



# CULTURAL SERVICES, HISTORIC PRESERVATION, & TREE ADVISORY BOARD AGENDA

MONDAY

February 5, 2024 - 5:30 PM

COUNCIL CHAMBERS

4300 S. ATLANTIC AVENUE, PONCE INLET, FL

**SUNSHINE LAW NOTICE FOR BOARD MEMBERS – Notice is hereby provided that one or more members of the Town Council or other Town Boards may attend and speak at this meeting.**

A complete copy of the materials for this agenda is available at Town Hall.

- 1. CALL TO ORDER & PLEDGE OF ALLEGIANCE.**
- 2. ROLL CALL & DETERMINATION OF QUORUM.**
  - A. Oaths of Office
  - B. Election of Chair
  - C. Election of Vice-Chair
- 3. ADOPTION OF AGENDA.**
- 4. APPROVAL OF THE MINUTES:**
  - A. December 4, 2023
- 5. REPORT OF STAFF:**
  - A. Cultural Services update – *Jackie Alex, Cultural Services Manager*
  - B. Public Works update – *Fred Griffith, Public Works General Manager*
- 6. OLD BUSINESS: *None.***
- 7. NEW BUSINESS:**
  - A. FDP #39-2023, Sailfish Marina  
Property Address: 4912 Sailfish Drive  
Review of Landscape Plan and Tree Preservation Plan – Ms. Rippey
  - B. 2024 Meeting Dates
  - C. Annual Board Member Training
- 8. PUBLIC PARTICIPATION.**
- 9. BOARD/STAFF DISCUSSION.**
  - A. FY 24/25 Budgetary Items
- 10. ADJOURNMENT.**

Next Meeting: Monday, March 4, 2024

*If a person decides to appeal any decision made by the Cultural Services Board with respect to any matter considered at a meeting, they will need a record of the proceedings and to ensure that a verbatim record of the proceedings is made at their own expense. Persons who require accommodation to attend this hearing should contact the Ponce Inlet Town Hall at 236-2150 at least one week prior to the meeting date to request such assistance.*



**Meeting Date:** February 5, 2024

**Agenda Item:** 2-A

## **Report to the Cultural Services, Historic Preservation, and Tree Advisory Board**

**Topic:** Oaths of Office

**Summary:**

Ms. LaBarre, Regular Seat #1  
Mr. Shaffer, Regular Seat #3  
Ms. Kessler, Alternate Seat #1  
Mr. Patton, Alternate Seat #2

**Suggested Motion/Action:** N/A

**Requested by:**

Ms. Stewart, Assistant Deputy Clerk

**Reviewed by:**

Ms. Cherbano, Town Clerk

**Approved by:**

Mr. Disher, Town Manager



**Meeting Date:** February 5, 2024

**Agenda Item:** 2-B & C

## **Report to the Cultural Services, Historic Preservation, and Tree Advisory Board**

### **Topic:**

- B. Election of Chair
- C. Election of Vice-Chair

**Summary:** The Chair and Vice-Chair positions are one-year terms and must be elected annually at the Board's first meeting of the new year. These positions may be filled using one motion or separate motions, at the mover's discretion.

### **Suggested Motion (either separately or jointly):**

I move to nominate \_\_\_\_\_ to serve as Chair of the Board; requires a second and nominee to accept; then a vote.

I move to nominate \_\_\_\_\_ to serve as Vice-Chair of the Board; requires a second and nominee to accept; then a vote.

### **Requested by:**

Ms. Stewart, Assistant Deputy Clerk

### **Reviewed by:**

Ms. Cherbano, Town Clerk

### **Approved by:**

Mr. Disher, Town Manager



**Meeting Date:** February 5, 2024

**Agenda Item:** 4

## **Report to the Cultural Services, Historic Preservation, and Tree Advisory Board**

**Topic:** Approval of Meeting Minutes

**Summary:**

Staff has prepared the attached set of meeting minutes for the Board's review and approval.

**Suggested Motion/Action:**

To APPROVE the December 4, 2023 meeting minutes:

As Presented - or -  As Amended

**Requested by:**

Ms. Stewart, Assistant Deputy Clerk

**Reviewed & Authorized by:**

Mrs. Alex, Cultural Services Manager

**Approved by:**

Mr. Disher, Town Manager



Town of Ponce Inlet  
**CULTURAL SERVICES, HISTORIC PRESERVATION,  
AND TREE ADVISORY BOARD**

**REGULAR MEETING MINUTES**

**December 4, 2023**

4  
5  
6  
7 **1. CALL TO ORDER & PLEDGE OF ALLEGIANCE:** Pursuant to proper notice, Vice-Chair  
8 Finch called the meeting to Order at 5:30 PM in the Council Chambers, located at 4300 S. Atlantic  
9 Avenue, Ponce Inlet, Florida and led the attendees in the Pledge of Allegiance.

10  
11 **2. ROLL CALL & DETERMINATION OF QUORUM:** A quorum was established with five  
12 members and one alternate present.

13  
14 Board members present:

15 Ms. LaBarre, Seat 1  
16 Ms. Keese, Seat 2  
17 Mr. Shaffer, Seat 3  
18 Ms. Finch, Seat 4; Vice-Chair  
19 Ms. Bell, Seat 5, Chair (Absent)  
20 Ms. Kessler, Alternate Seat 1

21  
22 Staff members present:

23 Mrs. Alex, Cultural Services Manager  
24 Mr. Disher, Town Manager  
25 Mr. Griffith, Public Works Director  
26 Ms. Rippey, Senior Planner  
27 Ms. Stewart, Assistant Deputy Clerk

28  
29 **3. ADOPTION OF AGENDA:** Vice-Chair Finch asked if there were changes; there were none.

30  
31 Ms. LaBarre moved to approve the agenda as presented; seconded by Vice-Chair Finch. The motion  
32 PASSED by consensus, 5-0.

33  
34 **4. APPROVAL OF MINUTES:**

35  
36 **A. August 7, 2023** – Vice-Chair Finch asked if there were any changes; Ms. Keese referred  
37 to line 133 of the minutes and noted the spelling of Ms. Riggio needs to be corrected.

38  
39 Ms. LaBarre moved to approve the August 7, 2023 meeting minutes as amended; seconded by Mr.  
40 Shaffer. The motion PASSED by consensus, 5-0.

41  
42 **5. REPORT OF STAFF:**

43  
44 **A. Cultural Services Update** – Mrs. Alex announced the next Town Council meeting will  
45 be Monday, December 18, 2023 when the Riverside Conservancy will provide a presentation regarding

46 the shoreline restoration project in Ponce Inlet. The volunteers for the Ponce Preserve invasive plant  
47 removal project led by Barbara Davis will be honored, and Ms. Davis will also be honored. Mrs. Alex  
48 provided an update on the air potato vine removal; the volunteer event recommended by Young Bear  
49 Environmental is tentatively planned for February/March. Sand TrapBags have been installed at Ponce  
50 Preserve on the beach to prevent erosion; 300 feet out of 900 feet have been installed. She stated a  
51 resident approached the Town with a request for a shoreline launch on one side of the boat ramp for  
52 kayaks and paddleboard launching; a sign will be installed stating that the space is for the use of both  
53 and will include a reminder to be mindful of kayakers and/or paddleboarders. She asked the Board to  
54 consider this item for future discussion. Mrs. Alex explained staff has been working on the FY 2024/25  
55 budget; discussions will begin in January, and she asked members to consider items to be included. She  
56 noted that the tree lighting and Christmas parade were successful events and announced there are two  
57 additional events in December; she will provide an annual report at the next meeting. Staff is finalizing  
58 the details for the spring events; more information will be provided in January. She announced an event  
59 will be held in February to honor “Cocoa” Bill Williams, the Hasty family handyman. She explained  
60 that the Environmental Council, which serves Volusia and Flagler Counties with the objective to  
61 preserve, protect, and restore natural resources in both counties, is accepting members. The topics  
62 discussed at the last meeting in August were beach issues, Indian River Lagoon pollution, and the  
63 Volusia Forever grant. Individuals can join anytime; dues are \$10.00. However, staff requests that they  
64 join as a resident, not representing the Town or the Cultural Services Board. She can provide more  
65 information to anyone that is interested.

66  
67 **B. Public Works Update** - Mr. Griffith provided an update on Public Works activities. He  
68 referred to Mrs. Alex’s comments regarding the boat ramp as a kayak launch and noted that the south  
69 side of the ramp is being used for that; he will examine the area to see if any minor improvements can  
70 be made. He noted that Public Works staff appreciates the accolades and recognition for its hard work  
71 for the Town’s special events such as the Halloween event, and the Christmas decorations for the  
72 parade, and special events, etc. Public Works has been working with Ms. Davis and her “army” of  
73 volunteers in Ponce Preserve to remove invasive plant species. He noted that the roof at the museum  
74 has been repaired; however, the chimney needs to be sealed. He is obtaining quotes for some wood  
75 repair and painting needed at all three buildings. Mr. Griffith explained funds are budgeted for minor  
76 repairs to the boardwalk, but not enough to replace it. Vice-Chair Finch complimented the Public Works  
77 Department staff for its hard work on all the holiday decorations, including Halloween, tree lighting  
78 and Christmas events. She asked if security cameras at the courts have been discussed; there have been  
79 questions about security and there has been some destruction of decorations, etc. Mrs. Alex noted it  
80 was included in the budget, but nothing has specifically been directed toward the parks yet. Mr. Disher  
81 explained it is included in this year’s budget; the IT Director, Public Safety Director, and Police Chief  
82 are evaluating the best places to install lighting.

83  
84 Ms. Stewart reminded members whose terms are expiring December 31, 2023, that they will be re-  
85 appointed at the December 18, 2023, Town Council regular meeting.

86  
87 **6. OLD BUSINESS:**

88  
89 **A. Town of Ponce Inlet 60<sup>th</sup> Anniversary Party – Mascot Survey Results** – Mrs. Alex  
90 explained that the Board was presented with an idea to have a town mascot at the August 7, 2023  
91 meeting; with the Board’s consensus, staff provided a survey at the 60<sup>th</sup> Anniversary Party. She  
92 reviewed the results of the survey, noting that the leading mascot suggestion was a sea turtle, which  
93 would conflict with the Marine Science Center’s mascot. Staff is seeking direction from the Board on

94 whether to have a town mascot and for the Board to make a recommendation to the Town Council.  
95 Members discussed the survey results and the suggestions for a town mascot. Members reached a  
96 consensus to table the discussion of having a town mascot.

97  
98 PASSED by consensus, 5-0.

99  
100 **7. NEW BUSINESS:**

101  
102 **A. FDP 37-2023, Marine Science Center – Learning Center Expansion**

103 **Property Address: 100 Lighthouse Drive**

104 **Review of Landscape Plan and Tree Preservation Plan** – Ms. Rippey provided a  
105 PowerPoint presentation on the landscape plan and tree protection plan for the proposed expansion of  
106 the Learning Center at the Marine Science Center; this request is for a recommendation to the Planning  
107 Board for approval of the landscape and tree protection plan for the Marine Science Center. She  
108 provided an overview of the plans. The project includes the creation of a new classroom area ,  
109 expansion of the existing parking lot to include 22 new parking spaces, and the construction of a new  
110 quarantine turtle deck. She noted that the project engineer, Mr. John Dillard of Zev Cohen &  
111 Associates, is present tonight, representing Volusia County, who is the applicant and lessee as  
112 authorized by the state of Florida, property owner; and Mr. Chad Macfie, Marine Science Center  
113 Manager, is also present. The landscape plans are required to be reviewed by the Cultural Services  
114 Board prior to review by the Planning Board. The landscape plan, as submitted, complies with the  
115 Town’s tree protection and landscaping requirements. She provided an overview of the property, the  
116 tree removal plan, and which trees will be removed. Ms. Rippey reviewed the landscaping plan,  
117 including the plants and trees that will be utilized and where they will be placed; she noted they are  
118 native plants and exceed the Town’s minimum requirements, including the required trees and shrubs,  
119 accent and building foundation plantings, and screening. Staff recommends the Cultural Services Board  
120 forward the proposed Marine Science Center Learning Center expansion landscape and tree protection  
121 plan to the Planning Board and Town Council with a recommendation of approval as presented. Vice-  
122 Chair Finch opened public comment.

123  
124 Mr. James Hunt, Herbert Street, Port Orange, had a question regarding the parking lot;  
125 he pointed out the area on the PowerPoint slide. Ms. Rippey explained that area will be crushed stone  
126 and the same elevation as the parking area. Mr. Hunt pointed to a different area and asked what that is  
127 for. Mr. Dillard explained that area is a lay-down area for construction during the building of the  
128 classroom; afterwards, it will be used for overflow parking for staff and students. Mr. Hunt asked how  
129 they would be able to limit parking to only staff. Mr. Dillard stated signs could be installed, or a chain  
130 barrier, but it would be the Marine Science Center’s decision. Mr. Chad Macfie, Marine Science Center  
131 Manager, announced that part of the new raptor exhibit includes a native pollinator garden which they  
132 will use to educate the public about how important native plants are. They require little water and little  
133 to no fertilization; insects, birds, and raptors have adapted to these plants. He also announced that the  
134 Marine Science Center was awarded a grant from the Audubon Society to plant more bird-friendly trees  
135 and shrubs around the raptor exhibit and to help educate the public on the importance of native plants.  
136 He is often asked what the public can do and planting native plants in our backyards is something we  
137 all can do to enhance native wildlife.

138  
139 Ms. Keese moved to recommend approval of the Marine Science Center - Learning Center Expansion  
140 Landscape Plan and Tree Preservation Plan as presented; seconded by Mr. Shaffer; The motion

141 PASSED 5-0, with the following vote: Ms. Keese – yes; Mr. Shaffer – yes; Ms. LaBarre – yes; Vice-Chair;  
142 Finch - yes; Ms. Kessler - yes.

143  
144 **8. PUBLIC PARTICIPATION:** Vice Chair Finch opened public comment. Ms. Barbara Davis,  
145 4871 Sailfish Drive, invited Board members to attend the Florida Native Plant Society meeting; they are  
146 a global society with more than 26 chapters in Florida. She explained how native plants support the  
147 environment, and that without them, we would lose the chain of biodiversity; a Stetson University  
148 professor spoke to them about biodiversity, the role of insects and how important it is to have plants that  
149 support insects, which support the chain of biodiversity. She provided an update on the invasive plant  
150 pulling in Ponce Preserve and explained they found 11 invasive plant species in Ponce Preserve that  
151 they are working to remove, including the asparagus fern that was recently found; Young Bear  
152 Environmental is removing the invasive air potato plant. She asked that the Board consider including  
153 Young Bear Environmental in the January budget discussion; there should be a standing line item in the  
154 budget for environmental services for Ponce Preserve and all other Town parks.

155  
156 **9. BOARD/STAFF DISCUSSION:** Ms. LaBarre announced she watched “Florida on a Tankful”  
157 on Sunday which featured the Marine Science Center. She commented that she has been told the  
158 asparagus fern can be purchased at our local garden centers; she asked if that is accurate, and if so, how  
159 do we handle it. Ms. Davis explained that there are many invasive plants being sold as landscaping  
160 plants because they grow quickly and do not require much care. The invasive plants choke out the  
161 native plants and affect the environment. She noted that the Marine Science Center replacing the trees  
162 that are being removed for the expansion with native plants will regenerate the entire environment; the  
163 way they are planning the expansion has been environmentally aware. She noted that Lindley’s Garden  
164 Center in New Smyrna Beach has a section of native plants for sale. Mr. Disher added that the Town  
165 tries to educate residents with the newsletter; and he noted the Town reviews landscape plans for new  
166 construction requiring the scientific and common plant names be provided to ensure they are not  
167 invasive. The Town’s code prohibits invasive plants.

168  
169 **10. ADJOURNMENT:** The meeting was adjourned at 6:22 p.m.

170  
171 Prepared and submitted by:  
172  
173 -----  
174 Debbie Stewart, Assistant Deputy Clerk

175  
176 Attachment(s): None.





**Meeting Date:** February 5, 2024

**Agenda Item:** 7-A

## **Report to the Cultural Services, Historic Preservation, and Tree Advisory Board**

**Topic:** FDP 39-2023, Sailfish Marina  
Property address: 4912 Front Street  
Review of Landscape Plan and Tree Preservation Plan

### **Summary:**

Review Landscape Plan and Tree Preservation Plan.

### **Suggested Motion/Action:**

Recommendation of approval of the proposed Sailfish Marina Landscape and Tree Protection Plan.

