

1 (D) **Representation of Parties**

2 Any party may be represented by an attorney. If an attorney represents a party or several  
3 parties, the attorney shall complete the form prescribed by the City Commission and identify  
4 the person or persons they represent and whether their client supports or opposes the matter  
5 before the City Commission. The form shall be delivered to the Clerk of the Commission at  
6 the commencement of the hearing proceeding.

7 (E) **The Hearing**

8 1) The introduction of the case shall be presented by the Clerk of the Commission and  
9 include a brief description of the matter. This introduction shall not be considered  
10 evidence in the proceeding, and the Clerk of the Commission presenting the  
11 introduction shall not be subject to cross-examination by any party to the  
12 proceeding.

13 2) The members of the City Commissioners shall disclose any ex parte  
14 communications ~~that may have occurred~~ and provide a reasonable opportunity for  
15 any person with an opinion contrary to that expressed in the ex parte communication  
16 to respond or refute the ex parte communication through the Mayor.

17 3) All parties may be collectively sworn by the Clerk of the Commission in the interest  
18 of time.

19 4) The City Manager or designee shall present any staff, board or other report on the  
20 matter. Evidence before the Commission shall include, but not be limited to, an  
21 analysis which includes the consistency with the City's adopted codes, rules, policies  
22 or plans, as applicable, and how the matter does or does not meet the requirements  
23 of the such codes, rules, policies and plans and other applicable laws. Written  
24 reports and any other documentary evidence shall become a part of the record.

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1 Evidence may be presented through oral testimony of witnesses or documentary  
2 evidence or both.

3 5) The City Commission may call any witness it deems necessary to reach a  
4 complete and informed decision.

5 6) The examination of witnesses shall be conducted under oath by direct  
6 examination on matters which are relevant and material to the issue or issues before  
7 the City Commission. After the conclusion of direct examination, the witness may  
8 be cross-examined by another party, or a member of the City Commissioner. All  
9 questions shall be directed through the Mayor and the witness shall answer the  
10 question unless the Mayor deems the question to be irrelevant or immaterial. Any  
11 commissioner or party may raise evidentiary objections. The inquiry under cross-  
12 examination shall be limited to matters raised in the direct examination of the  
13 witness. No re-direct shall be allowed unless requested by a party stating the desired  
14 area of inquiry and that request is approved by the Mayor. If re-direct is allowed, it  
15 shall be limited to questions of the witness on issues raised in the cross-examination.  
16 This provision shall not limit a member of the City Commissioner from questioning  
17 any person on matters relevant to the matter or petition. The Mayor or any City  
18 Commissioner may seek advice from the City Attorney on questions of evidence.  
19 During the presentation by the opponents or proponents of an issue before the City  
20 Commission, no one may present testimony or evidence which is unduly cumulative  
21 or repetitious of previously presented testimony or evidence by a fellow opponent or  
22 proponent.

## 23 (F) Public Hearing

24 After the quasi-judicial hearing is completed, those members of the public who were not a  
25 party to the quasi-judicial hearing may be permitted to speak up to five (5) minutes per

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1 person and present their testimony and evidence to the City Commission. No party or  
2 witness shall be allowed to speak during the public hearing portion of the proceedings.

## 3 (G) Continuances

4 The City Commission may, in its discretion, at any time during the hearing, continue the  
5 hearing, and may request further information from any party.

## 6 (H) City Commission Deliberation

7 The City Commission shall then further deliberate a motion, if necessary, and reach a  
8 decision by voting on the motion. In reaching its decision the City Commission may only  
9 consider evidence presented at the hearing and base its decision on the competent,  
10 substantial evidence of record.

## 11 (I) City Commission Oral Order

12 The City Commission shall orally issue an order.

## 13 (J) City Commission Written Order

14 The order shall be reduced to writing and shall state whether the petition is granted or denied  
15 or granted with conditions. The order shall also specify any conditions, requirements or  
16 limitations on the approval of the matter. The written order shall be presented to the City  
17 Commission for approval at a special meeting or at the next regular meeting of the City  
18 Commission. The Mayor and the Clerk of the City Commission shall execute the order.  
19 Executed copies of the order shall be hand delivered or mailed to the parties.

## 20 Part ~~III~~ IV. Informal Quasi-Judicial Hearings

### 21 (A) Informal Quasi-Judicial Hearing Procedure

- 22 1) If no person files a timely request for a formal quasi-judicial hearing, the matter shall  
23 be set for an informal quasi-judicial hearing.
- 24 2) An informal hearing shall be presented to the City Commission in the following  
25 order:

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1            a) Disclosure of any ex-parte communication and provide a reasonable  
2                            opportunity for any person with an opinion contrary to that expressed in the  
3                            ex parte communication to respond or refute the ex parte communication  
4                            through the Mayor.

5            ~~a~~ b) Staff presentation

6            ~~b~~ c) Petitioner or Applicant

7            ~~e~~ d) Public hearing

8            ~~d~~ e) Deliberation and vote of the City Commission

9            3) Cross-examination of the witnesses is not permitted and deemed waived by  
10                           all persons or parties. This provision does not prohibit a City Commission member  
11                           from questioning any person relevant to the matter.

12            4) The City Manager or designee shall present any staff, board or other report  
13                           on the matter. Evidence before the Commission shall include, but not be limited to,  
14                           an analysis which includes the consistency with the City's adopted codes, rules,  
15                           policies or plans, as applicable, and how the matter or Petition does or does not meet  
16                           the requirements of such codes, rules, policies, plans and other applicable laws;  
17                           written reports and any other documentary evidence shall become a part of the  
18                           record. Evidence may be presented through oral testimony of witnesses or  
19                           documentary evidence or both.

20            5) Any person may speak for or against the matter if they complete a  
21                           registration card at the meeting as provided by the Clerk of the Commission. The  
22                           Mayor may limit the time of any portion of an informal hearing to avoid  
23                           unnecessary repetition and delay.

24            6) After the public hearing portion, the City Commission shall deliberate and  
25                           vote, which shall constitute the oral order.

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## Part IV. ~~Ex Parte Communications~~

### 1) ~~General~~

~~Ex parte communications are prohibited in connection with any quasi-judicial hearing under Florida case law.~~

### 2) ~~Procedures when an ex parte communication is received.~~

~~Should an ex parte communication be received by an individual commissioner the following shall take place:~~

~~A. Written Communications — If a Commissioner receives a written "ex parte" communication relating to a matter coming before the Commission, the member should transmit the item to the Clerk of the Commission for inclusion in the official records. These communications shall be forwarded to the parties as soon as practicable before the hearing.~~

~~B. Oral Communications — As soon as it becomes apparent that an inadvertent oral communication pertains to a matter coming before the Commission, the Commissioner should explain to the person that the communication is improper and that he or she is required to end the communication on that subject. At the time the item comes up for discussion at the Commission meeting, the Commissioner should report any attempted "ex parte" communication.~~

### 3) ~~Party inquiry~~

~~Any party may ask questions to a Commissioner about any ex parte communications directed through the Mayor.~~

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1 **SECTION 2.** This resolution shall become effective immediately upon adoption.

2 Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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\_\_\_\_\_  
MAYOR  
Thomas D. Bussing

ATTEST:

Approved as to form and  
legality:

\_\_\_\_\_  
Clerk Of The Commission  
Kurt M. Lannon

By \_\_\_\_\_  
Marion J. Radson, City Attorney