF ETHICS LAWS

This presentation is intended to provide a general overview of Florida Sunshine and Public Records law and the Florida Code of Ethics. For specific guidance or a legal opinion, please contact the Attorney's office.

All boards or commissions of any state, county, municipal corporation or political subdivision have a legal obligation to comply with:

- The Sunshine Law, and
- The Public Records Law, and
- The Florida Code of Ethics.

THE LAWS

■ SUNSHINE LAW [FS §286.011 (“Sunshine Law”) and FL Constitution Art. I, Sec. 24]

Protects the public from “closed door” decision making and provides a right of access to governmental meetings.

■ PUBLIC RECORDS LAW [FS Chap. 119]

Creates a right of access to records made or received in connection with official business of a public body.

■ CODE OF ETHICS [FS 112, Part III, Code of Ethics for Public Officers and Employees and the FL Constitution Art. II, §8]

Protects against conflict of interest and establishes standards for the conduct of elected official and government employees in situations where conflicts may exist.

Committee type determines the applicability of these laws. There are two types of committees:

1. Decision Making Committees
2. Fact Finding/Focus Group Committees

1. Decision Making Committees - become part of the governing body’s decision making process and:

- Choose alternatives and direction; narrow or eliminate options for the governing body’s consideration.
- Make decision by voting.
- Make recommendations to the governing body directly or through staff.
- Create by-laws.

2. Fact Finding/Focus Groups - provide a source of community input and factual resources and:

- Have no characteristics of a Decision Making Committee.
- Do not need by-laws.
- Provide individual input, data and factual findings to staff, as part of staff’s development in its advisement to the governing body.
- Do not take votes.
- Maintain a brainstorming focus.

THE SUNSHINE LAW - gives the public access to meetings of “any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision” (“Governing Body”) AND

- Allows the public to observe each preliminary step leading to the final decision.
- Prevents the governing body from creating closed committees that narrow the governing body’s decisions.
- Applies to appointed committees.
- An AG opinion advises it also applies to an individual Board member, appointed to negotiate, narrow decisions, or make decisions for the full board.

MEETINGS SUBJECT TO THE SUNSHINE LAW - include formal or casual discussions about a matter on which the governing body may foreseeably take action, between:

- Two or more members of the governing body, or
- Two or more members of a Decision Making Committee.

Discussions may occur through telephone or e-mail communications, or exchanges during workshops, social events, football games and neighborhood barbeques.

■ **THE SUNSHINE LAW IMPOSES THREE OBLIGATIONS OF OPENNESS**

1. Reasonable notice of meetings subject to the Sunshine Law must be given; requires giving the public reasonable and timely notice so they can decide whether to attend.

What is “reasonable” or “timely” depends on the circumstances. Does not necessarily require a newspaper advertisement (contact the Attorney’s office for guidance).

2. Public must be allowed to attend meetings; however there is no obligation to allow the public to participate.
 - Meetings cannot be held at exclusive or inaccessible facilities.
 - No evasive actions are allowed, such as:
 - a. Circulating written reports to elicit responses or positions on issues.
 - b. Using staff, lobbyists, or other means to seek other members’ positions about issues.
3. Minutes of the meetings are required. Written minutes must be taken and made available promptly.
 - Sound recordings may also be used, in addition to written minutes.
 - Minutes may be a brief summary of meeting’s events.
 - Minutes are public records.
 - Minutes must record the votes.

■ **THE SUNSHINE LAW APPLIES WHEN:**

- Two or more members of a governing body discuss a matter that may foreseeably come before the governing body.
- A governing body moves any part of its decision making process to a committee or group, thereby appointing an “alter ego.”

According to an AG opinion, this may also include an individual Board or Committee member appointed formally or informally to negotiate, narrow or eliminate options or decisions for the full Board or Committee.

- **THE SUNSHINE LAW DOES NOT APPLY TO:**
 1. Committees or groups appointed to engage only in fact-finding activities.
 2. Created focus groups or other such committees that:
 - a. Only provide individual input, data and facts as part of staff's development in its advisement to the governing body.
 - b. Do not narrow options.

The Sunshine Law is *broadly* construed. ~ Exemptions are *narrowly* construed.

