

Quasi-Judicial Hearings Procedure

I. Scope and applicability.

Florida courts have determined that there are certain types of matters that are to be treated differently than other issues considered by the Commission/Board. Most decisions of the Commission/Board are legislative in nature, which means that the Commission/Board is acting as a policy making body. In contrast, in quasi-judicial matters, the decision-making body is applying existing rules and policies to a factual situation and is therefore acting like a Judge and Jury in a courtroom. In such cases, the courts have decided that due process and fundamental fairness requires that more formal procedures be followed. The City Attorney, or his/her designee, shall determine which matters are to be treated as quasi-judicial, and such items shall be placed in a separate section of the Agenda.

II. General procedures.

- A. The hearings shall be conducted in an informal manner.
- B. The City Clerk, or his/her designee, will confirm compliance with all advertising and notice requirements.
- C. The City Clerk, or his/her designee, will collectively swear in all witnesses who intend to speak on any of the quasi-judicial items.
- D. If the Applicant or agent of the Applicant agrees with the City Staff's recommendation and wishes to waive his or her right to a quasi-judicial hearing, and if there are no Commissioners/Board members or anyone from the audience who wish to speak for or against the quasi-judicial agenda item, the Commission/Board may vote on the item based upon the materials in the agenda back-up.
- E. The City Attorney, or his/her designee, will ask whether there are any objections to removing the item from the quasi-judicial agenda.
- F. Before the presentation on an individual item, the City Attorney or his/her designee will call for any disclosures relating to that item.
- G. The City Staff will make its presentation.
- H. The Applicant will make its presentation.
- I. Any member of the public may speak and make a presentation.
- J. All witnesses are subject to cross-examination by the City Staff, the Commission/Board, and the Applicant.

- K. The Applicant and City Staff will make concluding remarks.
- L. The public hearing will then be closed.
- M. Once the public hearing is closed, no further presentations or testimony shall be permitted, although the decision-making board may ask questions of City Staff, the Applicant and any witnesses who have testified.
- N. The Commission/Board will make comments, ask questions, deliberate, and then announce its decision by vote of the Commission/Board.
- O. The Commission/Board reserves the right to limit or prohibit redundant or irrelevant evidence, testimony or questions and may set reasonable time limits.
- P. The City Attorney, or his/her designee, will rule on any evidentiary questions.
- Q. The City's Comprehensive Plan, Code of Ordinances, material in the Commission/Board's agenda backup, and the City Staff résumés on file with the City Clerk will automatically be considered as evidence without authentication. If the Applicant's representative wishes to introduce any documents or other evidence not contained in the agenda backup, he or she shall provide an electronic copy of such material to the City Clerk or his/her designee before the day of the hearing or provide eight (8) paper copies of such material to the City Clerk or his/her designee at the hearing. Neither the Applicant nor any person shall approach the dais to deliver documents or other evidence directly to the Commissioners/Board members or leave any materials on the dais.
- R. Although the Commission/Board may listen to non-expert opinion and public sentiment, its decision must be based upon competent substantial evidence presented to it at the hearing.

III. Conduct of hearing.

- A. **MAYOR/CHAIRPERSON:** We are now at the quasi-judicial portion of the agenda. Will the City Attorney please explain the City's quasi-judicial procedures.
- B. **CITY ATTORNEY:** Florida courts have determined that there are certain types of matters, including items ____ through ____ on tonight's agenda, that are to be treated differently than other issues considered by the Commission/Board. Most decisions of the Commission/Board are legislative in nature, which means that the Commission/Board is acting as a policy making body. In contrast, when a matter is quasi-judicial, the Commission/Board is applying existing rules and policies to a factual situation and is therefore acting like a

Judge and Jury in a courtroom. In such cases, the courts have decided that due process and fundamental fairness requires that more formal procedures be followed. Will the City Clerk please confirm compliance with the advertising and notice requirements?

- C. **CITY CLERK:** Advertising has been met for Items _____. Advertising has not been met for Item(s) _____.
- D. **CITY ATTORNEY:** Will the City Clerk please swear in the witnesses.
- E. **CITY CLERK:** Will anyone wishing to speak on any quasi-judicial item, please stand and raise your right hand. Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth? When you come forward, please state your name and address clearly for the record. State whether or not you have been sworn in and whether or not you understand the rules of the proceedings.
- F. **MAYOR/CHAIRPERSON:** We will now hear item # _____, which is _____. (FOR EACH ITEM.)
- G. **CITY ATTORNEY:** The City's quasi-judicial procedures allow for a waiver of the right to a full quasi-judicial hearing. If the item is removed, the City Commission/Board will vote on the application based upon the materials in the agenda back-up. Does the Applicant or any member of the Commission/Board or the public have an objection to removing this item from the quasi-judicial agenda?
- H. **CITY ATTORNEY:** Are there any disclosures on behalf of the Commission/Board?
- I. **MAYOR/CHAIRPERSON:** The City's Staff will now make its presentation on item # _____. (CITY STAFF PRESENTATION)
- J. **MAYOR/CHAIRPERSON:** The Applicant will now make its presentation and introduce any evidence and witnesses. (APPLICANT PRESENTATION)
- K. **MAYOR/CHAIRPERSON:** Does City Staff have any questions of the Applicant or any of the Applicant's witnesses?
- L. **MAYOR/CHAIRPERSON:** Does the Applicant have any questions of City Staff?
- M. **MAYOR/CHAIRPERSON:** Are there any members of the public who would like to speak? Please identify yourself, state whether or not you have been sworn in and whether or not you understand the rules of the proceedings.

- N. **MAYOR/CHAIRPERSON:** Does the City Staff or the Applicant wish to cross-examine any of the witness(s)?
- O. **MAYOR/CHAIRPERSON:** The Applicant and City Staff will now make closing remarks.
- P. **MAYOR/CHAIRPERSON:** The Public Hearing is now closed.
- Q. **MAYOR/CHAIRPERSON:** Do any members of the Commission/Board have any questions for City Staff, the Applicant or anyone who has spoken on this item?
- R. **MAYOR/CHAIRPERSON:** Now for comments and deliberation by Commission/Board.

IV. Continuances and deferrals.

- A. If, in the opinion of the Commission/Board, any testimony or documentary evidence or information presented at the hearing justifies providing additional time to allow additional research or review in order to properly determine the issue presented, the Commission/Board shall continue the item to a designated time to allow for the additional research or review. After the decision is made to continue, the date to which the hearing shall be continued shall be announced at the proceeding.

V. Waiver of Procedures.

- A. Waiver by Majority Vote. The Commission/Board may waive its procedures outlined herein by majority vote of the Commission/Board.