### **Requested by:**

Ms. Rippey, Principal Planner

### **Approved by:**

Mr. Disher, Town Manager



## MEMORANDUM

### TOWN OF PONCE INLET, PLANNING AND DEVELOPMENT DEPARTMENT

*The Town of Ponce Inlet staff shall be professional, caring, and fair in delivering community excellence while ensuring Ponce Inlet citizens obtain the greatest value for their tax dollar.*

To: Cultural Services Board  
 From: Patty Rippey, AICP, Principal Planner  
 Through: Darren Lear, AICP, Planning & Development Director  
 Date: January 30, 2024  
 Subject: FDP 39-2023 - Review of Landscape and Tree Protection Plan for Sailfish Marina

**Location:** 4912 Sailfish Drive  
**Applicant:** Mark Karet, AICP, Zev Cohen and Associates, Inc.  
**Staff Recommendation:** *Approval*, based on the findings in this memorandum

**MEETING DATE:** February 5, 2024

#### INTRODUCTION

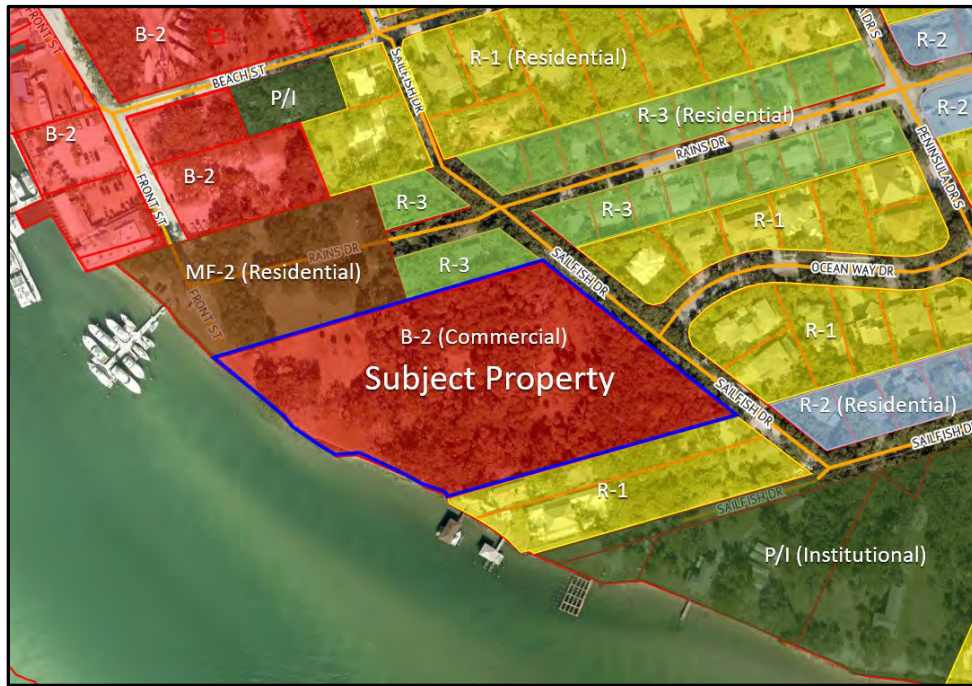
The applicant, representing Blue Water Realty Advisors, LLC, property owner, requests approval of the landscape and tree protection plans for the development of the proposed Sailfish Marina. Pursuant to Section 4.10.5 of the Land Use and Development Code (LUDC), landscape plans submitted in association with a final development plan application shall be referred to the Cultural Services Board for review and comment prior to review by the Planning Board and Town council. The landscape plan is one component of the final site development plan package that will be provided to the Planning Board and Town Council in February and March respectively. The Cultural Services Board shall provide a recommendation to the Planning Board and Town Council on the landscape plan and tree protection plan.

#### PROPERTY OVERVIEW

The subject area is located west of Sailfish Drive, south of Beach Street and Rains Drive (see **Attachment 1**). The parcel is approximately 5.24 acres in size. The subject site is currently vacant property, zoned "B-2" (Business Commercial), which permits marine-related facilities and businesses, such as marinas. The surrounding parcels are zoned for multifamily and single-family residential uses, as shown on **Figure 1** and **Table 1** below. The property entrance is located at 4912 Sailfish Drive, which is a designated scenic roadway.

19  
20

21 **Figure 1 – Zoning Districts**  
22



23  
24  
25 **Table 1 – Adjacent Land Uses**  
26

Direction	Zoning	Future Land Use Designation	Current Use
North	R-3	Medium Density Single Family Residential	Residential
North	MF-2	Medium High Density Multi-Family Residential	Vacant
East	R-1	Low Density Single Family Residential	Residential
South	R-1	Low Density Single Family Residential	Residential
West	C	Conservation	Halifax River

27  
28 The future use land for the property is *Riverfront Commercial*. The Riverfront Commercial land  
29 use category includes land and water-oriented uses and activities that reflect and enhance the  
30 unique character of the waterfront, preserve, and protect to the maximum extent feasible both  
31 physical and visual access to the waterfront. Recreational and working waterfront uses shall be  
32 given preference in this land use category, especially those uses that are water dependent and  
33 water enhanced. Representative uses within the riverfront commercial designation are wet boat  
34 storage (e.g., marinas, boat basins, etc.), boat sales and services, fishing charter boat dockage,  
35 fishing and boating equipment and supplies, sailing equipment and lessons, bicycle and boat  
36 rentals, chandleries, seafood markets, restaurants, boatels, and boat construction and repairs.

37  
38 The property is in the Riverfront Overlay District (ROD) which encompasses all of the B-2 and  
39 MF-2 zoning districts lying east of the Halifax River and west of Sailfish Drive (see **Figure 2**).  
40 The purpose of the ROD is to ensure that development within this area promotes the open, water-  
41 oriented character of the riverfront, protects environmental resources, and ensures a high quality  
42 of design.  
43

44 Additionally, the ROD is consistent with the town's comprehensive plan goals, objectives and  
45 policies that have been established because of the town's visioning process regarding  
46 development and redevelopment of Ponce Inlet's riverfront. These goals, objectives and policies  
47 were established to not only create a pedestrian-oriented riverfront environment in a manner that  
48 contributes to making Ponce Inlet a better residential community, but also to ensure access to  
49 the riverfront for both pedestrians and bicyclists and preserve the historic setting and unique  
50 character of this area, including, but not limited to, the scenic roads of Beach Street and Sailfish  
51 Drive designated by Town Resolutions 1999-11 and 2000-09.

52  
53  
54

**Figure 2: Riverfront Overlay District**



55  
56

**REVIEW OF APPLICATION**

58 The proposed project includes the construction of a 34-slip boat marina, a parking lot with 16  
59 standard parking spaces and 1 handicap parking space, 6 bike rack parking spaces, a stormwater  
60 retention pond adjacent to the parking lot, wood boardwalk from the parking lot to the boat slips  
61 and a restroom building.

62

63 The wood boardwalk is approximately 500 feet long and 5 feet in width. The boardwalk will  
64 connect the parking lot to the southwest side of the boat slips, travel between the piers and  
65 reconnect to the bathroom facilities at the northwest boat slip pier. The restroom facilities building

66 is 216 square feet in size and is located at the northwest boat slip pier ramp. The structures and  
67 parking lot account for 6.5% of impervious area while the pervious area will account for 93.5% of  
68 the total 5.24-acre site.

69

70 **TREE PROTECTION AND REMOVAL**

71 The Tree Protection Plan (see **Attachment 2**) calls for the preservation of 116 trees and removal  
72 of 139 trees 5” DBH or greater. Of the 139 trees proposed for removal, a total of 32 trees 18” DBH  
73 or greater are proposed for removal for construction of the driveway, parking lot, restroom  
74 facilities, and stormwater retention ponds. The 18” DBH or greater tree species proposed for  
75 removal include 20 Live Oak trees, 11 Sabal Palm trees and 1 Pine tree.

76

77 Tree mitigation is determined pursuant to LUDC Section 4.10.4.E. Table 4-19 (See **Table 2**). Non-  
78 residential development, replacement stock for specimen trees shall be a minimum of ten feet in  
79 height and 4.5 inches caliper. Replacements for non-specimen trees shall be a minimum of six  
80 feet in height and 2.5 inches caliper.

81

82 **Table 2 Replacement Tree Requirement**

83

Size of Tree Removed (DBH)	Number of Replacement Trees Required per Tree Removed	
	If trees preserved in protected zone only	If trees also preserved outside protected zone
4 inches—6 inches	1	1
>6 inches—8 inches	2	1
>8 inches—12 inches	3	1
>12 inches—18 inches	5	1
>18”+	7	1

84

85

- 86 • The required mitigation for the portion of the 139 trees sized 5” to 17” DBH proposed  
87 for removal at a 1:1 ratio is 107 trees.
- 88 • The required mitigation for the 32 trees sized 18” DBH or greater proposed for removal  
89 require approval of the Cultural Services Board (CSB) to remove, pursuant to LUDC  
90 Section 4.10.5 and are also at a 1:1 ratio.
- 91 • Mitigation for all proposed tree removals will be met through a combination of existing  
92 trees being preserved (116 Live Oak trees) plus additional trees planned for landscaping  
93 (46 Live Oak trees, 12 Sabal Palms) unless additional trees are required by the Board.

94

95 **LANDSCAPE REQUIREMENTS AND PLAN**

96 The landscape plan has been designed to meet the Town’s tree protection and landscaping  
97 requirements to the greatest extent possible, balancing the desire for lush landscaping with the  
98 need for cleared space for the restroom facilities structure and parking lot. The landscape plans  
99 were initially submitted on June 26, 2023. The plans were then reviewed by the Development  
100 Review Team (DRT) for completeness and compliance with code provisions. The applicant  
101 submitted final revised plans on October 10, 2023 (See **Attachment 3**).

102  
103 Landscape requirements for nonresidential developments are a combination of bufferyard  
104 plantings within required setback areas, landscape coverage based on the overall size of the  
105 property and required landscape areas, landscaping around vehicular parking areas, and building  
106 foundation and accent plantings.

107  
108 Four trees and 20 shrubs are required within the buffer for every 100 linear feet along the property  
109 boundary. In this case, given the project boundary of 2,210 linear feet, the code requires 88 shade  
110 trees and 440 shrubs (LUDC Section 4.10.3.C). Up to 25% of required shade trees may be  
111 understory or palm trees, planted at a 2:1 ratio. Existing trees and shrubs meeting the minimum  
112 size requirements are credited towards this amount. A total of 116 native Live Oaks, Sabal Palms,  
113 and Red Cedars are being preserved on the subject site and will count towards the required  
114 minimum landscaping.

115  
116 The landscape plan proposes 46 shade trees (Red Maple, Eastern Red Cedar, Southern Magnolia,  
117 and Southern Live Oak trees), 13 Sabal Palm trees, 367 shrubs (Pineapple Guava, Dwarf Natal  
118 Plum, Wax Myrtle, Dwarf Pittosporum, and Shrubby Yew), 100 grasses (Muhly grass and Sand  
119 Cord grass), and 111 ground cover plants (Shore Juniper, Society Garlic, and Coontie Palm). The  
120 landscaping will be located around the parking lot, stormwater retention ponds, and restroom  
121 facilities, and adjacent to Sailfish Drive to the east and along south and north residentially zoned  
122 property lines. All species are native or Florida-Friendly and will be able to survive with minimal  
123 maintenance once established.

124  
125 **ARCHEOLOGICAL**  
126 The project site contains the “Ellwood Shell Mound”, Site 8VO7061. The site consists of an  
127 extensive shell midden dating to the St. Johns II period of Florida’s prehistoric past and was  
128 occupied sometime between 500 B.C. and 1564 A.D. The Phase II Archeological Investigation of  
129 Site 8VO7061, completed in June 2004, recommended that no ground surface disturbance, such  
130 as tree removal, grading, utility work, or any other construction-related activities, take place in the  
131 area of the shell mound. The applicant does not plan to disturb the shell mound as part of this  
132 project. Staff shall require a barrier be placed around the shell mound to protect the site during  
133 construction activities.

134  
135 **GOPHER TORTOISE**  
136 A Gopher Tortoise survey was completed on April 27, 2021 and no Gopher Tortoises were  
137 observed on the site. However, another Gopher Tortoise survey will be conducted a maximum 90  
138 days prior to any work on site. Any Gopher Tortoise burrows found then could necessitate  
139 alterations to the proposed landscaping or tree planting in those areas or removal through a permit  
140 from the Florida Fish and Wildlife Conservation Commission.

141  
142

143 **RECOMMENDATION**  
144 Based on the findings in this report, Staff recommends approval of the proposed Sailfish Marina  
145 landscape and tree protection plan.  
146



147  
148 Patty Rippey  
149 Principal Planner

January 29, 2024  
Date

- 150  
151 **Attachments:**  
152 1. Location map  
153 2. Tree Protection & Removal Plan  
154 3. Landscape Plan

ATTACHMENT 1 – LOCATION MAP



**Case No.:** FDP 39-2023

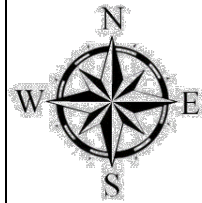
**Applicant:** Town of Ponce Inlet

**Property Address/Location:** 4912 Sailfish Drive

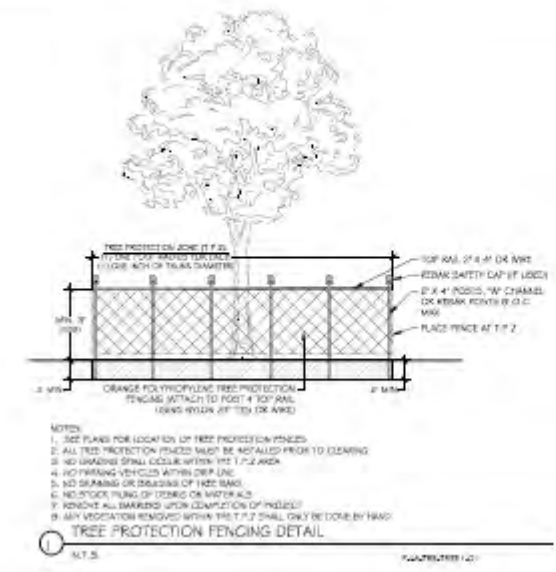
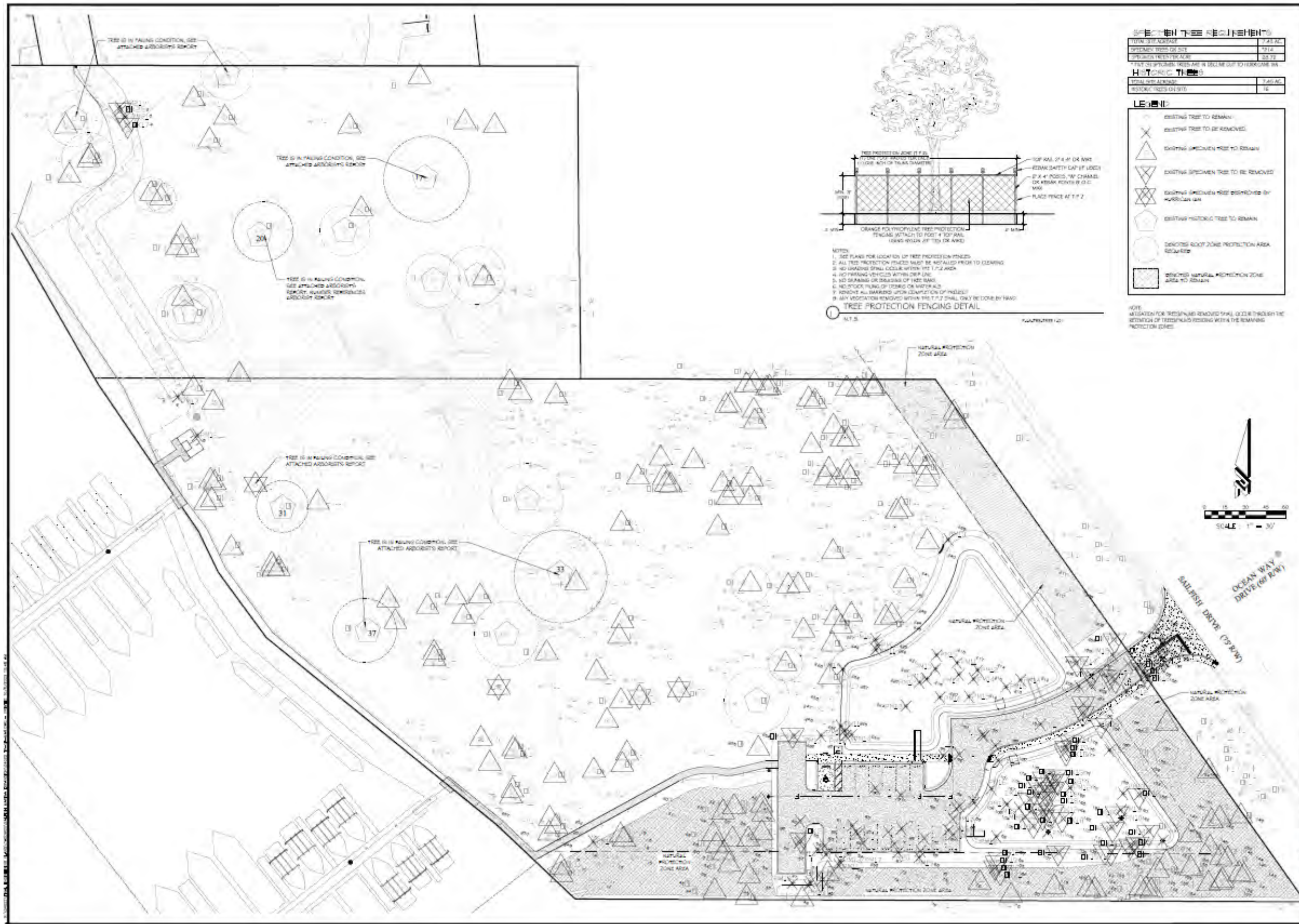
**Summary of Request:** To approve proposed landscape plan for the proposed Sailfish Marina project.