- **SUNSHINE LAW:**
Penalties for Noncompliance (also applies to Decision Making Committees)
A violation of the Sunshine Law by the governing body or a Decision Making Committee, can nullify governing body's decisions.
- **Criminal Penalties:**
 1. It is a second degree misdemeanor to knowingly violate the Sunshine Law.
 2. Is Punishable with a fine of up to \$500 and/or up to 60 days imprisonment.
- **Other Penalties Include:**
 1. Removal from position.
 2. Payment of attorney's fees incurred by the challenging party, as well as declaratory and injunctive relief.

SENTENCED TO JAIL FOR SUNSHINE LAW VIOLATIONS:
Suspended Escambia County Commissioner, W.D. Childers, was sentenced to 60 days in jail for discussing redistricting in a telephone conversation while fellow commissioner listened on a speaker phone, and pleaded no contest for talking with two fellow commissioners about county building projects in front of a staffer.

- **PUBLIC RECORDS LAW:**
Public Records Include: All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or means of transmission made or received pursuant to law in connection with transaction of official business by the agency. (Fl. Stat. Chapter 119)

THE PUBLIC RECORDS LAW APPLIES TO:

- Records developed by the governing body, Board Appointed Committees, and employees;
- All types of records including written communications, letters, notes and e-mails. Numerous exemptions are identified in FS 119.07 and other statutes.

Public Records Requests can be made:

- Verbally or in writing,
- By any person.

THE GOVERNING BODY OR APPOINTED COMMITTEE:

- Has a "reasonable" time to respond.
- Can charge for the cost of retrieving records if the amount requested is voluminous.
- Can charge 15 cents/page.

THE PUBLIC RECORDS LAW DOES NOT REQUIRE:

- The retention of records (this is covered under the State's records retention policy).
- The creation of records or the provision of records in the format requested.
- And explanation of the records.

FLORIDA CODE OF ETHICS:

- **ADDRESSES:**
 - a. Standards of conduct
 - b. Voting Conflicts
 - c. Financial Disclosure
 - d. Prohibits certain action or conducts.
 - e. Requires certain disclosures be made to the public.

Standards of Conduct Prohibit Public Officials from:

- **Soliciting and Accepting Gifts** - May not solicit or accept anything of value that is based on an understanding that their vote, official action, or judgment would be influenced by such a gift.
- **Accepting Unauthorized Compensation** - May not accept any compensation, payment, or thing of value that is given to influence a vote or other official action.
- **Misusing his/her Public Position** - May not corruptly use their official position to obtain a special privilege for themselves or others.
- **Disclosing or Using Certain Information** - May not disclose or use information not available to the public and obtained by reason of their public positions for the personal benefit of themselves or others.
- **Doing business with their agency** - A public official's agency may not do business with a business entity in which the public official, or their spouse or child own more than 5% interest.
- **Engaging in Conflicting Employment or Contractual Relationships** - A public official may not be employed or contract with any business entity regulated by or doing business with his or her public agency.

THE GOVERNING BODY MAY WAIVE THE LAST TWO PROHIBITIONS, AS THEY RELATE TO APPOINTED COMMITTEES.

Voting Conflicts of Interest

- Requires no County, municipal, or other Local Public officer (including members of the appointed committees) shall vote in an official capacity upon any measure which would inure to the special private gain or loss of themselves, any principal or entity by whom they are retained, other than an agency as defined in the Fl. Stat. 112.312(2), or to any relative or business associate.
- Requires that public officers, including members of decision making committees:
 1. Must announce the nature of the conflict before the vote; abstain from voting; and file a memorandum of voting conflict
 2. May not participate in the discussion without first disclosing the nature of their interest in the matter (either in writing prior to the meeting, or orally as soon as they become aware that a conflict exists).

BECOMES AN ISSUE WHEN STAKEHOLDERS ARE APPOINTED TO DECISION-MAKING COMMITTEES

- **FINANCIAL DISCLOSURES**

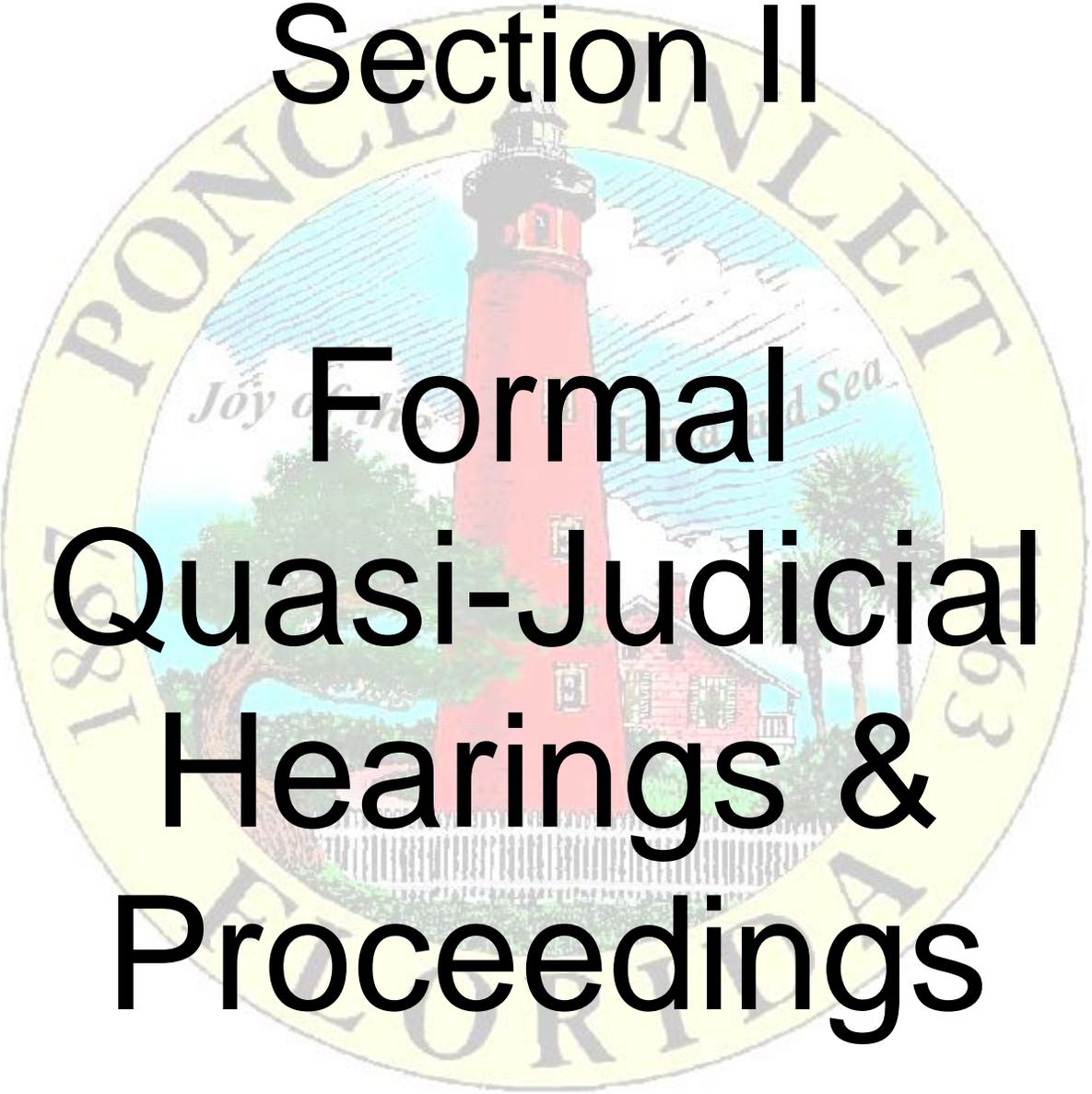
Appointed committee members with land-planning, zoning or natural resources responsibilities must file an annual financial statement.

Which Laws Apply to Which Committees?

	Focus Group	Decision-making Committee
Florida Laws		
Sunshine law		X
Public Records Law	X	X
Code of Ethics		
Standards of Conduct	X	X
Voting Conflict		X
Financial Disclosure		X

*Includes discussions about a matter which may foreseeably come before the Committee;; between one or more Committee member(s), or involving subcommittees or an individual Committee member who has been formally or informally authorized to exercise any decision-making authority or to reduce options for the Committee’s consideration.