**LOCATION MAP**  
TOWN OF PONCE INLET







**SPECIFY TREE REQUIREMENTS**

TOTAL SITE ACRES	7.43 AC
EXISTING TREES TO BE SAVED	1212
TREES TO BE REMOVED	123
TOTAL TREES TO BE REMOVED	1335
TOTAL TREES TO BE SAVED	1212
TOTAL TREES ON SITE	2547

**HISTORIC TREES**

TOTAL HISTORIC TREES	1
TOTAL HISTORIC TREES TO BE SAVED	1
TOTAL HISTORIC TREES TO BE REMOVED	0
TOTAL HISTORIC TREES ON SITE	1

**LEGEND**

- EXISTING TREE TO REMAIN
- EXISTING TREE TO BE REMOVED
- EXISTING SPECIMEN TREE TO REMAIN
- EXISTING SPECIMEN TREE TO BE REMOVED
- EXISTING HISTORIC TREE TO REMAIN
- EXISTING HISTORIC TREE TO BE REMOVED
- EXISTING NATURAL PROTECTION ZONE AREA TO REMAIN

**NOTES**

- SEE PLANS FOR LOCATION OF TREE PROTECTION FENCES
- ALL TREE PROTECTION FENCES MUST BE INSTALLED PRIOR TO CLEARING
- NO UNLAWFUL SPILLAGE WITHIN THE 17.2 AREA
- NO PARKING VEHICLES WITHIN THE 17.2 AREA
- NO GRASSING OR DISBURSING OF THE 17.2 AREA
- NO STOCK PILING OF TREES OR MATERIALS
- REMOVE ALL BARBERS UPON COMPLETION OF PROJECT
- ANY VIOLATION REMOVED WITHIN THE 17.2 SHALL ONLY BE DONE BY HAND

**TREE PROTECTION FENCING DETAIL**

SCALE: 1/8" = 1'-0"

**ZEV COHEN & ASSOCIATES, INC.**  
 11000 W. BIRCHWOOD BLVD., SUITE 100  
 TAMPA, FL 33613  
 WWW.ZEVCOHEN.COM

**CIVIL ENGINEERING**  
**LANDSCAPE ARCHITECTURE**  
**ENVIRONMENTAL PLANNING**  
**TRANSPORTATION**

**SAILFISH MARINA EXPANSION**  
**FINAL ENGINEERING PLANS**  
**TREE PROTECTION PLAN & DETAILS**

CITY OF POKERFLAKE, FLORIDA

PROJECT NO. 220822  
 DESIGNED BY: JMB  
 CHECKED BY: JMB  
 DRAWING FILE: 220822-TREE PROTECTION PLAN  
 SHEET: 220822-TREE PROTECTION PLAN  
 DATE: 11/20/2024

SCALE: 1" = 30'

TP1 of 2

TREE #				TREE SPECIES				TREE HEIGHT				TREE D.B.H.			
ID	TRUNK	CANOPY	STATUS	TRUNK	CANOPY	STATUS	TRUNK	CANOPY	STATUS	TRUNK	CANOPY	STATUS	TRUNK	CANOPY	STATUS
1	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25

**SAIFISH MARINA EXPANSION**

**FINAL ENGINEERING PLANS**

**TREE PROTECTION PLAN & DETAILS**

CITY OF PALM BEACH

PROJECT NO. 22-002

DRAWN BY: [NAME]

CHECKED BY: [NAME]

DATE: [DATE]

**ZEV COHEN & ASSOCIATES, INC.**

CIVIL ENGINEERING

LANDSCAPE ARCHITECTURE

ENVIRONMENTAL PLANNING

TRANSPORTATION

WWW.ZEVCOHEN.COM

Expanded Trees Preserved & Removed List

TREES REMOVE/PRESERVE				TREES PRESERVED & REMOVED							
TREE	DBH	COTTON NAME	REMOVE/PRESERVE	TREE	DBH	COTTON NAME	REMOVE/PRESERVE	TREE	DBH	COTTON NAME	REMOVE/PRESERVE
1	21	PALM	REMOVE	99	11	PALM	REMOVE	197	11	OAK	REMOVE
2	25	OAK	REMOVE	100	12	PALM	REMOVE	198	15	PALM	REMOVE
3	21	PALM	REMOVE	101	16	PALM	REMOVE	199	15	PALM	REMOVE
4	17	OAK	REMOVE	102	17	PALM	REMOVE	200	12	PALM	REMOVE
5	11	PALM	PRESERVE	103	8	MULBERRY	REMOVE	201	12	PALM	REMOVE
6	13	PALM	REMOVE	104	8	MULBERRY	REMOVE	202	18	OAK	REMOVE
7	11	OAK	PRESERVE	105	19	OAK	REMOVE	203	9	OAK	REMOVE
8	12	PALM	REMOVE	106	5	PINE	REMOVE	204	15	PALM	REMOVE
9	14	OAK	PRESERVE	107	13	OAK	REMOVE	205	12	PALM	REMOVE
10	10	OAK	PRESERVE	108	15	OAK	REMOVE	206	7	CEDAR	REMOVE
11	10	PALM	PRESERVE	109	16	OAK	REMOVE	207	17	OAK	REMOVE
12	14	PALM	PRESERVE	110	24	OAK	REMOVE	208	9	PALM	PRESERVE
13	10	PALM	PRESERVE	111	14	OAK	REMOVE	209	13	PALM	PRESERVE
14	19	PALM	PRESERVE	112	8	OAK	REMOVE	210	15	PALM	PRESERVE
15	12	PALM	PRESERVE	113	5	OAK	REMOVE	211	13	PALM	PRESERVE
16	12	PALM	PRESERVE	114	5	OAK	REMOVE	212	14	PALM	REMOVE
17	15	PALM	REMOVE	115	14	OAK	REMOVE	213	15	PALM	REMOVE
18	26	OAK	PRESERVE	116	24	PINE	REMOVE	214	12	PALM	REMOVE
19	21	OAK	PRESERVE	117	7	OAK	PRESERVE	215	14	PALM	REMOVE
20	14	PALM	PRESERVE	118	14	PALM	PRESERVE	216	15	PALM	REMOVE
21	11	OAK	PRESERVE	119	12	OAK	PRESERVE	217	11	PALM	PRESERVE
22	19	OAK	PRESERVE	120	8	OAK	PRESERVE	218	15	PALM	REMOVE
23	13	PALM	PRESERVE	121	8	OAK	PRESERVE	219	14	PALM	REMOVE
24	12	PALM	PRESERVE	122	12	PALM	PRESERVE	220	16	PALM	REMOVE
25	23	OAK	PRESERVE	123	12	PALM	PRESERVE	221	15	PALM	REMOVE
26	23	OAK	PRESERVE	124	16	PALM	PRESERVE	222	13	PALM	REMOVE
27	10	PALM	PRESERVE	125	6	OAK	PRESERVE	223	12	PALM	REMOVE
28	14	OAK	PRESERVE	126	10	OAK	PRESERVE	224	13	PALM	REMOVE
29	17	OAK	PRESERVE	127	17	OAK	PRESERVE	225	12	PALM	REMOVE
30	12	PALM	PRESERVE	128	12	OAK	PRESERVE	226	11	PALM	REMOVE
31	14	OAK	PRESERVE	129	23	OAK	PRESERVE	227	16	PALM	REMOVE
32	13	OAK	PRESERVE	130	12	OAK	PRESERVE	228	14	PALM	REMOVE
33	12	PALM	PRESERVE	131	10	PALM	PRESERVE	229	11	PALM	REMOVE
34	16	OAK	PRESERVE	132	12	OAK	PRESERVE	230	14	PALM	REMOVE
35	8	PALM	PRESERVE	133	4	OAK	PRESERVE	231	15	PALM	REMOVE
36	11	PALM	PRESERVE	134	7	OAK	PRESERVE	232	17	PALM	REMOVE
37	14	OAK	PRESERVE	135	22	OAK	PRESERVE	233	13	PALM	REMOVE
38	10	OAK	PRESERVE	136	18	OAK	PRESERVE	234	24	OAK	REMOVE
39	14	PALM	PRESERVE	137	18	OAK	PRESERVE	235	22	OAK	REMOVE
40	18	PALM	PRESERVE	138	5	OAK	PRESERVE	236	14	OAK	PRESERVE
41	13	OAK	PRESERVE	139	5	OAK	PRESERVE	237	13	PALM	PRESERVE
42	22	OAK	PRESERVE	140	13	OAK	PRESERVE	238	16	PALM	PRESERVE
43	17.5	OAK	PRESERVE	141	14	OAK	PRESERVE	239	13	PALM	REMOVE
44	13	OAK	PRESERVE	142	10	PALM	PRESERVE	240	24	OAK	PRESERVE
45	18	OAK	PRESERVE	143	8	OAK	PRESERVE	241	23	OAK	PRESERVE
46	20	OAK	PRESERVE	144	7	OAK	PRESERVE	242	9	OAK	PRESERVE
47	19	PALM	REMOVE	145	14	OAK	PRESERVE	243	12	PALM	PRESERVE
48	13	PALM	REMOVE	146	14	OAK	PRESERVE	244	14	OAK	PRESERVE
49	13	PALM	REMOVE	147	7	CEDAR	PRESERVE	245	14	OAK	PRESERVE
50	20	OAK	REMOVE	148	16	OAK	PRESERVE	246	10	OAK	PRESERVE
51	24	OAK	PRESERVE	149	13	OAK	PRESERVE	247	13	PALM	PRESERVE
52	12	PALM	PRESERVE	150	7	OAK	PRESERVE	248	14	PALM	PRESERVE
53	11	PALM	REMOVE	151	11	PALM	PRESERVE	249	16	PALM	PRESERVE
54	13	PALM	REMOVE	152	12	PALM	PRESERVE	250	10	PALM	PRESERVE
55	17	PALM	REMOVE	153	11	OAK	PRESERVE	251	22	OAK	PRESERVE
56	17	PALM	REMOVE	154	10	PALM	PRESERVE	252	19	OAK	PRESERVE
57	15	PALM	REMOVE	155	10	PALM	PRESERVE	253	17	PALM	REMOVE
58	23	OAK	REMOVE	156	11	PALM	PRESERVE	254	15	PALM	REMOVE
59	15	PALM	REMOVE	157	37	OAK	PRESERVE	255	8	OAK	PRESERVE
60	17	PALM	REMOVE	158	18	OAK	REMOVE	256	9	OAK	REMOVE
61	17	PALM	REMOVE	159	13	PALM	REMOVE	257	11	PALM	PRESERVE
62	15	PALM	REMOVE	160	13	PALM	REMOVE				
63	12	PALM	REMOVE	161	10	OAK	REMOVE				
64	16	PALM	REMOVE	162	10	FINE	REMOVE				
65	19	PALM	REMOVE	163	18	OAK	REMOVE				
66	19	PALM	REMOVE	164	12	OAK	REMOVE				
67	20	PALM	REMOVE	165	18	OAK	REMOVE				
68	19	PALM	REMOVE	166	12	OAK	REMOVE				
69	19	PALM	REMOVE	167	18	OAK	REMOVE				
70	15	PALM	REMOVE	168	18	OAK	REMOVE				
71	20	PALM	REMOVE	169	16	OAK	REMOVE				
72	17	PALM	PRESERVE	170	12	OAK	REMOVE				
73	17	PALM	PRESERVE	171	6	OAK	REMOVE				
74	12	PALM	PRESERVE	172	13	OAK	REMOVE				
75	17	PALM	PRESERVE	173	15	OAK	REMOVE				
76	11	CEDAR	PRESERVE	174	14	OAK	REMOVE				
77	16	PALM	PRESERVE	175	12	OAK	REMOVE				
78	13	PALM	PRESERVE	176	18	OAK	REMOVE				
79	13	PALM	PRESERVE	177	18	OAK	REMOVE				
80	27	OAK	PRESERVE	178	19	OAK	REMOVE				
81	15	PALM	PRESERVE	179	14	OAK	REMOVE				
82	21	OAK	REMOVE	180	5	PALM	REMOVE				
83	20	OAK	REMOVE	181	12	PALM	REMOVE				
84	19	OAK	REMOVE	182	6	CEDAR	REMOVE				
85	12	OAK	REMOVE	183	28	OAK	PRESERVE				
86	12	PALM	REMOVE	184	19	PALM	PRESERVE				
87	18	PALM	REMOVE	185	12	PALM	REMOVE				
88	19	PALM	REMOVE	186	27	OAK	REMOVE				
89	15	PALM	REMOVE	187	26	OAK	REMOVE				
90	15	PALM	REMOVE	188	12	OAK	REMOVE				
91	13	PALM	REMOVE	189	8	OAK	REMOVE				
92	14	PALM	REMOVE	190	9	OAK	REMOVE				
93	16	PALM	REMOVE	191	15	PALM	REMOVE				
94	12	PALM	REMOVE	192	12	OAK	REMOVE				
95	18	PALM	REMOVE	193	7	CEDAR	REMOVE				
96	12	PALM	REMOVE	194	15	PALM	REMOVE				
97	15	PALM	REMOVE	195	7	CEDAR	REMOVE				
98	10	PALM	REMOVE	196	15	PALM	REMOVE				

## TREE PROTECTION DETAILS

<b>Specimen Trees Proposed for Removal</b>		
<b>Tree #</b>	<b>DBH</b>	<b>Common Name</b>
186	27	OAK
187	26	OAK
2	25	OAK
110	24	OAK
234	24	OAK
58	23	OAK
82	21	OAK
50	20	OAK
83	20	OAK
84	19	OAK
105	19	OAK
178	19	OAK
158	18	OAK
163	18	OAK
165	18	OAK
167	18	OAK
168	18	OAK
176	18	OAK
177	18	OAK
202	18	OAK
1	21	PALM
3	21	PALM
67	20	PALM
71	20	PALM
47	19	PALM
66	19	PALM
68	19	PALM
69	19	PALM
88	19	PALM
87	18	PALM
95	18	PALM
116	24	PINE

157  
158

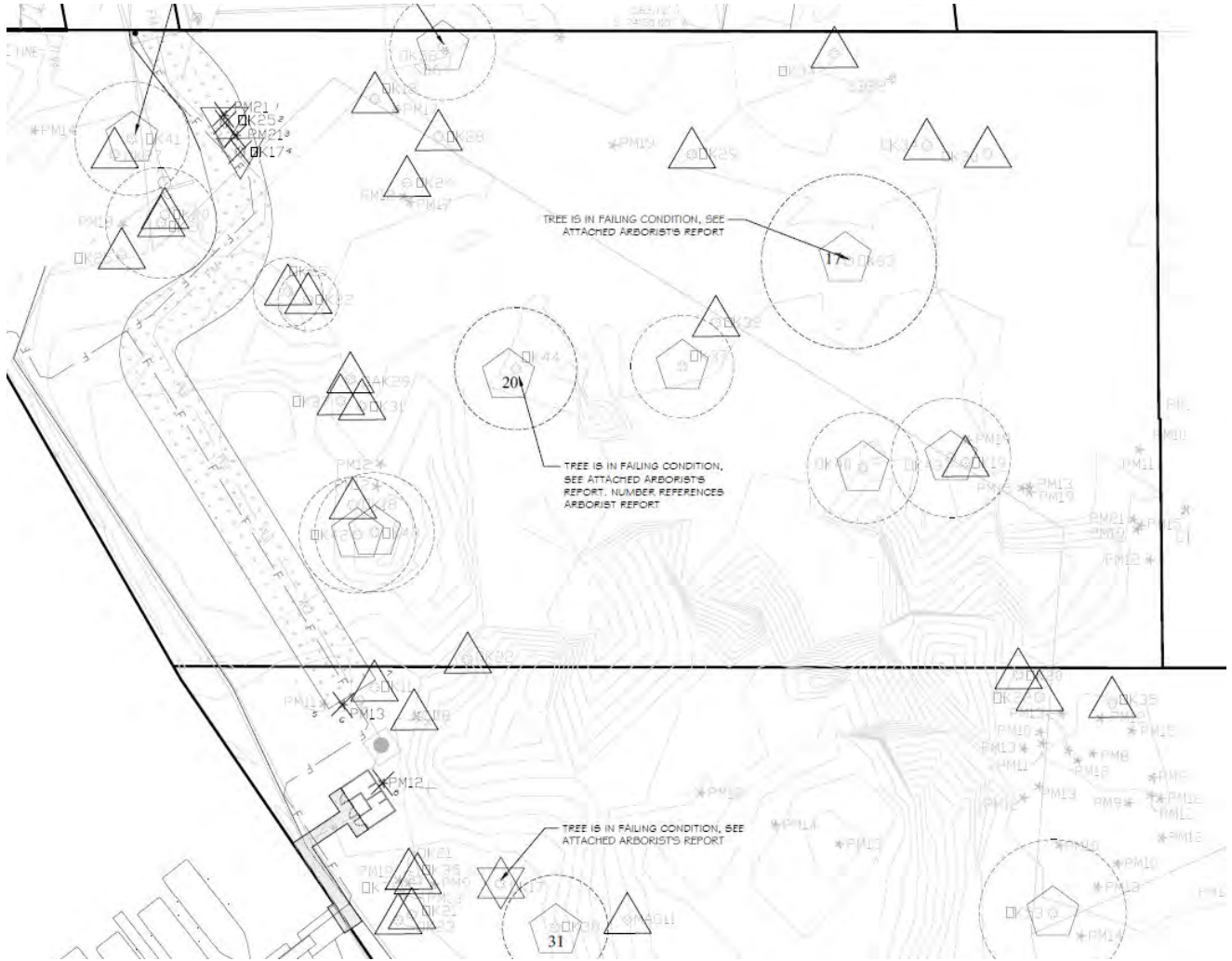
*Source: Zev Cohen & Associates Tree Preserved/Removed Sheet TP2 of 2; sorted for trees 18" DBH and greater by common tree name.*

ATTACHMENT 2 TREE PROTECTION PLAN

TREE PROTECTION DETAILS

159  
160  
161  
162  
163  
164

Northwest of subject property – tree removal for fire line required by Town of Ponce Inlet and for restroom facilities.

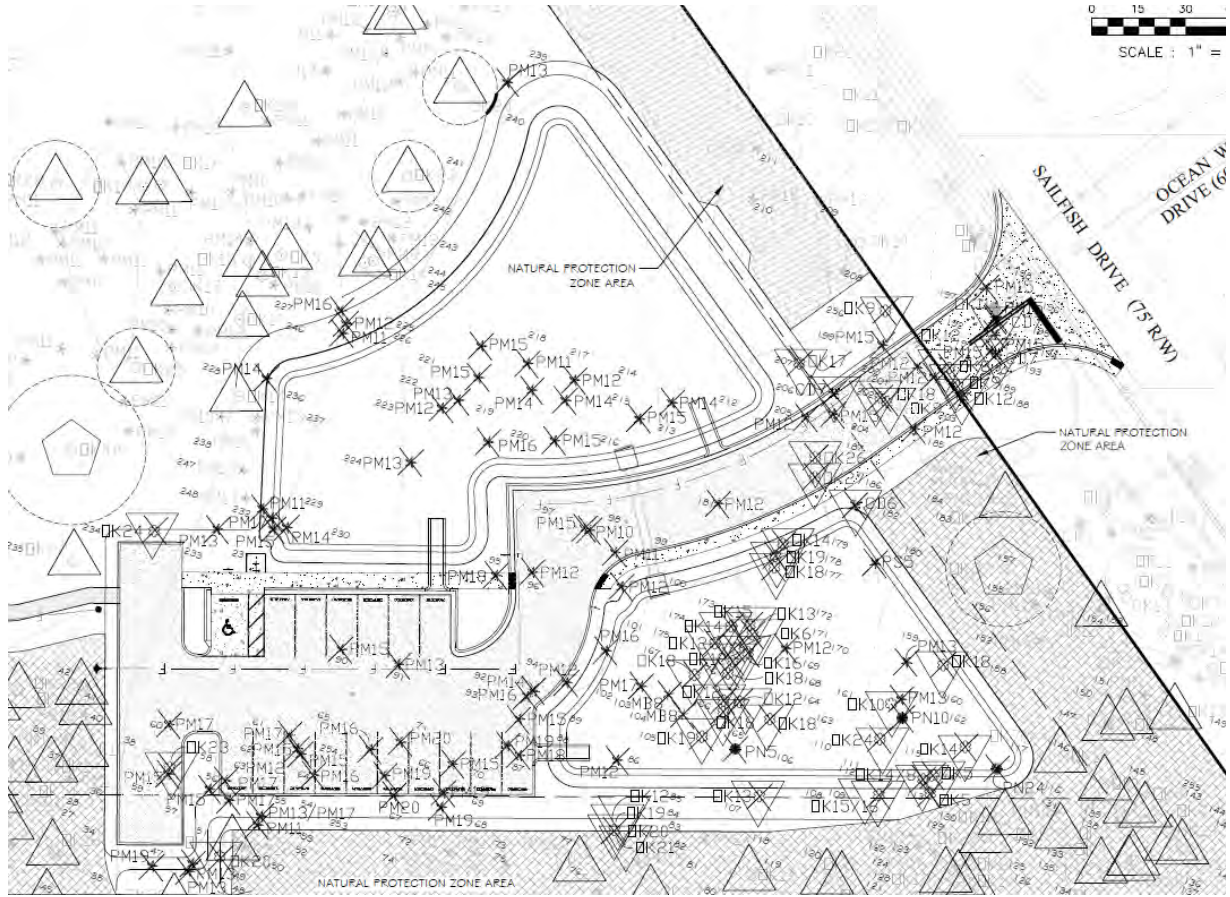


165  
166  
167  
168  
169  
170  
171  
172  
173  
174

ATTACHMENT 2 TREE PROTECTION PLAN

TREE PROTECTION DETAILS

175  
176 Southeast side of subject property – tree removal for driveway, parking lot, & stormwater retention  
177  
178

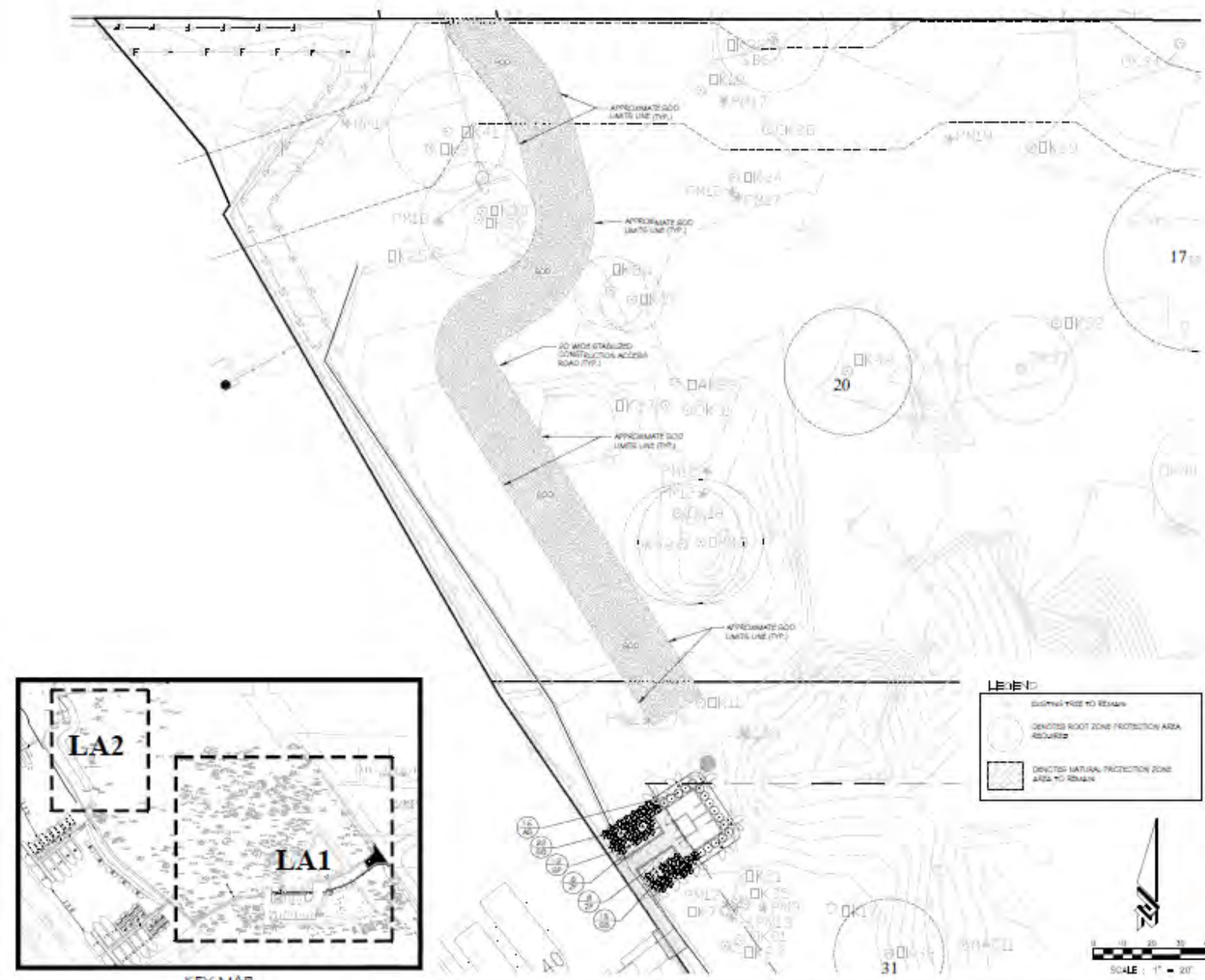


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**PLANT SCHEDULE**


Code	Plant Name	Quantity	Plant Name	Quantity	Plant Name	Quantity
01	Orange tree	1	Orange tree	1	Orange tree	1
02	... ..	...	... ..	...	... ..	...
03	... ..	...	... ..	...	... ..	...
04	... ..	...	... ..	...	... ..	...
05	... ..	...	... ..	...	... ..	...
06	... ..	...	... ..	...	... ..	...
07	... ..	...	... ..	...	... ..	...
08	... ..	...	... ..	...	... ..	...
09	... ..	...	... ..	...	... ..	...
10	... ..	...	... ..	...	... ..	...
11	... ..	...	... ..	...	... ..	...
12	... ..	...	... ..	...	... ..	...
13	... ..	...	... ..	...	... ..	...
14	... ..	...	... ..	...	... ..	...
15	... ..	...	... ..	...	... ..	...
16	... ..	...	... ..	...	... ..	...
17	... ..	...	... ..	...	... ..	...
18	... ..	...	... ..	...	... ..	...
19	... ..	...	... ..	...	... ..	...
20	... ..	...	... ..	...	... ..	...
21	... ..	...	... ..	...	... ..	...
22	... ..	...	... ..	...	... ..	...
23	... ..	...	... ..	...	... ..	...
24	... ..	...	... ..	...	... ..	...
25	... ..	...	... ..	...	... ..	...
26	... ..	...	... ..	...	... ..	...
27	... ..	...	... ..	...	... ..	...
28	... ..	...	... ..	...	... ..	...
29	... ..	...	... ..	...	... ..	...
30	... ..	...	... ..	...	... ..	...
31	... ..	...	... ..	...	... ..	...
32	... ..	...	... ..	...	... ..	...
33	... ..	...	... ..	...	... ..	...
34	... ..	...	... ..	...	... ..	...
35	... ..	...	... ..	...	... ..	...
36	... ..	...	... ..	...	... ..	...
37	... ..	...	... ..	...	... ..	...
38	... ..	...	... ..	...	... ..	...
39	... ..	...	... ..	...	... ..	...
40	... ..	...	... ..	...	... ..	...
41	... ..	...	... ..	...	... ..	...
42	... ..	...	... ..	...	... ..	...
43	... ..	...	... ..	...	... ..	...
44	... ..	...	... ..	...	... ..	...
45	... ..	...	... ..	...	... ..	...
46	... ..	...	... ..	...	... ..	...
47	... ..	...	... ..	...	... ..	...
48	... ..	...	... ..	...	... ..	...
49	... ..	...	... ..	...	... ..	...
50	... ..	...	... ..	...	... ..	...
51	... ..	...	... ..	...	... ..	...
52	... ..	...	... ..	...	... ..	...
53	... ..	...	... ..	...	... ..	...
54	... ..	...	... ..	...	... ..	...
55	... ..	...	... ..	...	... ..	...
56	... ..	...	... ..	...	... ..	...
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59	... ..	...	... ..	...	... ..	...
60	... ..	...	... ..	...	... ..	...
61	... ..	...	... ..	...	... ..	...
62	... ..	...	... ..	...	... ..	...
63	... ..	...	... ..	...	... ..	...
64	... ..	...	... ..	...	... ..	...
65	... ..	...	... ..	...	... ..	...
66	... ..	...	... ..	...	... ..	...
67	... ..	...	... ..	...	... ..	...
68	... ..	...	... ..	...	... ..	...
69	... ..	...	... ..	...	... ..	...
70	... ..	...	... ..	...	... ..	...
71	... ..	...	... ..	...	... ..	...
72	... ..	...	... ..	...	... ..	...
73	... ..	...	... ..	...	... ..	...
74	... ..	...	... ..	...	... ..	...
75	... ..	...	... ..	...	... ..	...
76	... ..	...	... ..	...	... ..	...
77	... ..	...	... ..	...	... ..	...
78	... ..	...	... ..	...	... ..	...
79	... ..	...	... ..	...	... ..	...
80	... ..	...	... ..	...	... ..	...
81	... ..	...	... ..	...	... ..	...
82	... ..	...	... ..	...	... ..	...
83	... ..	...	... ..	...	... ..	...
84	... ..	...	... ..	...	... ..	...
85	... ..	...	... ..	...	... ..	...
86	... ..	...	... ..	...	... ..	...
87	... ..	...	... ..	...	... ..	...
88	... ..	...	... ..	...	... ..	...
89	... ..	...	... ..	...	... ..	...
90	... ..	...	... ..	...	... ..	...
91	... ..	...	... ..	...	... ..	...
92	... ..	...	... ..	...	... ..	...
93	... ..	...	... ..	...	... ..	...
94	... ..	...	... ..	...	... ..	...
95	... ..	...	... ..	...	... ..	...
96	... ..	...	... ..	...	... ..	...
97	... ..	...	... ..	...	... ..	...
98	... ..	...	... ..	...	... ..	...
99	... ..	...	... ..	...	... ..	...
100	... ..	...	... ..	...	... ..	...



**LEGEND**

- Symbol: [Symbol] - Designated Area to Remain
- Symbol: [Symbol] - Designated Root Zone Protection Area Required
- Symbol: [Symbol] - Designated Natural Protection Zone Area to Remain





**ZEV COHEN & ASSOCIATES**  
ARCHITECTS & ENGINEERS  
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CIVIL ENGINEERING  
LANDSCAPE ARCHITECTURE  
ENVIRONMENTAL PLANNING  
TRANSPORTATION

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**SAILFISH MARINA EXPANSION  
FINAL ENGINEERING PLANS  
LANDSCAPE PLAN & DETAILS**

YUBA COUNTY, FLORIDA  
CITY OF PANAMA CITY

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PROJECT NO. 201800	DRAWN BY: JMB
DESIGNED BY: JMB	CHECKED BY: JMB
APPROVED BY: JMB (DATE: 10/10/18)	

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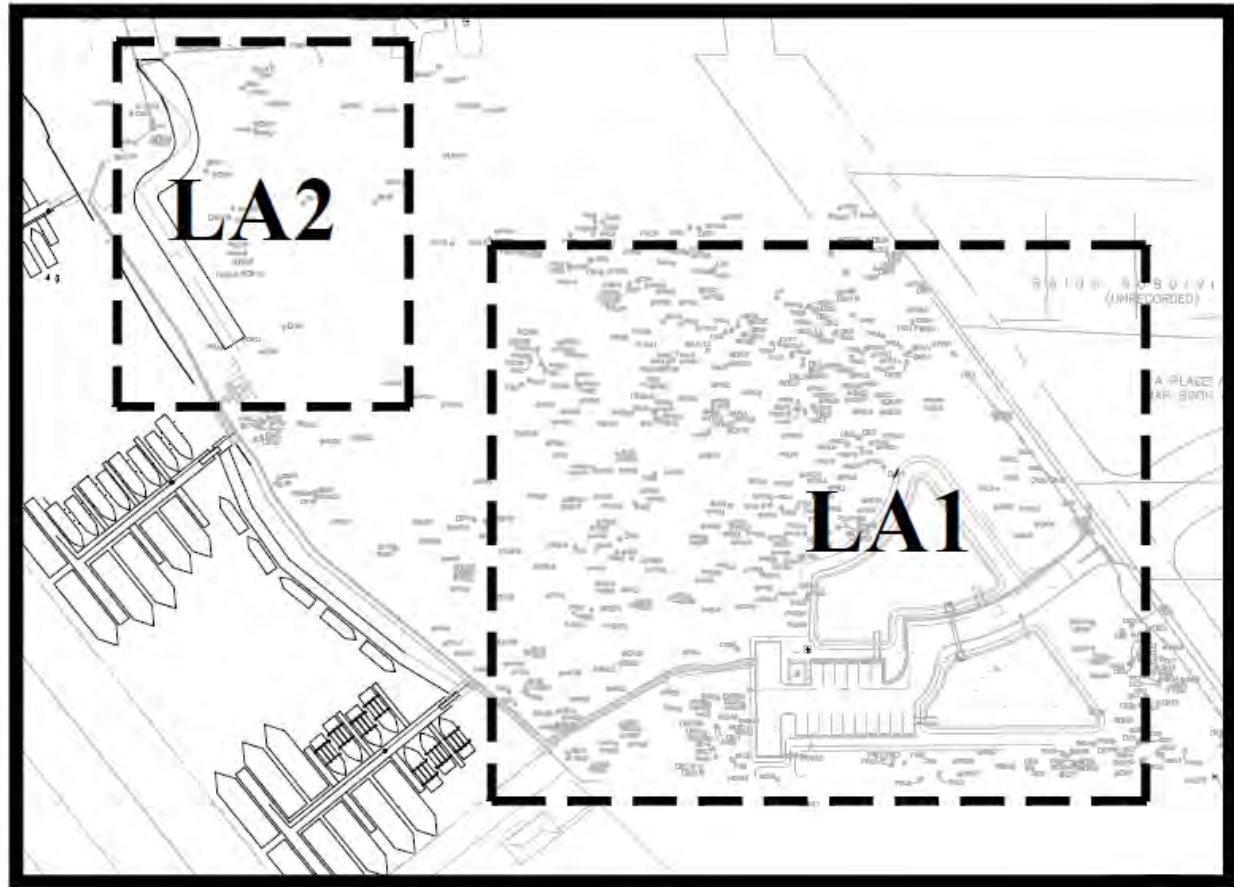
SCALE: 1" = 20'

SHEET: LA2 OF 3



LANDSCAPE PLAN - DETAIL

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PLANT SCHEDULE

TREES	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	
AR	13	ACER RUBRUM	RED MAPLE	4.5" CAL., 14' HT MIN.		
JV	13	JUNIPERUS VIRGINIANA	EASTERN RED CEDAR	4.5" CAL., 14' HT MIN.		
MGB	4	MAGNOLIA GRANDIFLORA 'BRACKENS BROWN BEAUTY'	BRACKEN'S SOUTHERN MAGNOLIA	4.5" CAL., 14' HT MIN.		
QV	16	QUERCUS VIRGINIANA	SOUTHERN LIVE OAK	4.5" CAL., 14' HT MIN.		
PALMS	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	
SP	12	SABAL PALMETTO	CABBAGE PALMETTO	VARY C.T. HT. 8'-16'		
SHRUBS	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	SPACING
AS	104	ACCA SELLOWIANA	PINEAPPLE GUAVA, PELOEA	36" HT. X 24" SP.	7 GAL.	36" o.o.
CME	32	CARISSA MACROCARPA 'EMERALD BLANKET'	DWARF NATAL PLUM	12-18" HT. X 12-18" SP.	3 GAL.	30" o.o.
MC	42	MYRICA CERIFERA	WAX MYRTLE	4" HT.	15 GAL.	60" o.o.
PTW	11	PITTIOSPORUM TOBIRA 'WHEELER'S DWARF'	DWARF PITTIOSPORUM	18-24" HT. X 18-24" SP.	7 GAL.	36" o.o.
FM2	176	PODOCARPUS MACROPHYLLUS MAKI	SHRUBBY YEW	36"-48" O.A	7 GAL.	36" o.o.
GRASSES	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	SPACING
MUC	43	MUHLENBERGIA CAPILLARIS	MUHLY GRASS	12" HT. X 12" SP.	3 GAL.	36" o.o.
SB	57	SPARTINA BAKERI	SAND CORD GRASS	18" HT. X 18" SP.	3 GAL.	36" o.o.
GROUND COVERS	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	SPACING
JCC	21	JUNIPERUS CONFERTA 'COMPACTA'	SHORE JUNIPER	8-10" HT. X 8-10" SP.	3 GAL.	30" o.o.
LME	43	* LIRIOPE MUSCARI 'EMERALD GODDESS'	LIRIOPE	10" HT. X 10" SP.	1 GAL.	18" o.o.
TV	31	TULBAGHIA VIOLACEA	SOCIETY GARLIC	8-10" HT. X 8-10" SP.	1 GAL.	18" o.o.
ZF	16	ZAMIA FLORIDANA	COONTIE PALM	12" HT. X 12" SP.	3 GAL.	30" o.o.
SOD	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	SPACING
PNA	35,023 SF	PASPALUM NOTATUM 'ARGENTINE'	BAHIA GRASS	---		

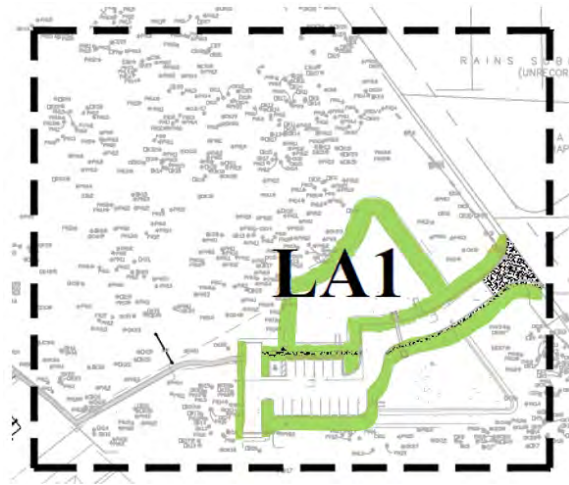
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\* The applicant notes that Liriope will be replaced with one of the following Florida Native or Florida Friendly plants: Coontie (Zamia pumila), Blanket Flower (Gaillardia pulchella), Dune Sunflower (Helianthus debilis) as Liriope is now considered an invasive plant.