**Committees with land-planning, zoning, or natural resources responsibilities.

The seal of the Town of Ponce Inlet, Florida, is a circular emblem. It features a central red lighthouse with a black lantern room, set against a blue sky with white clouds. The lighthouse is surrounded by green trees and a white picket fence. The words "PONCE INLET" are written in a yellow arc at the top, and "FLORIDA" is written in a yellow arc at the bottom. The years "1867" and "1863" are on the left and right sides respectively. The phrase "Joy of the Sea" is written in a cursive font across the middle of the seal.

Section II

Formal Quasi-Judicial Hearings & Proceedings

Formal Quasi-Judicial Hearings

1. Introductions - The Chairman shall read the case style and nature of the issue.
2. Affected Party determination.
3. Ex parte communication - the Board members shall disclose any ex parte communications that may have occurred. The Petitioner and any affected party may ask questions to each Commissioner about these communications directed through the Chairman.
4. Swearing in - the Petitioner, staff, and all witnesses shall be collectively sworn.
5. Petitioner presents its case – the Petitioner may include a description of the nature of the Petition if there is additional information that has not been previously provided by the town staff. The Petitioner may introduce any documentary evidence and elicit testimony through witnesses.
6. Staff presentation (10 minute maximum) – Town staff shall present any staff, board, or other report on the matter. These reports and any other documentary evidence shall become a part of the record. Evidence will be presented through oral testimony of witnesses and documentary evidence.
7. Affected Party *for* the Petition – any affected person will present its case clearly indicating if they are in support of the Petition. The affected person may introduce any documentary evidence and elicit testimony through witnesses.
8. Affected Party *against* the Petition – any affected person will present its case clearly indicating if they are opposed to the Petition. The affected person may introduce any documentary evidence and elicit testimony through witnesses.
9. Any rebuttal by Petitioner.
10. Any rebuttal by staff.
11. Close of presentation by petitioner, staff, and affected parties.
12. Public Hearing.
13. Close Public Hearing; Deliberation and vote of the Board.

General rules as to Witnesses

*After each witness testifies, any member of the Board, the Petitioner, or any affected party is permitted to question the witness, unless the Chairman deems the question to be irrelevant or immaterial. The Chairman may defer to the Attorney to determine the scope of questioning. The questioning party is not permitted to make any statements, only to ask questions which are directly related to the testimony presented.

**The Board may, in its discretion, at any time during this hearing, continue the hearing, and may request further information from any party.

Instructions

Consideration of the Evidence – In Board deliberations, Board members must only consider the evidence - that is, the testimony of witnesses and the exhibits and all evidence admitted in the record.

The Board is not bound by strict rules of evidence, or limited to consideration of evidence which would be admissible in a court of law, but as you consider the evidence, both direct and circumstantial, you may make deductions and reach conclusions which reason and common sense lead you to make. The Board shall weigh all the competent, material and/or relevant evidence presented, giving each piece of evidence the weight he or she sees fit.

The Board may exclude evidence or testimony which is not relevant, material or competent, or testimony which is unduly repetitious.

The Board will determine the relevancy of evidence, and the Board may ask the Attorney for opinions on the relevancy of evidence. **Anything the lawyer's opinion is not evidence** in the case. It is your own recollection and interpretation of the evidence that controls.