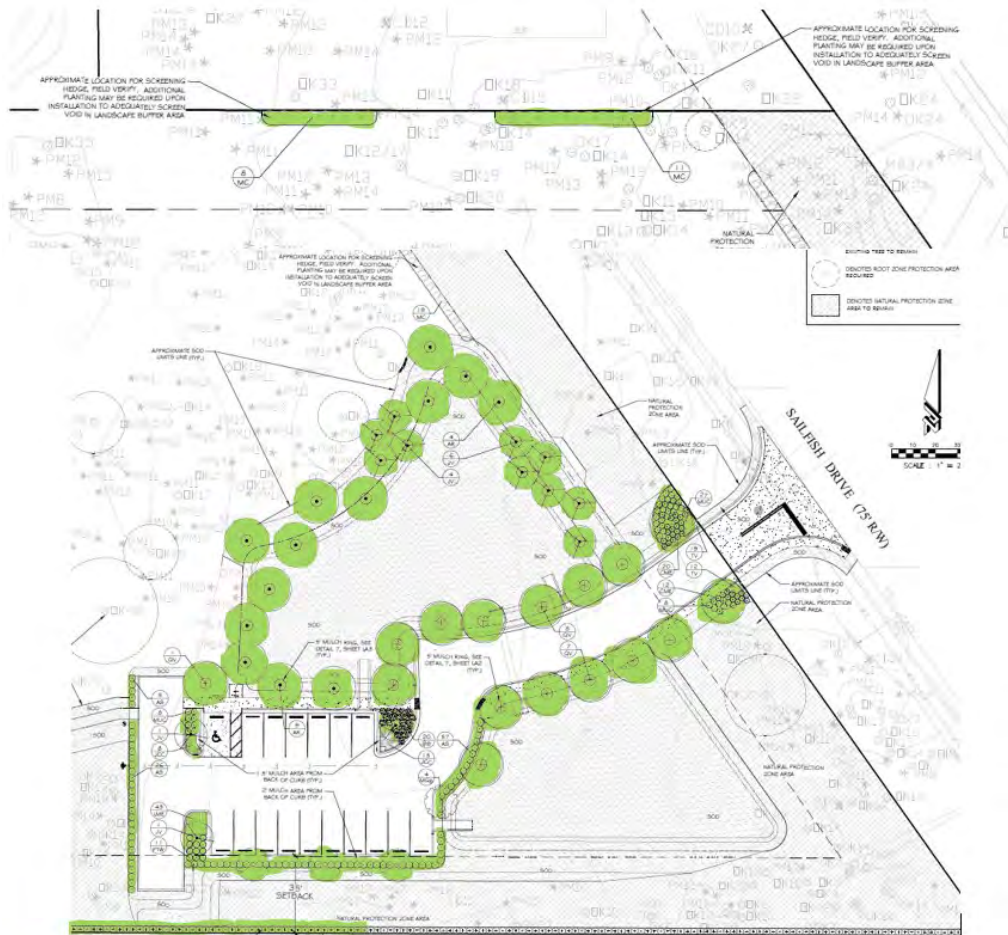
ATTACHMENT 3 - LANDSCAPE PLAN

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186

LANDSCAPE PLAN - DETAIL



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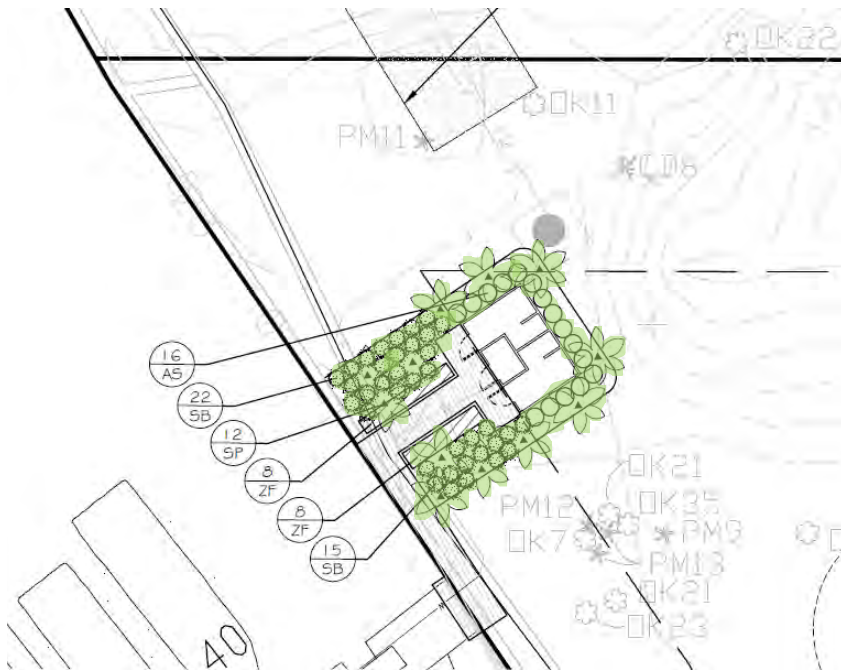
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LANDSCAPE PLAN - DETAIL



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**Meeting Date:** February 5, 2024

**Agenda Item:** 7-B

## **Report to the Cultural Services, Historic Preservation, and Tree Advisory Board**

**Topic:** 2024 Board Meeting Dates

**Summary:** Staff provides the dates of Board meetings for the year, noting the proposed changes, if any, if a meeting date conflicts with a holiday.

**Suggested Motion/Action:**

To accept the proposed changes for the July 2024 and September 2024 meetings, due to conflicts with holidays.

**Requested by:**

Ms. Stewart, Assistant Deputy Clerk

**Approved by:**

Ms. Alex, Cultural Services Manager



## MEMORANDUM

### Town of Ponce Inlet - Office of the Town Clerk

*The Town of Ponce Inlet staff shall be professional, caring and fair in delivering community excellence while ensuring Ponce Inlet citizens obtain the greatest value for their tax dollar.*

To: Cultural Services Board Members  
 From: Debbie Stewart, Assistant Deputy Clerk  
 Date: January 16, 2024  
 Subject: 2024 Meeting Dates

---

**MEETING DATE:** February 5, 2024

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The 2024 Cultural Services, Historic Preservation, and Tree Advisory Board meeting dates are as follows:

- February 5<sup>th</sup>
- March 4<sup>th</sup>
- April 1<sup>st</sup>
- May 6<sup>th</sup>
- June 3<sup>rd</sup>
- July 1<sup>st\*\*</sup>
- August 5<sup>th</sup>
- September 2<sup>nd\*\*</sup>
- October 7<sup>th</sup>
- November 4<sup>th</sup>
- December 2<sup>nd</sup>

The board is being advised that Town Hall is closed on July 4<sup>th</sup> in observance of Independence Day holiday; and on September 2<sup>nd</sup> in observance of Labor Day holiday.

The Board is being asked to consider rescheduling the July 3<sup>rd</sup> meeting to **Monday, July 8<sup>th</sup>** and the September 4<sup>th</sup> meeting to **Monday, September 9<sup>th</sup>**; or to select another date that is convenient for the membership.

Prompt rescheduling of meetings allows for sufficient time for the Boardmembers, Council, staff, town attorney's office, and residents to plan accordingly. Thank you for your consideration.

/ds



**Meeting Date:** February 5, 2024

**Agenda Item:** 7-C

## **Report to the Cultural Services, Historic Preservation, and Tree Advisory Board**

**Topic:** Annual Boardmember Training

**Summary:**

Each Board receives board-specific annual training regarding Sunshine Laws, Public Records, etc.

**Suggested Motion/Action: N/A**

Since there are no **new** members to this Board, and all current members have received the annual training in 2022 and there have been no changes, there will be no *formal* training. The [Sunshine Law](#) training provided by the Town Attorney's office and the annual [2024 Training packet.pdf](#) have been provided to all members.

Boardmembers wishing to attend annual training as a refresher, may attend the February 27<sup>th</sup> Planning Board meeting or March 7<sup>th</sup> Essential Services Advisory Board meeting.

**Requested by:**

Mrs. Alex, Cultural Services Manager

**Approved by:**

Mrs. Alex, Cultural Services Manager



**Town  
of  
Ponce Inlet**

**Boardmember  
Annual  
Training  
Packet**



Town of Ponce Inlet

Boardmember Annual Training Packet

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I	Florida's Sunshine Law & Public Records
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III	Conducting a Meeting "Cheat Sheet" and Open Meetings
IV	Robert's Rules of Order & Parliamentary Procedure
V	Town Policy for Use of Social Media by Board Members
VI	Standard of Conduct / Ethics - F.S. Chapter 112
VII	Public Business - F.S. Chapter 286 (abridged)
Addendum	FS Chapter 162 - Code Enforcement
Addendum	FS Chapter 163 - Local Planning Agency
Addendum	LUDC, Article 6.2.2 - Planning Board
Addendum	LUDC, Article 6.2.3 - Cultural Services, Historic Preservation, and Tree Advisory Board
Addendum	Code of Ordinances Chapter 2, Article IV, Division 3 Essential Services Advisory Board

**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, Town staff member or the Town Attorney.





# Section I

# Florida's Sunshine Law & Public Records Law

# 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
<b>Florida Laws</b>		
Sunshine law		X
Public Records Law	X	X
<b>Code of Ethics</b>		
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.

## OPEN GOVERNMENT OVERVIEW:

### Sunshine Law and Public Records Law



Patricia R. Gleason  
Special Counsel for Open Government  
Attorney General Pam Bondi

## SUNSHINE LAW

- Florida's Government in the Sunshine Law provides a right of access to governmental proceedings at both the state and local levels. In the absence of statutory exemption, it applies to any gathering of two or more members of the same board to discuss some matter which will foreseeably come before that board for action.

## Scope of the Sunshine Law

- Board members may not engage in private discussions with each other about board business, either in person or by telephoning, emailing, texting or any other type of electronic communication (i.e. Facebook, blogs).

## Scope of the Sunshine Law

- While an individual board member is not prohibited from discussing board business with staff or a nonboard member, these individuals may not be used as a liaison to communicate information between board members. For example, a board member cannot ask staff to poll the other board members to determine their views on a board issue.



## SCOPE OF THE SUNSHINE LAW

There are three basic requirements:

- 1) Meetings of public boards or commissions must be open to the public
- 2) Reasonable notice of such meetings must be provided;and
- 3) Minutes of the meetings must be prepared promptly and open to public inspection.

## SCOPE OF THE SUNSHINE LAW

- The Sunshine Law applies to advisory boards created pursuant to law or ordinance or otherwise established by public agencies or officials.

## Scope of the Sunshine Law

- Staff meetings are not normally subject to the Sunshine Law.
- However, staff committees may be subject to the Sunshine Law if they are deemed to be part of the “decision making process” as opposed to traditional staff functions like factfinding or information gathering.

## Scope of the Sunshine Law

- Only the Legislature may create an exemption from the Sunshine Law (by a two-thirds vote).
- An exemption from the Public Records Law does not allow a board to close a meeting. Instead, a specific exemption from the Sunshine Law is required.

## Board meetings

- While boards may adopt reasonable rules and policies to ensure orderly conduct of meetings, the Sunshine law does not allow boards to ban nondisruptive videotaping, tape recording, or photography at public meetings.

## Board meetings

- Section 286.0114, F.S., provides, subject to listed exceptions, that boards must allow an opportunity for the public to be heard before the board takes official action on a proposition. The statute does not prohibit boards from “maintaining orderly conduct or proper decorum in a public meeting.”

## Penalties

- Civil action
  - Action taken in violation of the Sunshine Law may be invalidated.
- Criminal penalties
- Suspension or removal from office

## PUBLIC RECORDS LAW

- Florida's Public Records Act, Chapter 119, Florida Statutes, provides a right of access to records of state and local governments as well as to private entities acting on their behalf.
- If material falls within the definition of "public record" it must be disclosed to the public unless there is a statutory exemption.

## The term “public records” means:

- a) All “documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material, regardless of the physical form, characteristics, or means of transmission” **(includes electronic communications like text messages, emails).**
- b) Made or received pursuant to law or ordinance or in connection with the transaction of official business
- c) By any agency [including a private entity acting ‘on behalf of’ a public agency]
- d) Which are used to perpetuate, communicate, or formalize knowledge

## PROVIDING PUBLIC RECORDS

- a) Public records cannot be withheld at the request of the sender
- b) A requestor is not required to show a “legitimate” or “noncommercial interest” as a condition of access
- c) A request cannot be denied because it is “overbroad”
- d) Unless authorized by another statute, an agency may not require that public records requests be in writing or require the requestor to identify himself or herself

## PROVIDING PUBLIC RECORDS

- The Public Records Act does not contain a specific time limit (such as 24 hours or 10 days).
- The Florida Supreme Court has stated that the only delay in producing records permitted under the statute is the reasonable time allowed the custodian to retrieve the record and redact those portions of the record the custodian asserts are exempt.

## PROVIDING PUBLIC RECORDS

- An agency is not required to comply with a “standing” request for records that may be created in the future.
- An agency is not required to answer questions about the public records (other than information on how to obtain them, like the cost)
- An agency is not required to create a new record

## PROVIDING PUBLIC RECORDS

- Chapter 119 authorizes the custodian to charge a fee of up to 15 cents per one-sided copy for copies that are 14 inches by 8 1/2 inches or less. An additional 5 cents may be charged for two-sided copies. For other copies, the charge is the actual cost of duplication of the record. Actual cost of duplication means the cost of the material and supplies used to duplicate the record but does not include labor or overhead cost.

## Fees

- In addition to the actual cost of duplication, an agency may impose a reasonable service charge for the actual cost of extensive labor and information technology required due to the large volume of a request.

## Retention

All public records must be retained in accordance with retention schedules approved by the Department of State

Even exempt records must be retained.

## Penalties for noncompliance


- a) Criminal penalties
- b) Civil action
- c) Attorney's fees



# In the Sunshine

## Florida Sunshine Law Public Records Ch.119 F.S.

Presented by Clifford B. Shepard  
Materials by John G. Hubbard & Clifford B. Shepard



1

# In the Sunshine

## Public Records Law

**Perpetuate**

**Communicate**

**Formalize**



2

## Florida Constitution Article I, section 24

- (a) **Every person** has the right to **inspect or copy** any public record made or received in connection with the **official business** of any public body, officer, or employee of the state, **or persons acting on their behalf**, except with respect to records **exempted** pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

“or persons acting on their behalf”



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## 119.01 General State Policy on Public Records

- (1) It is the policy of this state that all state, county, and **municipal** records are open for **personal inspection and copying by any person**. Providing **access** to public records is a **duty** of each agency.

**THE DUTY IS ALSO YOURS, IF YOU HAVE CUSTODY**



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### 119.07 General State Policy on Public Records

(1)(a) Every **person** who has **custody** of a public record shall permit the record to be **inspected and copied** by any person desiring to do so, at any **reasonable time**, under **reasonable conditions**, and **under supervision by the custodian** of the public records.

**DO YOU HAVE CUSTODY?  
TRANSFER CUSTODY TO CITY CLERK**



5

### 119.07 General State Policy on Public Records

(c) A **custodian** of public records and his or her designee must **acknowledge** requests to inspect or copy records **promptly** and **respond to such requests in good faith**. A good faith response includes making reasonable efforts to determine from other officers or employees within the agency whether such a record exists and, if so, the location at which the record can be accessed.

**DUTY: ACKNOWLEDGE PROMPTLY**



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## 119.07 General State Policy on Public Records

- (d) A person who has **custody** of a public record who **asserts that an exemption applies** to a part of such record shall **redact** that portion of the record to which an exemption has been asserted and validly applies, and such person **shall produce the remainder** of such record for inspection and copying.

**DUTY: IF PORTIONS ARE EXEMPT, REDACT AND PRODUCE**  
**ISSUES: IS THE RECORD EXEMPT, CONFIDENTIAL**  
**OR BOTH?**



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## 119.07 General State Policy on Public Records

- (e) If the person who has **custody** of a public record **contends** that all or part of the record is **exempt** from inspection and copying, he or she shall **state the basis** of the exemption that he or she contends is applicable to the record, including the statutory citation to an exemption created or afforded by statute.
- (f) **If requested** by the **person seeking** to inspect or copy the record, the **custodian** of public records shall **state in writing** and with particularity the **reasons** for the conclusion that the record is exempt or confidential.

**DUTY: STATE STATUTORY BASIS FOR**  
**EXEMPTION – IN WRITING**



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### 119.07 General State Policy on Public Records

- (4) **The custodian of public records shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law.** If a fee is not prescribed by law, the following fees are authorized:

**DUTY: FURNISH COPY**

**ADVICE: COLLECT IN ADVANCE FOR COPY FEES**



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### 119.07 General State Policy on Public Records

- (d) If the **nature or volume** of public records requested to be inspected or copied pursuant to this subsection is such as to require **extensive use of information technology** resources or **extensive clerical or supervisory assistance** by personnel of the agency involved, or both, **the agency may charge**, in addition to the actual cost of duplication, **a special service charge**, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both.

**DUTY: GATHER DOCUMENTS FOR INSPECTION**

**ADVICE: COLLECT SPECIAL SERVICE FEE IN ADVANCE**



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## Definition of Public Records

### Statutory

Public records means **all** documents, papers, letters, mps, books, tapes, photographs, films, sound recordings, data processing software, or other material, **regardless of the physical form**, characteristics, or means of transmission, **made or received pursuant** to law or ordinance or **in connection with the transaction of official business** by any agency.



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## Definition of Public Records

### Case Law

Any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.

**Perpetuate**

**Communicate**


**Formalize**



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# Clearwater Case

STATUTORY TEST: TRANSACTION OF OFFICIAL BUSINESS




A cartoon illustration of two laptops with human-like faces on their screens, appearing to be in conversation. They are positioned on a desk in front of a sign that reads "COMPUTERS". The scene is set against a warm, orange-to-yellow gradient background.

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# Life Lesson

***Merlot and email do not mix***



A silhouette of a person's head and hand holding a wine glass, drinking wine. The background is a sunset or sunrise with a bright sun low on the horizon.

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**Meeting Notes**  
**Draft documents**

**Perpetuate**  
**Communicate**  
**Formalize**




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**Retention of Records**

The custodian has an obligation to retain public records (this might be you.)

Department of State, Division of Library Services

Deposit with City Clerk



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# Schwab Case

Totality of factors case

“persons acting on their behalf”



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## 119.10 Violation of chapter; penalties.

- (1) Any public officer who:
- (a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine not exceeding \$500.
  - (b) **Knowingly** violates the provisions of s. [119.07\(1\)](#) is subject to suspension and removal or impeachment and, in addition, commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#). (2) Any person who **willfully and knowingly** violates:
    - (a) Any of the provisions of this chapter commits a **misdemeanor** of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).
    - (b) Section [119.105](#) F.S. commits a **felony** of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).



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# Yes, you can go to jail for this too.

## Martin County's Sarah Heard Indicted and Booked for Public Records Violations

By [BARBARA CLOWDIS](#) (SOURCE: [BARBARA CLOWDIS](#))  
January 5, 2018 - 8:15am



The story of Florida public records law violations in Martin County moved further into the public light Thursday for County Commissioner Sarah Heard and former commissioner Anne Scott.

Heard was indicted and booked on two criminal counts of violating public records laws, according to the Martin County Sheriff's Office. She was released on her own recognizance after her fingerprints and mug shot were taken.

Her charges are criminal misdemeanors that could lead to a fine and/or jail time if she's found guilty. She also could be removed from office by the governor.

Thursday's charges were in addition to a previous non-criminal infraction filed by the prosecutor Nov. 27 for not responding to a public records request in January 2013, to which she pleaded not guilty.

A hearing date was set for Feb. 19. The state prosecutor informed Heard's attorney, Barbara Kibbey Wagner, during a December court hearing that five days needed to be set aside for the hearing due to the case's complexity.

Officials close to the case, however, anticipate the additional misdemeanor charges will result in a request for a hearing continuance. Heard also may now ask for a jury trial, if she pleads not guilty.

Heard is up for re-election in August for the District 4 County Commission seat; however, she has not yet filed, according to Martin County Elections Office records.

Former commissioner Scott, of Jupiter Island, also was charged Thursday with two additional criminal misdemeanor counts of violating public records laws. She, too, was booked and released on her own recognizance, according to the Martin County Sheriff's Office.



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# Lawsuits are no bargain.

## Lawsuit alleges Sarasota city manager broke public records law

Source: [Herald Tribune](#)  
By: [Nicole Rodriguez](#) - Staff Writer

The suit asks a judge to grant an accelerated hearing in the case, and declare that Barwin and the city violated state record retention rules and the Sunshine Law

SARASOTA — A lawsuit filed Thursday against Sarasota City Manager Tom Barwin and the city alleges that the top administrator's frequent failure to produce city-related discussions from his private Gmail account as part of numerous public records requests broke state open records law and eroded public trust in local government.

The suit, filed by Michael Borfield, a paralegal consultant and president of the Florida American Civil Liberties Union, asks a judge to grant an accelerated hearing in the case, and declare that Barwin and the city violated state record retention rules and the Sunshine Law, which is intended to guarantee that citizens have access to public records and the decision-making of governmental officials. The 23-page suit requests a judge to order Barwin and the city to follow the law, make records on Barwin's personal electronic devices available for inspection, pay Borfield's legal fees and award any other relief the court deems appropriate.



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**Perpetuate**  
**Communicate**  
**Formalize**



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**Thank You!**

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Materials by John G. Hubbard & Clifford B. Shepard



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# Section II

# Formal Quasi-Judicial Hearings & Proceedings

# Quasi-Judicial Hearings - A Guide

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For the purposes of this document, “Petitioner” and “Applicant” or variations thereof, shall have the same meaning.

1. Introduction(s) - the Chairperson reads the case type and nature of the issue
2. Affected Party determination
3. Ex-parte communication - the Board members disclose any ex-parte communications that may have occurred. The Petitioner (applicant) and any affected party may ask questions of each Board member about these communications (directed through the Chairperson).
4. Swearing-in of the parties - the Petitioner (applicant), staff, and all witnesses shall be collectively sworn.
5. Staff presentation - Town staff shall present any staff, board, or other report on the matter. These reports any all other documentary evidence shall become part of the record. Evidence will be presented through oral testimony of witnesses and documentary evidence.
6. Petitioner (applicant) presents its case - the Petitioner or applicant may include a description and nature of the application 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.
7. Affected Party *for* the Petitioner (Applicant) - any affected person will present its case clearly indicating if they are in support of the Petition. The affected person may introduce documentary evidence and elicit testimony through witnesses.
8. Affect Party *against* the Petitioner (Application) - any affected person will present its case clearly indicating if they are opposed to the Petition. The affected person may introduce documentary evidence and elicit testimony through witnesses.
9. Any rebuttal by Petitioner (Applicant).
10. Any rebuttal by Staff.
11. Close of presentation by petitioner, staff, and affected parties.
12. Public Hearing.
13. Close Public Hearing; deliberations 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 Chairperson deems the question to be irrelevant or immaterial. The Chairperson may defer to the Town Attorney to determine the scope of questioning. The questioning party is not permitted to make statements - only to ask questions which are directly related to the testimony presented.

The Board may, in its discretion and at any time during the 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 into the record.

The Board is not bound by strict rules of evidence or limited to consideration of the 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. However, the **attorney'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 petitioner. The Board must base its decision on the facts and competent evidence presented at the hearing.

*Credibility of Witness(es)* - You should decide whether you believe what each witness states and how important the testimony was. In making that decision, you may believe or disbelieve any witness; in whole or in part. Also, the number of witnesses testifying concerning any particular matter is not controlling. You may decide that the testimony of a smaller number of witnesses 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, which was different from the testimony he or she gave before you during the hearing.

*Expert Witness(es)* - When knowledge of a technical subject matter might be helpful, a person having special training or experience in that technical field (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.

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Information obtained from: <https://floridaldrs.com/tag/quasi-judicial-hearings/>



# Section III

# Conducting a Meeting

# “Cheat Sheet”



## BOARD MEETING “CHEAT SHEET” - A GUIDE

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**Note:** you must be recognized by the Chair prior to speaking, by stating “*Chairman, I have a question*” or “*Chairman, may I make a comment*”. This procedure prevents members from speaking over each other and avoids confusion when preparing minutes.

**Meeting Procedures:** Meetings generally run in the following order (according to an approved agenda format):

1. Call to Order and Pledge of Allegiance
2. Roll Call / Determination of Quorum
3. Adoption of Agenda
4. Approval of Minutes (of prior meetings)
5. Report of Staff
6. Correspondence and Disclosure of Ex-parte Communication
7. Hearing of Cases
8. Business Items
9. Public Comment
10. Board Discussion
11. Adjournment

**1. Call to Order and Pledge of Allegiance** – the Chair will call the meeting to Order, noting the date, Board name, and time. The Chair leads attendees in the Pledge of Allegiance.

**2. Roll Call and Determination of Quorum** - the Board Secretary will perform the roll call to determine a quorum and document member’s attendance/absence.

**3. Adoption of the Agenda** – the Chair will ask if there are any changes to the Agenda; a motion and second to “adopt agenda as presented” - or - “adopt the agenda as amended” is required. A vote by consensus is acceptable (all in favor/opposed).

**4. Approval of the Minutes** – the Chair will ask if there are any changes to the Minutes; a motion and second to “approve the minutes as presented -or - as amended” is required. A vote by consensus is acceptable (all in favor/opposed).

**5. Report of Staff** - Staff will provide an update to projects currently under review.

**6. Correspondence and Disclosure of Ex-parte Communication** - the Chair will ask if any correspondence has been received regarding any of the items on the agenda; the Chair asks members to disclose ex-parte communication.

**7. Hearing of Cases (Quasi-Judicial)** – the Chair should refer to the procedure designated in the “Formal Quasi-Judicial Hearings” guide or consult the Board Attorney. All matters decided during hearings must be by **roll-call vote**, indicating which members voted for or against the issue as a matter of clarity for the record.



**8. Business Items (Non-Quasi-Judicial)** – staff introduces the item, providing relevant information and making a recommendation. Once finished, the Chair will ask for public comments. After the public has had the opportunity to comment, the Chair will bring the item back to the Board for discussion and deliberation. Board members discuss their viewpoints on the item. If action is required, the Chair will ask for a motion and second. A **roll-call vote** is taken indicating which members voted for and against the issue as a matter of clarity for the record.

**9. Public Comment** – the Chair asks if any members of the public wish to speak about an item not listed on the agenda.

**10. Board Discussion** – the Chair asks if any member of the Board wishes to discuss a topic not listed on the agenda. *Note: it is common to add discussion items in advance during Adoption of the Agenda section.*

**11. Adjournment** – the Chair may ask for a Motion to Adjourn, followed by a second, and vote to adjourn by consensus; or the Chair may simply adjourn the meeting and state the time.

### **Motions and Voting:**

The Town follows a simplified version of Robert’s Rules of Order. Nearly everything can be accomplished in a meeting by a **Main Motion** and/or by **Amending a Main Motion**.

How a Main Motion is brought: used when a member wants to propose action by the Board.

- A member states: “I move that” (or ‘to’) ...
- Another member seconds the motion
- The Chair requests public comment
- The Chair requests Board comment
- The Chair requests a vote
- If a majority votes in favor of the motion, then the motion **PASSES**. If a majority votes in opposition to the motion, or if the vote is a tie, then the motion **FAILS**. The Board Secretary will state the results.

Amending a Main Motion: A member may make a motion to amend a main motion. The Chair will then ask for a member to second the amended motion. If seconded, then the Chair may deem the motion amended; if not seconded, the amendment dies and the original motion stands.

Other motions: A *Motion to Rescind* or *Motion to Consider* may also be made, but these types of motions are rarely utilized and can be explained by the Attorney if needed.

Voting: All members present must vote on the agenda item unless a conflict is declared. In those instances, a Form 8B will be provided to the member, who must complete and return the form to the Board Secretary for filing with the meeting minutes.



# Section IV

# Robert's Rules of Order & Parliamentary Procedure

# Robert's Rules of Order & Parliamentary Procedure

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- I. 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.
- II. Why is Parliamentary Procedure important?  
Because it is a time-tested method used for conducting business at meetings and it can be adapted to fit the needs of any organization. Robert's Rules of Order is the basic handbook of operation for most organizations – so it is important to know the basic rules.
- III. Organizations using Parliamentary Procedure usually follow a fixed order of business called an Agenda.
- IV. The method used by members to express themselves is in the form of “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
- V. 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./Madam 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 in the positive (for example, say, “I move that we ...” rather than, “I move that we do not ...”)
    - c. Avoid personality conflicts and stay on topic
  3. Wait for someone to second your motion: another member will state second, or the Chairman will call for a second. If there is no second to the motion, the motion dies.
  4. The Chairman re-states the 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 cannot be changed by you without the consent of the members.
  6. Expanding on Your Motion:

- a. Now is the time for you to speak in favor of your motion – not when you first make the motion.
- b. The **mover** is always allowed to speak first.
- c. All comments and debate must be directed to the Chairman.
- d. The mover may speak again **only** after all other speakers are finished (unless called upon by the Chairman).

7. Putting the Question (Motion) to the Membership:

- a. The Chairman asks, “Are you ready to vote on the motion?”
- b. If there is no more discussion, a vote is taken.
- c. The Board Secretary will state the results for the record.

VI. Voting on a Motion: The method of vote on any motion depends on the situation and the By-laws of the Board. These are typical methods:

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 **Ballot** – members write their vote on a slip of paper; the Clerk calculates and announces the results to the Chairman.

These are two other motions that are commonly used:

1. **Motion to Table** – this motion is often used to provide an extended, indefinite period of time to resolve concerns before a final vote is taken. Tabled items are removed from subsequent meeting agendas until brought back by a vote of the Board. The option is always present, to “take off the table” for reconsideration by the membership.
2. **Motion to Continue to a Date Certain** – this motion is used to allow a limited period of time to obtain additional information, resolve outstanding issues, or reschedule an item that has been previously advertised and noticed. No further public notice is required as long as the date and time of the future meeting are announced. The discussion on that particular item “continues” to the future date.

Robert’s Rules of Order and Parliamentary Procedure provides a standard of orderly framework for getting work done. Your meetings will be successful and productive by following these tips:

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.



# Section V

# Town's Policy for Use of Social Media by Board Members

Per Resolution 2020-17

## Town of Ponce Inlet Policy for Use of Social Media by Board Members

### 3.0 Informational Policy

#### 3.1 Policy

The Town understands that social media can be a beneficial and rewarding way for individuals to share information about themselves and interact with others and the public at large. However, when it comes to members of the Town Council, as well as other Town boards and committees, use of social media can violate Sunshine and Public Records laws when discussing public business, resulting in potential litigation and even criminal charges. In addition, using a Social Media Channel for official statements can transform the Channel into a “public forum” subject to First Amendment considerations. The following is a policy for use of social media to be used as guidance to avoid creating actual or perceived violations of the First Amendment, as well as Sunshine and Public Records laws.

#### 3.2 Definitions

For purposes of this Policy:

***Board Member*** means a member of the Town Council, or any Town Board or Committee which is subject to Section 286.011, *Florida Statutes*.

***Social media content or content*** means and includes any materials, documents, photographs, graphics, or other information that is created, posted, distributed, or transmitted on a Social Media Channel.

***Posts or Postings*** mean information, articles, pictures, videos of any other form of communication posted on a Social Media Channel.

***Social Media Account*** means the legal arrangement with a social media provider to authorize use of a social media tool. For example, a Facebook account authorizes use of Facebook.

***Social Media Tool*** means an online utility that provides for mass communication, such as message boards, web sites, and blogs. Specific examples include Facebook, Twitter, LinkedIn, YouTube, Pinterest, and Instagram. Social media tools may provide for one-way or two-way communication.

***Social Media Channel*** means a specific social media platform available through a Social Media Account. For example, each Facebook Page opened through the establishment of a Facebook account is a Social Media Channel.

***Personal Social Media Channel*** means a specific social media platform available through a Social Media Account managed by an Employee which is not associated with the Town, such as an Employee’s personal Facebook page.

### 3.3 Guidance

- A. Any Board Member who uses a Social Media Channel to make statements relating to public business should not prevent any other user from interacting with any post on that Social Media Channel. Board Members may not take any action to make any individual's comments or replies to posts on the Social Media Channel less visible to others. If available, Board Members may instead choose to turn off replies and comments entirely on any given post.
- B. Board Members should not interact with other members of their same board through Social Media Tools on any matter which could be perceived as relating to public business. "Interacting" includes both substantive and non-substantive interactions, such as commenting on one another's posts, tagging one another on statements, liking one another's posts, or making any statement explicitly or implicitly referring to a member of the same board.
- C. Board Members should not use a Social Media Channel to state an opinion on a matter which may come before their board in a quasi-judicial capacity. Board Members should avoid engaging in *ex parte* communications regarding quasi-judicial matters through Social Media Tools. If a Board Member does communicate regarding a quasi-judicial matter using a Social Media Tool, the Board Member shall disclose such *ex parte* communications at the relevant hearing on the matter.
- D. Board Members should avoid making any statements regarding public business through posts which are not publicly available. For the purposes of this policy, "publicly available" shall mean accessible by hyperlink without any required sign-in or other credential. If a Social Media Tool does not provide for the creation of publicly available posts, Board Members should refrain from utilizing that Social Media Tool.
- E. Whenever a Board Member makes any statement regarding public business using a Social Media Tool, including a reply to another user's post, the Board Member should immediately create a copy of the statement and provide the copy to the Town Clerk. The copy may either be physical form or a computer file, such as a PDF. Board Members who desire technical guidance in creating a copies of social media posts should contact the Town Clerk.
- F. Board Members may not delete any posts which relate to public business.
- G. The Town reserves the right to change, modify, or amend all or part of this policy at any time.



Town of Ponce Inlet  
Boardmember  
Annual Training Packet

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# Section VI

# Code of Ethics

FL Statute Chapter 112



Title X Chapter 112  
PUBLIC OFFICERS, EMPLOYEES, AND RECORDS PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS

**112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—**

(1) **DEFINITION.**—As used in this section, unless the context otherwise requires, the term “public officer” includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(2) **SOLICITATION OR ACCEPTANCE OF GIFTS.**—No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

(3) **DOING BUSINESS WITH ONE’S AGENCY.**—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer’s or employee’s spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer’s or employee’s spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer’s or employee’s own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator’s place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

- (a) October 1, 1975.
- (b) Qualification for elective office.
- (c) Appointment to public office.
- (d) Beginning public employment.

(4) **UNAUTHORIZED COMPENSATION.**—No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

(5) SALARY AND EXPENSES.—No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

(6) MISUSE OF PUBLIC POSITION.—No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. [104.31](#).

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

(8) DISCLOSURE OR USE OF CERTAIN INFORMATION.—A current or former public officer,

employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. [110.402](#) or any person holding a position in the Selected Exempt Service as defined in s. [110.602](#) or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the director of the Office of Program Policy Analysis and Government Accountability, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Governors of the State University System; and the president, provost, vice presidents, and deans of each state university.