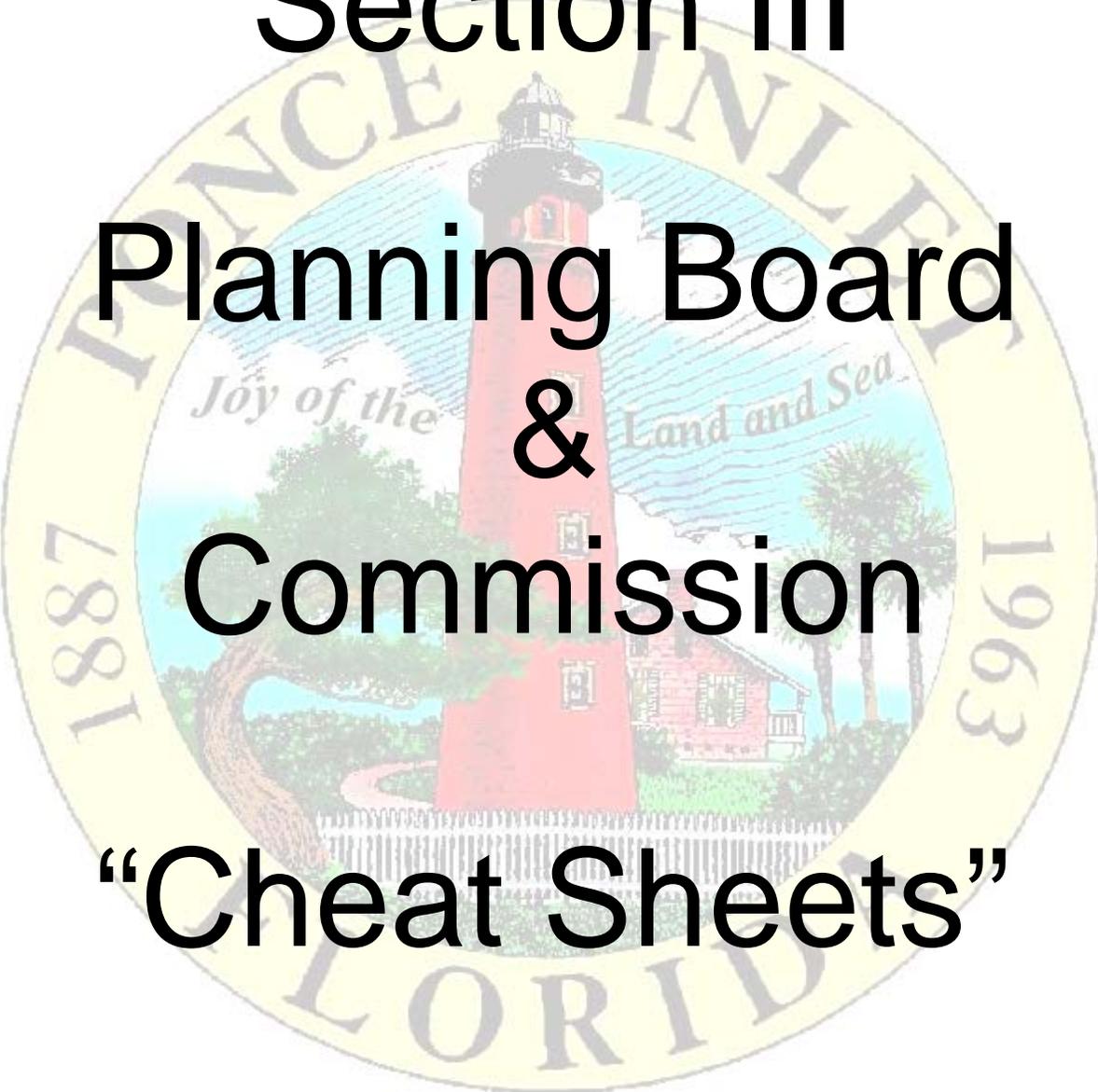
The public may provide input to the Board. The Board must not act merely because there is public sentiment for or against the petition. The Board must base its decision on the facts and the competent evidence presented at this hearing.

Credibility of Witness(es) – You should decide whether you believe what each witness had to say, and how important that testimony was. In making that decision, you may believe or disbelieve any witnesses; in whole or in part. Also the number of witnesses testifying concerning any particular dispute is not controlling. You may decide that the testimony of a smaller number of witnesses concerning any fact in dispute is more believable than the testimony of a larger number of witnesses to the contrary.

You should ask yourself whether there was evidence tending to prove that the witness testified falsely concerning some important fact; or, whether there was evidence that at some other time, the witness said or did something, or failed to say or do something, which was different from the testimony he or she gave before you during the hearing.

Expert Witness – When knowledge of a technical subject matter might be helpful, a person having special training or experience in that technical field, one who is called an expert witness, is permitted to state his or her opinion concerning those technical matters. Merely because an expert witness has expressed an opinion, however, does not mean that you must accept that opinion. The same as with any other witness, it is up to you to decide whether to rely upon it.