(VI) Any person, including an other-personal-services employee, having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state

## 2020 Florida Statutes

government over which the Legislature exercises plenary budgetary and statutory control.

3.a. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

b. For a period of 2 years following vacation of office, a former member of the Legislature may not act as a lobbyist for compensation before an executive branch agency, agency official, or employee. The terms used in this sub-subparagraph have the same meanings as provided in [s. 112.3215](#).

4. An agency employee, including an agency employee who was employed on July 1, 2001, in a Career Service System position that was transferred to the Selected Exempt Service System under chapter 2001-43, Laws of Florida, may not personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in [s. 112.317](#) and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

- a. A person employed by the Legislature or other agency prior to July 1, 1989;
- b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;
- c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;
- d. A person who has reached normal retirement age as defined in [s. 121.021\(29\)](#), and who has retired under the provisions of chapter 121 by July 1, 1991; or
- e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

(b) In addition to the provisions of this part which are applicable to legislators and legislative employees by virtue of their being public officers or employees, the conduct of members of the Legislature and legislative employees shall be governed by the ethical standards provided in the respective rules of the Senate or House of Representatives which are not in conflict herewith.

(10) EMPLOYEES HOLDING OFFICE.—

(a) No employee of a state agency or of a county, municipality, special taxing district, or other political subdivision of the state shall hold office as a member of the governing board, council,

commission, or authority, by whatever name known, which is his or her employer while, at the same time, continuing as an employee of such employer.

(b) The provisions of this subsection shall not apply to any person holding office in violation of such provisions on the effective date of this act. However, such a person shall surrender his or her conflicting employment prior to seeking reelection or accepting reappointment to office.

(11) PROFESSIONAL AND OCCUPATIONAL LICENSING BOARD MEMBERS.—No officer, director, or administrator of a Florida state, county, or regional professional or occupational organization or association, while holding such position, shall be eligible to serve as a member of a state examining or licensing board for the profession or occupation.

(12) EXEMPTION.—The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (3) or subsection (7) if:

(a) Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;

2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.

(c) The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.

(d) An emergency purchase or contract which would otherwise violate a provision of subsection (3) or subsection (7) must be made in order to protect the health, safety, or welfare of the citizens

of the state or any political subdivision thereof.

(e) The business entity involved is the only source of supply within the political subdivision of the officer or employee and there is full disclosure by the officer or employee of his or her interest in the business entity to the governing body of the political subdivision prior to the purchase, rental, sale, leasing, or other business being transacted.

(f) The total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year.

(g) The fact that a county or municipal officer or member of a public board or body, including a district school officer or an officer of any district within a county, is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of any such public board or body, provided it appears in the records of the agency that the governing body of the agency has determined that such officer or member of a public board or body has not favored such bank over other qualified banks.

(h) The transaction is made pursuant to s. [1004.22](#) or s. [1004.23](#) and is specifically approved by the president and the chair of the university board of trustees. The chair of the university board of trustees shall submit to the Governor and the Legislature by March 1 of each year a report of the transactions approved pursuant to this paragraph during the preceding year.

(i) The public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.

(j) The public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency and:

1. The price and terms of the transaction are available to similarly situated members of the general public; and
2. The officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

(13) COUNTY AND MUNICIPAL ORDINANCES AND SPECIAL DISTRICT AND SCHOOL DISTRICT RESOLUTIONS REGULATING FORMER OFFICERS OR EMPLOYEES.—The governing body of any county or municipality may adopt an ordinance and the governing body of any special district or school district may adopt a resolution providing that an appointed county, municipal, special district, or school district officer or a county, municipal, special district, or school district employee may not personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or employee for a period of 2 years following vacation of office or termination of employment, except for the purposes of collective bargaining. Nothing in this section may be construed to prohibit such ordinance or resolution.

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.—A person who has been elected to

any county, municipal, special district, or school district office or appointed superintendent of a school district may not personally represent another person or entity for compensation before the government body or agency of which the person was an officer for a period of 2 years after vacating that office. For purposes of this subsection:

(a) The “government body or agency” of a member of a board of county commissioners consists of the commission, the chief administrative officer or employee of the county, and their immediate support staff.

(b) The “government body or agency” of any other county elected officer is the office or department headed by that officer, including all subordinate employees.

(c) The “government body or agency” of an elected municipal officer consists of the governing body of the municipality, the chief administrative officer or employee of the municipality, and their immediate support staff.

(d) The “government body or agency” of an elected special district officer is the special district.

(e) The “government body or agency” of an elected school district officer is the school district.

(15) ADDITIONAL EXEMPTION.—No elected public officer shall be held in violation of subsection (7) if the officer maintains an employment relationship with an entity which is currently a tax-exempt organization under s. 501(c) of the Internal Revenue Code and which contracts with or otherwise enters into a business relationship with the officer’s agency and:

(a) The officer’s employment is not directly or indirectly compensated as a result of such contract or business relationship;

(b) The officer has in no way participated in the agency’s decision to contract or to enter into the business relationship with his or her employer, whether by participating in discussion at the meeting, by communicating with officers or employees of the agency, or otherwise; and

(c) The officer abstains from voting on any matter which may come before the agency involving the officer’s employer, publicly states to the assembly the nature of the officer’s interest in the matter from which he or she is abstaining, and files a written memorandum as provided in s.112.3143.

(16) LOCAL GOVERNMENT ATTORNEYS.—

(a) For the purposes of this section, “local government attorney” means any individual who routinely serves as the attorney for a unit of local government. The term shall not include any person who renders legal services to a unit of local government pursuant to contract limited to a specific issue or subject, to specific litigation, or to a specific administrative proceeding. For the purposes of this section, “unit of local government” includes, but is not limited to, municipalities, counties, and special districts.

(b) It shall not constitute a violation of subsection (3) or subsection (7) for a unit of local

government to contract with a law firm, operating as either a partnership or a professional association, or in any combination thereof, or with a local government attorney who is a member of or is otherwise associated with the law firm, to provide any or all legal services to the unit of local government, so long as the local government attorney is not a full-time employee or member of the governing body of the unit of local government. However, the standards of conduct as provided in subsections (2), (4), (5), (6), and (8) shall apply to any person who serves as a local government attorney.

(c) No local government attorney or law firm in which the local government attorney is a member, partner, or employee shall represent a private individual or entity before the unit of local government to which the local government attorney provides legal services. A local government attorney whose contract with the unit of local government does not include provisions that authorize or mandate the use of the law firm of the local government attorney to complete legal services for the unit of local government shall not recommend or otherwise refer legal work to that attorney's law firm to be completed for the unit of local government.

(17) BOARD OF GOVERNORS AND BOARDS OF TRUSTEES.—No citizen member of the Board of Governors of the State University System, nor any citizen member of a board of trustees of a local constituent university, shall have or hold any employment or contractual relationship as a legislative lobbyist requiring annual registration and reporting pursuant to s. [11.045](#).

**History.**—s. 3, ch. 67-469; s. 2, ch. 69-335; ss. 10, 35, ch. 69-106; s. 3, ch. 74-177; ss. 4, 11, ch. 75-208; s. 1, ch. 77-174; s. 1, ch. 77-349; s. 4, ch. 82-98; s. 2, ch. 83-26; s. 6, ch. 83-282; s. 14, ch. 85-80; s. 12, ch. 86-145; s. 1, ch. 88-358; s. 1, ch. 88-408; s. 3, ch. 90-502; s. 3, ch. 91-85; s. 4, ch. 91-292; s. 1, ch. 92-35; s. 1, ch. 94-277; s. 1406, ch. 95-147; s. 3, ch. 96-311; s. 34, ch. 96-318; s. 41, ch. 99-2; s. 29, ch. 2001-266; s. 20, ch. 2002-1; s. 894, ch. 2002-387; s. 2, ch. 2005-285; s. 2, ch. 2006-275; s. 10, ch. 2007-217; s. 16, ch. 2011-34; s. 3, ch. 2013-36; s. 2, ch. 2018-5.





Town of Ponce Inlet  
Boardmember  
Annual Training Packet

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# Section VII

# Public Business

FL Statute Chapter 286  
(*Abridged*)

## 2018 Florida Statutes

### Title XIX PUBLIC BUSINESS (Abridged)

#### Chapter 286

#### PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS

- 286.0105 Notices of meetings and hearings must advise that a record is required to appeal.
- 286.011 Public meetings and records; public inspection; criminal and civil penalties.
- 286.0113 General exemptions from public meetings.
- 286.0114 Public meetings; reasonable opportunity to be heard; attorney fees.
- 286.0115 Access to local public officials; quasi-judicial proceedings on local government land use matters.
- 286.012 Voting requirement at meetings of governmental bodies.
- 286.26 Accessibility of public meetings to the physically handicapped.

**286.0105 Notices of meetings and hearings must advise that a record is required to appeal. —**

Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The requirements of this section do not apply to the notice provided in s. 200.065(3).

**History.**—s. 1, ch. 80-150; s. 14, ch. 88-216; s. 209, ch. 95-148.

**286.011 Public meetings and records; public inspection; criminal and civil penalties. —**

- (1) All 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, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.
- (2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this

state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Whenever an action has been filed against any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision to enforce the provisions of this section or to invalidate the actions of any such board, commission, agency, or authority, which action was taken in violation of this section, and the court determines that the defendant or defendants to such action acted in violation of this section, the court shall assess a reasonable attorney's fee against such agency, and may assess a reasonable attorney's fee against the individual filing such an action if the court finds it was filed in bad faith or was frivolous. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission. However, this subsection shall not apply to a state attorney or his or her duly authorized assistants or any officer charged with enforcing the provisions of this section.

(5) Whenever any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision appeals any court order which has found said board, commission, agency, or authority to have violated this section, and such order is affirmed, the court shall assess a reasonable attorney's fee for the appeal against such board, commission, agency, or authority. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission.

(6) All persons subject to subsection (1) are prohibited from holding meetings at any facility or location which discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in such a manner as to unreasonably restrict public access to such a facility.

(7) Whenever any member of any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision is charged with a

violation of this section and is subsequently acquitted, the board or commission is authorized to reimburse said member for any portion of his or her reasonable attorney's fees.

(8) Notwithstanding the provisions of subsection (1), any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision, and the chief administrative or executive officer of the governmental entity, may meet in private with the entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency, provided that the following conditions are met:

(a) The entity's attorney shall advise the entity at a public meeting that he or she desires advice concerning the litigation.

(b) The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.

(c) The entire session shall be recorded by a certified court reporter. The reporter shall record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting.

(d) The entity shall give reasonable public notice of the time and date of the attorney-client session and the names of persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney-client session and the names of the persons attending. At the conclusion of the attorney-client session, the meeting shall be reopened, and the person chairing the meeting shall announce the termination of the session.

(e) The transcript shall be made part of the public record upon conclusion of the litigation.

**History.**—s. 1, ch. 67-356; s. 159, ch. 71-136; s. 1, ch. 78-365; s. 6, ch. 85-301; s. 33, ch. 91-224; s. 1, ch. 93-232; s. 210, ch. 95-148; s. 1, ch. 95-353; s. 2, ch. 2012-25.

### **286.0113 General exemptions from public meetings. —**

(1) That portion of a meeting that would reveal a security or fire safety system plan or portion thereof made confidential and exempt by s. 119.071(3)(a) is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

(2)(a) For purposes of this subsection:

1. "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. “Team” means a group of members established by an agency for the purpose of conducting negotiations as part of a competitive solicitation.

(b) 1. Any portion of a meeting at which a negotiation with a vendor is conducted pursuant to a competitive solicitation, at which a vendor makes an oral presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

2. Any portion of a team meeting at which negotiation strategies are discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(c) 1. A complete recording shall be made of any portion of an exempt meeting. No portion of the exempt meeting may be held off the record.

2. The recording of, and any records presented at, the exempt meeting 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 occurs earlier.

3. If the agency rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue a competitive solicitation, the recording and any records presented at the exempt meeting 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 recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

**History.**—s. 2, ch. 2001-361; s. 44, ch. 2005-251; s. 2, ch. 2006-158; s. 2, ch. 2006-284; s. 13, ch. 2010-151; s. 2, ch. 2011-140; s. 2, ch. 2016-49; s. 3, ch. 2018-146.

**286.0114 Public meetings; reasonable opportunity to be heard; attorney fees.—**

(1) For purposes of this section, “board or commission” means a board or commission of any state agency or authority or of any agency or authority of a county, municipal corporation, or political subdivision.

(2) Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decision-making process and is within reasonable proximity in time before the meeting at which the board or commission takes the official action. This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting. The opportunity to be heard is subject to rules or policies adopted by the board or commission, as provided in subsection (4).

(3) The requirements in subsection (2) do not apply to:

(a) An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board or commission to act;

(b) An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;

(c) A meeting that is exempt from s. 286.011; or

(d) A meeting during which the board or commission is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.

(4) Rules or policies of a board or commission which govern the opportunity to be heard are limited to those that:

(a) Provide guidelines regarding the amount of time an individual has to address the board or commission;

(b) Prescribe procedures for allowing representatives of groups or factions on a proposition to address the board or commission, rather than all members of such groups or factions, at meetings in which a large number of individuals wish to be heard;

(c) Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her support, opposition, or neutrality on a proposition; and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses; or

(d) Designate a specified period of time for public comment.

(5) If a board or commission adopts rules or policies in compliance with this section and follows such rules or policies when providing an opportunity for members of the public to be heard, the board or commission is deemed to be acting in compliance with this section.

(6) A circuit court has jurisdiction to issue an injunction for the purpose of enforcing this section upon the filing of an application for such injunction by a citizen of this state.

(7) (a) Whenever an action is filed against a board or commission to enforce this section, the court shall assess reasonable attorney fees against such board or commission if the court determines that the defendant to such action acted in violation of this section. The court may assess reasonable attorney fees against the individual filing such an action if the court finds that the action was filed in bad faith or was frivolous. This paragraph does not apply to a state attorney or his or her duly authorized assistants or an officer charged with enforcing this section.

(b) Whenever a board or commission appeals a court order that has found the board or commission to have violated this section, and such order is affirmed, the court shall assess reasonable attorney fees for the appeal against such board or commission.

(8) An action taken by a board or commission which is found to be in violation of this section is not void as a result of that violation.

**History.**—s. 1, ch. 2013-227.

**286.0115 Access to local public officials; quasi-judicial proceedings on local government land use matters. —**

(1) (a) A county or municipality may adopt an ordinance or resolution removing the presumption of prejudice from ex parte communications with local public officials by establishing a process to disclose ex parte communications with such officials pursuant to this subsection or by adopting an alternative process for such disclosure. However, this subsection does not require a county or municipality to adopt any ordinance or resolution establishing a disclosure process.

(b) As used in this subsection, the term “local public official” means any elected or appointed public official holding a county or municipal office who recommends or takes quasi-judicial action as a member of a board or commission. The term does not include a member of the board or commission of any state agency or authority.

(c) Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the local public official is a member. If adopted by county or municipal ordinance or resolution, adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with local public officials.

1. The substance of any ex parte communication with a local public official which relates to quasi-judicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

2. A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a local public official shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

3. Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

4. Disclosure made pursuant to subparagraphs 1., 2., and 3. must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication. This subsection does not subject local public officials to part III of chapter 112 for not complying with this paragraph.

(2) (a) Notwithstanding the provisions of subsection (1), a county or municipality may adopt an ordinance or resolution establishing the procedures and provisions of this subsection for quasi-judicial proceedings on local government land use matters. The ordinance or resolution shall provide procedures and provisions identical to this subsection. However, this subsection does not require a county or municipality to adopt such an ordinance or resolution.

(b) In a quasi-judicial proceeding on local government land use matters, a person who appears before the decision-making body who is not a party or party-intervenor shall be allowed to testify before the decision-making body, subject to control by the decision-making body, and may be requested to respond to questions from the decision-making body, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The decision-making body shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate.

(c) In a quasi-judicial proceeding on local government land use matters, a person may not be precluded from communicating directly with a member of the decision-making body by application of ex parte communication prohibitions. Disclosure of such communications by a member of the decision-making body is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the decision-making body. All decisions of the decision-making body in a quasi-judicial proceeding on local government land use matters must be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

(3) This section does not restrict the authority of any board or commission to establish rules or procedures governing public hearings or contacts with local public officials.

**History.**—s. 1, ch. 95-352; s. 31, ch. 96-324.

**286.012 Voting requirement at meetings of governmental bodies.** — A member of a state, county, or municipal governmental board, commission, or agency who is present at a meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may not abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, unless, with respect to any such member, there is, or appears to be, a possible conflict of interest under s. 112.311, s. 112.313, s. 112.3143, or additional or more stringent standards of conduct, if any, adopted pursuant to s. 112.326. If there is, or appears to be, a possible conflict under s. 112.311, s. 112.313, or s. 112.3143, the member shall comply with the disclosure requirements of s. 112.3143. If the only conflict or possible conflict is one arising from the additional or more stringent standards adopted pursuant to s. 112.326, the member shall comply with any disclosure requirements adopted pursuant to s.



112.326. If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice.

**History.**—s. 1, ch. 72-311; s. 9, ch. 75-208; s. 2, ch. 84-357; s. 13, ch. 94-277; s. 19, ch. 2013-36; s. 7, ch. 2014-183.

**286.26 Accessibility of public meetings to the physically handicapped. —**

(1) Whenever any board or commission of any state agency or authority, or of any agency or authority of any county, municipal corporation, or other political subdivision, which has scheduled a meeting at which official acts are to be taken receives, at least 48 hours prior to the meeting, a written request by a physically handicapped person to attend the meeting, directed to the chairperson or director of such board, commission, agency, or authority, such chairperson or director shall provide a manner by which such person may attend the meeting at its scheduled site or reschedule the meeting to a site which would be accessible to such person.

(2) If an affected handicapped person objects in the written request, nothing contained in the provisions of this section shall be construed or interpreted to permit the use of human physical assistance to the physically handicapped in lieu of the construction or use of ramps or other mechanical devices in order to comply with the provisions of this section.

**History.**—s. 1, ch. 77-277; s. 1, ch. 79-170; s. 116, ch. 79-400; s. 1, ch. 81-268.

# “LET THE SUNSHINE IN” Public Meetings Law Chapter 286 F.S.

Clifford B. Shepard

Materials by John G.  
Hubbard, Esq. & Clifford  
B. Shepard



1

## Florida Constitution Article I, section 24 (b)

(b) All **meetings** of any **collegial public body** of the executive branch of state government or of any collegial public body of a county, **municipality**, school district, or special district, at which **official acts are to be taken** or at which **public business** of such body is to be **transacted or discussed**, shall be **open and noticed** to the public and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution.

2

2

## Florida Statute 286.011

- (1) All **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, except as otherwise provided in the Constitution, at which **official acts are to be taken** are declared to be public meetings **open to the public at all times**, and **no resolution, rule, or formal action** shall be considered **binding** except as taken or made at such meeting. The board or commission must provide **reasonable notice** of all such meetings.

3

3

## Florida Statute 286.011

- 2) The **minutes** of a meeting of any such board or commission of any such state agency or authority shall be **promptly recorded**, and such records shall be **open to public inspection**. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

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# Notice

Reasonable

# Location

- Restaurant ❌
- Private club ❌
- Identification required ❌
- In city limits ⚡
- No "CHILLING" effect

# Minutes

- Summary v. verbatim
- Draft is a public record
- Must be approved timely



Public Meeting  
At City Hall

5

## Florida Statute 286.011 = MEETING LOCATION

(6) All **persons** subject to subsection (1) are **prohibited from holding** meetings at any facility or **location** which **discriminates on the basis of sex, age, race, creed, color, origin, or economic status** or which **operates** in such a manner as to **unreasonably restrict public access** to such a facility.

- **Public meetings must be accessible to the physically handicapped Chapter 286.26 FS**

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## Florida Statute 286.011

- **Knowingly attending a meeting in violation of the statute is a misdemeanor of the second degree**
- **Conduct outside the State is a misdemeanor of the second degree**
- **A court may assess an attorney's fee against you for enforcement of this statute unless you have sought and followed the advice of the city's attorney**

7

7

## What is a public meeting?

### Florida Constitution

Meeting of a collegial public body at which official acts taken or business discussed

### Florida Statutes

Meeting at which official acts taken

### Case Law

All meetings where there are discussions of matters which may foreseeably come before a board or commission

"All meetings" include staff, committees, temporary groups or even a single person.

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# Yes, Prosecutions Still Happen

## Grand Jury To Review Century Town Operations; Council Members Charged With Sunshine Law Violations

January 4, 2019



A grand jury will investigate operations of the Town of Century, and three council members have been charged with violating the Sunshine Law.

"A number of issues have been brought to the attention of the State Attorney's Office regarding the manner in which the town has operated, and these are the issues that may brought before the grand jury." Assistant State

9

9

# What's going on here?



The fact that we don't know IS the point.

10

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## W.D. Childers goes to jail



11

## Florida Statute 286.011

- The statute is “broadly construed to effect it’s remedial and protective purposes.”
- Applicable to elected and appointed bodies
- Substantial delegation affecting a decision...single individual
- Recommendations limit choices; part of decision process
- Fact finding only IS AN EXCEPTION: **EXCEPT FOR ELECTED BODIES!**

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12

## Major Exceptions – ALL STATUTORY

- Pending litigation...settlement negotiations or strategy sessions related to litigations expenditures...limited attendees
- Labor negotiations-bargaining team – exemption as to public meetings and public records Chap 447 F.S.
- Risk management committee
- Security system meeting
- Negotiation with a vendor

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13

## Exchange of written memorandums

- First bite at the apple
- No response



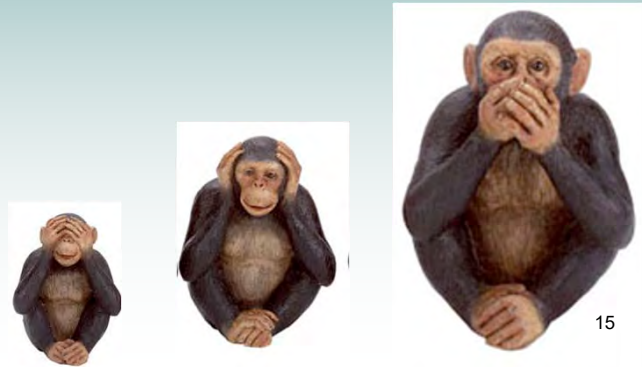
14

14



## Outside Contact

- You can socialize with other board members
- You can attend the same meeting....**BUT...**



15

## You Can Cure a Violation

- No rubber stamp meeting
- Ultimate decision safeguarded
- Multiple cases describing proper procedure

**Cure...**  
**Don't Ignore**



16

# Notice

# Location

# Minutes

17

17

# New Challenges

E-mail...twitter...texting...Facebook...websites



18

18

# Thank You

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**Materials by John G. Hubbard, Esq.**

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# Addendum

## FS Chapter 162

### County or Municipal Code Enforcement

#### Entire Statute

PART I  
LOCAL GOVERNMENT CODE  
ENFORCEMENT BOARDS

- 162.01 Short title.
- 162.02 Intent.
- 162.03 Applicability.
- 162.04 Definitions.
- 162.05 Local government code enforcement boards; organization.
- 162.06 Enforcement procedure.
- 162.07 Conduct of hearing.
- 162.08 Powers of enforcement boards.
- 162.09 Administrative fines; costs of repair; liens.
- 162.10 Duration of lien.
- 162.11 Appeals.
- 162.12 Notices.
- 162.125 Actions for money judgments under this chapter; limitation.
- 162.13 Provisions of act supplemental.

**162.01 Short title.**—Sections 162.01-162.13 may be cited as the “Local Government Code Enforcement Boards Act.”

**History.**—s. 1, ch. 80-300; s. 72, ch. 81-259; s. 1, ch. 82-37.

**Note.**—Former s. 166.051.

**162.02 Intent.**—It is the intent of this part to promote, protect, and improve the health, safety, and welfare of the citizens of the counties and municipalities of this state by authorizing the creation of administrative boards with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective, and inexpensive method of enforcing any codes and ordinances in force in counties and municipalities, where a pending or repeated violation continues to exist.

**History.**—s. 1, ch. 80-300; s. 2, ch. 82-37; s. 1, ch. 85-150; s. 1, ch. 86-201; s. 1, ch. 89-268.

**Note.**—Former s. 166.052.

**162.03 Applicability.**—

(1) Each county or municipality may, at its option, create or abolish by ordinance local government code enforcement boards as provided herein.

(2) A charter county, a non-charter county, or a municipality may, by ordinance, adopt an alternate code enforcement system that gives code enforcement boards or special magistrates designated by the local governing body, or both, the authority to hold hearings and assess fines against violators of the respective county or municipal codes and ordinances. A special magistrate shall have

the same status as an enforcement board under this chapter. References in this chapter to an enforcement board, except in s. 162.05, shall include a special magistrate if the context permits.

**History.**—ss. 1, 2, ch. 80-300; s. 3, ch. 82-37; s. 2, ch. 86-201; s. 1, ch. 87-129; s. 2, ch. 89-268; s. 2, ch. 99-360; s. 63, ch. 2004-11.

**Note.**—Former s. 166.053.

**162.04 Definitions.**—As used in ss. 162.01-162.13, the term:

- (1) “Local governing body” means the governing body of the county or municipality, however designated.
- (2) “Code inspector” means any authorized agent or employee of the county or municipality whose duty it is to assure code compliance.
- (3) “Local governing body attorney” means the legal counselor for the county or municipality.
- (4) “Enforcement board” means a local government code enforcement board.
- (5) “Repeat violation” means a violation of a provision of a code or ordinance by a person who has been previously found through a code enforcement board or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provision within 5 years prior to the violation, notwithstanding the violations occur at different locations.

**History.**—s. 1, ch. 80-300; s. 4, ch. 82-37; s. 10, ch. 83-216; s. 3, ch. 86-201; s. 3, ch. 89-268; s. 3, ch. 99-360; s. 22, ch. 2001-60.

**Note.**—Former s. 166.054.

**162.05 Local government code enforcement boards; organization.**—

- (1) The local governing body may appoint one or more code enforcement boards and legal counsel for the enforcement boards. The local governing body of a county or a municipality that has a population of less than 5,000 persons may appoint five-member or seven-member code enforcement boards. The local governing body of a county or a municipality that has a population equal to or greater than 5,000 persons must appoint seven-member code enforcement boards. The local governing body may appoint up to two alternate members for each code enforcement board to serve on the board in the absence of board members.
- (2) Members of the enforcement boards shall be residents of the municipality, in the case of municipal enforcement boards, or residents of the county, in the case of county enforcement boards. Appointments shall be made in accordance with applicable law and ordinances on the basis of experience or interest in the subject matter jurisdiction of the respective code enforcement board, in the sole discretion of the local governing body. The membership of each enforcement board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.
- (3)(a) The initial appointments to a seven-member code enforcement board shall be as follows:
  1. Two members appointed for a term of 1 year each.

2. Three members appointed for a term of 2 years each.
  3. Two members appointed for a term of 3 years each.
- (b) The initial appointments to a five-member code enforcement board shall be as follows:
1. One member appointed for a term of 1 year.
  2. Two members appointed for a term of 2 years each.
  3. Two members appointed for a term of 3 years each.

Thereafter, any appointment shall be made for a term of 3 years.

(c) The local governing body of a county or a municipality that has a population of less than 5,000 persons may reduce a seven-member code enforcement board to five members upon the simultaneous expiration of the terms of office of two members of the board.

(d) A member may be reappointed upon approval of the local governing body.

(e) An appointment to fill any vacancy on an enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend two of three successive meetings without cause and without prior approval of the chair, the enforcement board shall declare the member's office vacant, and the local governing body shall promptly fill such vacancy.

(f) The members shall serve in accordance with ordinances of the local governing body and may be suspended and removed for cause as provided in such ordinances for removal of members of boards.

(4) The members of an enforcement board shall elect a chair, who shall be a voting member, from among the members of the board. The presence of four or more members shall constitute a quorum of any seven-member enforcement board, and the presence of three or more members shall constitute a quorum of any five-member enforcement board. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the local governing body or as are otherwise provided by law.

(5) The local governing body attorney shall either be counsel to an enforcement board or shall represent the municipality or county by presenting cases before the enforcement board, but in no case shall the local governing body attorney serve in both capacities.

**History.**—s. 1, ch. 80-300; s. 5, ch. 82-37; s. 4, ch. 86-201; s. 2, ch. 87-129; s. 4, ch. 89-268; s. 1, ch. 94-291; s. 1441, ch. 95-147.

**Note.**—Former s. 166.055.

#### **162.06 Enforcement procedure.—**

(1) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; however, no member of a board shall have the power to initiate such enforcement proceedings.

(2) Except as provided in subsections (3) and (4), if a violation of the codes is found, the code inspector shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify an

enforcement board and request a hearing. The code enforcement board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided in s. 162.12 to said violator. At the option of the code enforcement board, notice may additionally be served by publication or posting as provided in s. 162.12. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

(3) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify an enforcement board and request a hearing. The code enforcement board, through its clerical staff, shall schedule a hearing and shall provide notice pursuant to s. 162.12. The case may be presented to the enforcement board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the code enforcement board retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the code enforcement board.

(4) If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.

(5) If the owner of property that is subject to an enforcement proceeding before an enforcement board, special magistrate, or court transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:

(a) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.

(b) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.

(c) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.

(d) File a notice with the code enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.

A failure to make the disclosures described in paragraphs (a), (b), and (c) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall



not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

**History.**—s. 1, ch. 80-300; s. 5, ch. 86-201; s. 1, ch. 87-391; s. 5, ch. 89-268; s. 2, ch. 94-291; s. 1442, ch. 95-147; s. 2, ch. 96-385; s. 4, ch. 99-360; s. 64, ch. 2004-11.

**Note.**—Former s. 166.056.

**162.07 Conduct of hearing.—**

(1) Upon request of the code inspector, or at such other times as may be necessary, the chair of an enforcement board may call a hearing of an enforcement board; a hearing also may be called by written notice signed by at least three members of a seven-member enforcement board or signed by at least two members of a five-member enforcement board. Minutes shall be kept of all hearings by each enforcement board, and all hearings and proceedings shall be open to the public. The local governing body shall provide clerical and administrative personnel as may be reasonably required by each enforcement board for the proper performance of its duties.

(2) Each case before an enforcement board shall be presented by the local governing body attorney or by a member of the administrative staff of the local governing body. If the local governing body prevails in prosecuting a case before the enforcement board, it shall be entitled to recover all costs incurred in prosecuting the case before the board and such costs may be included in the lien authorized under s. 162.09(3).

(3) An enforcement board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board shall take testimony from the code inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(4) At the conclusion of the hearing, the enforcement board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted herein. The finding shall be by motion approved by a majority of those members present and voting, except that at least four members of a seven-member enforcement board, or three members of a five-member enforcement board, must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in s. 162.09(1), the cost of repairs may be included along with the fine if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the

enforcement board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

**History.**—s. 1, ch. 80-300; s. 6, ch. 82-37; s. 44, ch. 83-217; s. 6, ch. 86-201; s. 6, ch. 89-268; s. 3, ch. 94-291; s. 1443, ch. 95-147; s. 2, ch. 95-297.

**Note.**—Former s. 166.057.

**162.08 Powers of enforcement boards.**—Each enforcement board shall have the power to:

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the county or police department of the municipality.
- (3) Subpoena evidence to its hearings.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

**History.**—s. 1, ch. 80-300; s. 7, ch. 82-37; s. 7, ch. 86-201; s. 7, ch. 89-268.

**Note.**—Former s. 166.058.

**162.09 Administrative fines; costs of repair; liens.**—

(1) An enforcement board, upon notification by the code inspector that an order of the enforcement board has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the enforcement board for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in s. 162.06(4), the enforcement board shall notify the local governing body, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the local governing body to make further repairs or to maintain the property and does not create any liability against the local governing body for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, a code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in paragraph (2)(a).

(2)(a) A fine imposed pursuant to this section shall not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (1). However, if a code enforcement board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000 per violation.

(b) In determining the amount of the fine, if any, the enforcement board shall consider the following factors:

1. The gravity of the violation;
2. Any actions taken by the violator to correct the violation; and
3. Any previous violations committed by the violator.

(c) An enforcement board may reduce a fine imposed pursuant to this section.

(d) A county or a municipality having a population equal to or greater than 50,000 may adopt, by a vote of at least a majority plus one of the entire governing body of the county or municipality, an ordinance that gives code enforcement boards or special magistrates, or both, authority to impose fines in excess of the limits set forth in paragraph (a). Such fines shall not exceed \$1,000 per day per violation for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature. In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs pursuant to subsection (1). Any ordinance imposing such fines shall include criteria to be considered by the code enforcement board or special magistrate in determining the amount of the fines, including, but not limited to, those factors set forth in paragraph (b).

(3) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section. After 3 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under s. 4(a), Art. X of the State Constitution.

**History.**—s. 1, ch. 80-300; s. 8, ch. 82-37; s. 2, ch. 85-150; s. 8, ch. 86-201; s. 2, ch. 87-391; s. 8, ch. 89-268; s. 4, ch. 94-291; s. 1, ch. 95-297; s. 5, ch. 99-360; s. 1, ch. 2000-125; s. 65, ch. 2004-11.

**Note.**—Former s. 166.059.

**162.10 Duration of lien.**—No lien provided under the Local Government Code Enforcement Boards Act shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to s. 162.09(3) in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

*History.*—s. 9, ch. 82-37; s. 9, ch. 86-201; s. 9, ch. 89-268; s. 5, ch. 94-291; s. 2, ch. 2000-125.

**162.11 Appeals.**—An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board. An appeal shall be filed within 30 days of the execution of the order to be appealed.

*History.*—s. 1, ch. 80-300; s. 10, ch. 82-37; s. 3, ch. 85-150; s. 10, ch. 86-201.

*Note.*—Former s. 166.061.

**162.12 Notices.**—

(1) All notices required by this part must be provided to the alleged violator by:

(a) Certified mail, and at the option of the local government return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database. The local government may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2.;

(b) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;

(c) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or

(d) In the case of commercial premises, leaving the notice with the manager or other person in charge.

(2) In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board or the local government, notice may be served by publication or posting, as follows:

(a)1. Such notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code

enforcement board is located. The newspaper shall meet such requirements as are prescribed under chapter 50 for legal and official advertisements.

2. Proof of publication shall be made as provided in ss. 50.041 and 50.051.

(b)1. In lieu of publication as described in paragraph (a), such notice may be posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be, in the case of municipalities, at the primary municipal government office, and in the case of counties, at the front door of the courthouse or the main county governmental center in said county.

2. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(c) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (1).

(3) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

*History.*—s. 1, ch. 80-300; s. 11, ch. 86-201; s. 3, ch. 87-391; s. 10, ch. 89-268; s. 6, ch. 94-291; s. 6, ch. 99-360; s. 3, ch. 2000-125; s. 1, ch. 2012-13; s. 2, ch. 2013-193; s. 1, ch. 2014-154.

*Note.*—Former s. 166.062.

**162.125 Actions for money judgments under this chapter; limitation.**—Actions for money judgments under this chapter may be pursued only on fines levied after October 1, 2000.

*History.*—s. 4, ch. 2000-125.

**162.13 Provisions of act supplemental.**—It is the legislative intent of ss. 162.01-162.12 to provide an additional or supplemental means of obtaining compliance with local codes. Nothing contained in ss. 162.01-162.12 shall prohibit a local governing body from enforcing its codes by any other means.

*History.*—s. 11, ch. 82-37.



**Meeting Date:** February 5, 2024

**Agenda Item:** 9-A

**Report to the Cultural Services,  
Historic Preservation, and Tree Advisory Board**

**Topic:** FY 24/25 Budgetary Items

**Summary:**

Discussion of fiscal year 2024/25 budgetary items.

**Suggested Motion/Action:** N/A

**Requested by:**

Ms. Alex, Cultural Services Manager

**Approved by:** N/A