Copied & formatted from: <http://floridaldrs.com/tag/quasi-judicial-hearings/>

The seal of Ponce Inlet, Florida, is a circular emblem. It features a central red lighthouse with a white lantern room. To the left of the lighthouse is a large, leafy tree, and to the right is a palm tree. In the foreground, there is a wooden fence and a small wooden building. The background shows a blue sky with white clouds and a blue sea. The seal is surrounded by a yellow border containing the text "PONCE INLET" at the top, "1887" on the left, "1963" on the right, and "FLORIDA" at the bottom. The phrase "Joy of the Land and Sea" is written in a cursive font across the middle of the seal.

Section III

Planning Board & Commission

“Cheat Sheets”

Planning Commission Meeting Cheat Sheet

Planning Commission meetings will generally run in the following order:

- I. Call to Order
- II. Opening and Invocation
- III. Approval of Minutes
- IV. Hearing Items
- V. Old Business
- VI. New Business
- VII. Adjournment

Call to Order – The Chair will call the meeting to order and then lead those in attendance in reciting the Pledge of Allegiance.

Approval of Minutes – The Chair will ask if any of the minutes need to be amended from the previous meeting.

- a) If no member of the Commission suggest edits, then the Chair will ask for a motion to approve the minutes and a second. Then the Chair will ask for a vote. The Commission may vote by consensus.
- b) If edits are suggested, then the Chair will ask for a motion to amend the minutes and a second. Then the Chair will ask for a vote. The Commission may vote by consensus.

Hearing Items –

- a) Quasi-judicial – The Chair should follow the procedure designated in the “Formal Quasi-judicial Hearings” handout
- b) Non quasi-judicial – Generally staff will first proceed by introducing the item, providing relevant information, and then making a recommendation. Once staff has finished its presentation, the Chair will generally then ask for public comment. After the public has had the opportunity to comment, the Chair will bring the item back to the Commission for discussion and deliberation. The Commission will then discuss their viewpoints on the item. Once discussion and deliberation winds down, the Chair may ask for a motion. The Chair will then ask for a second. If the motion is seconded, the Chair will ask for a roll call vote. (A roll call vote is recommended to ensure clarity of the record.) ***

*** A NOTE ON MOTIONS AND VOTING:

Robert’s Rules provides an onerous procedure for running meetings. Nearly everything can be accomplished in a meeting by Main Motion and by Amending a Main Motion.

How a Main Motion is Brought:

Used when a member wants to propose action for the Commission.

- A member makes the motion: “I move that (or ‘to’)...

- Another member seconds the motion: "I second the motion" or "I second it" or "second"
- The chair restates the motion and puts it to roll call vote.
- If a quorum majority votes in favor for the motion, then the motion carries. If a quorum majority votes in opposition to the motion, then the motion fails. The Chair will state the results.

Amending a Main Motion:

A member may make a motion to amend a main motion. The Chair will then ask the member who made the main motion if they approve of the amendment. If the member who made the main motion agrees, then the Chair may deem the motion amended.

Other motions:

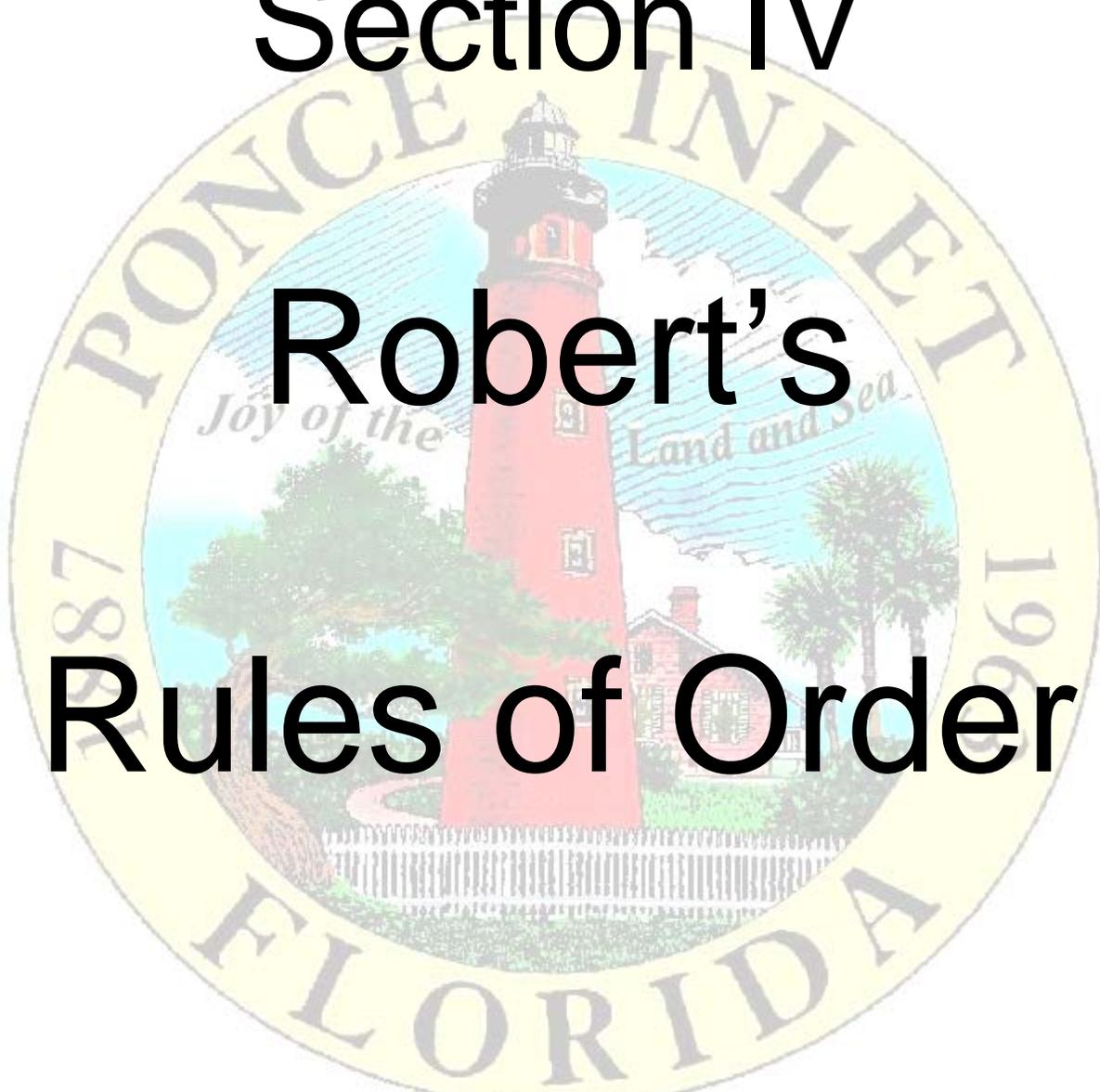
Other motions may be made such as a Motion for Rescission or Motion to Consider. These motions are rarely utilized and can be explained by the attorney present at the meeting if invoked.

Old Business – At this time the Chair will ask the Commission if there is any old business to discuss.

New Business – At this time the Chair will ask the Commission if there is any new business to discuss.

Adjournment – At this time the Chair will ask if there is a Motion to Adjourn. If such a motion is made, then the chair will ask for a second. If a second is made, then the Commission may vote to adjourn by consensus.

Section IV

The seal of Ponce Inlet, Florida, is a circular emblem. It features a central illustration of a red lighthouse with a white lantern room, situated on a grassy area. To the left of the lighthouse is a large green tree, and to the right are palm trees. In the background, a small red building is visible. The seal is surrounded by a yellow border containing the text "PONCE INLET" at the top, "1887" on the left, "1961" on the right, and "FLORIDA" at the bottom. The phrase "Joy of the Land and Sea" is written in a cursive font across the middle of the seal.

Robert's Rules of Order

Introduction to Robert's Rules of Order

1. What is Parliamentary Procedure?
2. Why is Parliamentary Procedure important?
3. Example of the Order of Business
4. Motions
5. Types of Motions
6. How are Motions presented?
7. Voting on a Motion

1. What is Parliamentary Procedure?

It is a set of rules for conduct at meetings that allows everyone to be heard and to make decisions without confusion.

2. Why is Parliamentary Procedure important?

Because it's a time-tested method used for conducting business at meetings and public gatherings. It can be adapted to fit the needs of any organization. Robert's Rules of Order is the basic handbook of operation for most clubs, organizations and other groups – so it's important to know the basic rules.

3. Organizations using parliamentary procedure usually follow a fixed order of business (Agenda), for example:

1. Call to order
2. Roll call & determination of quorum
3. Reading/approval of minutes of last meeting
4. Officer's/Staff's report
5. Committee report
6. Special orders
7. Unfinished/Old Business
8. New Business
9. Announcements/Board Discussion
10. Adjournment

4. The method used by members to express themselves is in the form of "moving motions". A motion is a proposal that the entire membership take action or a stand on an issue. Individual members can:

1. Call to Order
2. Second motions
3. Debate motions
4. Vote on motions

5. There are four Basic Types of Motions:

1. *Main Motions*: the purpose of a main motion is to introduce items to the membership for consideration. They cannot be made when any other motion is on the floor, and yield to privileged, subsidiary, and incidental motions.
2. *Subsidiary Motions*: the purpose of subsidiary motions is to change or affect how a main motion is handled, and is voted on before a main motion.
3. *Privileged Motions*: the purpose of a privileged motion is to bring up items that are urgent about special or important matter unrelated to pending business.
4. *Incidental Motions*: the purpose of an incidental motion is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.

6. How are Motions presented?

1. Obtaining the floor
 - a. Wait until the last speaker has finished
 - b. Raise your hand and address the Chairman by saying, "Mr. Chairman"
 - c. Wait until the Chairman recognizes you before speaking
2. Make your motion
 - a. Speak in a clear and concise manner
 - b. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ...".
 - c. Avoid personalities and stay on topic/subject
3. Wait for someone to second your motion
4. Another member will second your motion or the Chairman will call for a second.
5. If there is no second to your motion, the motion "dies" for lack of a "second".
6. The Chairman re-states Your motion
 - a. the Chairman states, "it has been moved and seconded that we ...". Thus placing your motion before the members for consideration and action.
 - b. The membership then either debates your motion, or may move directly to a vote.
 - c. Once your motion is presented to the membership by the Chairman, it becomes "assembly property" and cannot be changed by you without the consent of the members.
7. Expanding on Your Motion
 - a. The time for you to speak in favor of your motion is at this time – not when you present it.
 - b. The mover is always allowed to speak first.
 - c. All comments and debate must be directed to the Chairman.
 - d. Keep to the time limit for speaking that has been established.

e. The mover may speak again only after other speakers are finished, unless called upon by the Chairman.

8. Putting the Question (Motion) to the Membership

- a. The Chairman asks, "Are you ready to vote on the question/motion?"
- b. If there is no more discussion, a vote is taken.
- c. On a motion to move the previous question may be adapted.

7. **Voting on a Motion:**

The method of vote on any motion depends on the situation and the by-laws of the Board. There are five methods used to vote by most organizations:

1. By Voice – the Chairman asks those in favor to say, "aye", those opposed to say "no". Any member may move for an exact count.
2. By Roll Call – the member answers "yes" or "no" as his/her name is called. This method is used when a record of each person's vote is required or desired.
3. By General Consent – when a motion is not likely to be opposed, the Chairman says, "if there is no objection ... " The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.
4. By Division – this is a slight verification of a voice vote. It does not require a count unless the Chairman so desires – members raise their hands or stand.
5. By Ballot – members write their vote on a slip of paper; this method is used when secrecy is desired.*

There are two other motions that are commonly used relating to voting:

1. Motion to Table – this motion is often used in the attempt to "kill" a motion. The option is always present, however, to "take from the table", for reconsideration by the membership.
2. Motion to Postpone Indefinitely – this is often used as a means of parliamentary strategy and allows opponents of the motion to test their strength without an actual vote being taken. Also, debate is once again open on the main motion.

Parliamentary Procedure is the best way to get things done at your meetings:

1. Allow motions that are in order;
2. Have members obtain the floor properly;
3. Speak clearly and concisely;
4. Obey the rules of debate; and most importantly ...
5. Be courteous.

Information courtesy of: <http://www.robertsrules.org>