

**RESOLUTION NO. 051103**

**PASSED March 27, 2006**

**A RESOLUTION OF THE CITY COMMISSION OF  
THE CITY OF GAINESVILLE, FLORIDA;  
SUPPORTING REAUTHORIZATION OF  
CERTAIN KEY PROVISIONS OF THE VOTING  
RIGHTS ACT; AND PROVIDING AN IMMEDIATE  
EFFECTIVE DATE.**

**WHEREAS**, the City of Gainesville supports the Reauthorization of the 1965 Voting Rights Act Provisions; and

**WHEREAS**, forty years ago, after the march on Selma, Congress passed and the President signed the historic Voting Rights Act creating federal enforcement power to strike down centuries of voter discrimination against blacks and people of color; and

**WHEREAS**, the key provisions of the 1965 Voting Rights Act will expire in August 2007 unless Congress acts to reauthorize them; and

**WHEREAS**, Section 5 contains the “pre-clearance” provisions requiring jurisdiction in all or part of 16 states to prove to the US Department of Justice that changes in voting locations or other administrative procedures will not have a discriminatory purpose or effect on minority voters; and

**WHEREAS**, Section 203 requires more than 450 counties and townships under the Voting Rights Act to provide bilingual language assistance to limited English speaking voters; and

**WHEREAS**, Sections 6-9 collectively authorize the US Department of Justice to appoint examiners and send observers to the polls to deter, witness or report discriminatory activities; and

**WHEREAS**, the original 1965 Voting Rights Act made these provisions “temporary” subject to reauthorization by Congress based on evidence that the need for these provisions continue to exists; and

**WHEREAS**, there is an effort to make these provisions “national and permanent” that could cause these Voting Rights Act provisions to be ruled unconstitutional by the Supreme Court; and

**WHEREAS**, there are several legal precedents that require that the provisions be “narrowly tailored” or “congruent and proportional” to address the harms it is designed to cure; and

**WHEREAS**, to meet constitutional muster there is a need to establish a new record of evidence to document for Congress the continued need for the Voting Rights Act enforcement provisions; and

**WHEREAS**, a National Commission on the Voting Rights Act, spearheaded by the Lawyers Committee for Civil Rights, has been established and is holding hearings, gathering evidence to submit a comprehensive report to Congress;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA;** that the City of Gainesville, Florida urges the National League of Cities to adopt a policy statement in support of the reauthorization of the key enforcement provisions of the 1965 Voting Rights Act; and

**BE IT FURTHER RESOLVED**, that the City of Gainesville urges Congress to conduct the appropriate due diligence to investigate and establish a record of evidence to determine the need for reauthorization of the Act’s key provisions; and

**BE IT FURTHER RESOLVED**, that the City of Gainesville urges Congress to reauthorize Section 5, 6-9 and 203 which are the key enforcement provisions of the 1965 Voting Act that are set to expire in August of 2007; and

**BE IT FINALLY RESOLVED**, that the City of Gainesville urges Congress to conduct the due diligence necessary to ensure that the provisions are “narrowly tailored” to address the harms it is designed to address, and not make these provisions “national and permanent” which may result in the provisions being ruled unconstitutional.

The Clerk of the Commission is authorized and directed to send copies of this Resolution to members of the Florida Congressional Delegation, the National League of Cities and the National Black Caucus of Local Elected Officials.

**PASSED AND ADOPTED** this 27th day of March 2006.

  
Pegeen Hanrahan, Mayor

ATTEST:

  
Kurt Lannon,  
Clerk of the Commission

APPROVED AS TO FORM AND LEGALITY:

  
Marion J. Radson, City Attorney

**MAR 30 2006**



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3 **RULE II.**

4 **SPECIAL AND EMERGENCY MEETINGS**

5 A. Special Meetings should, whenever possible, be approved at Regular City  
6 Commission Meetings. All Special Meetings should be requested using a form designed by  
7 the Clerk of the Commission. Special Meetings requested by Charter Officers must report the  
8 business to be transacted and indicate the time and date the agenda language and back-up will  
9 be available (no later than 48 hours prior to the meeting, if possible).

10 B. Special meetings may be held at any time upon the request of the Mayor, either  
11 of his/her own motion or upon written request of two members. These Special Meetings  
12 should be requested using a form designed by the Clerk of the Commission. The request shall  
13 be served on every member of the Commission by the Clerk of the Commission. Every  
14 reasonable measure will be taken to notify members of the Commission regardless of where  
15 each member may be. Also, every reasonable effort will be made to notify members of the  
16 local news media (print and electronic) and the public. The notice may state the business to be  
17 transacted at such meeting, and no other business than that so specified shall be transacted.  
18 Special meetings may not be convened sooner than forty-eight (48) hours succeeding the time  
19 notice was served by the Clerk of the Commission on the last Member of the  
20 Commission. Charter Officers should identify the subject matter for the special meeting and  
21 should only address the same subject on the actual agenda.

22 C. Emergency meetings may be held at any time upon the Call issued by the Mayor  
23 or upon written Call signed by three (3) members of the Commission. The emergency meeting  
24 shall occur no sooner than two (2) hours after the execution of the Call. Every reasonable

1 measure will be taken to notify members of the local news media (print and electronic) and  
2 the public. The Call will state the business to be transacted at such meeting, and no other  
3 business than that so specified shall be transacted.

4 D. The Commission at any meeting may recess or adjourn to a time certain for the  
5 transaction of any business or specified business only, as may be determined by the Commission  
6 in taking such action.

7 E. All meetings of the City Commission shall be open to the public (except as  
8 authorized by law).

9 F. The Mayor, two City Commissioners, or a Charter Officer may call for an  
10 inspection trip. Advance notice of inspection trips shall be given in the same manner as special  
11 meetings. Minutes of the inspection trip shall be made. Two Members may constitute a meeting  
12 for the purposes of the Sunshine Law, and no action may be taken at these meetings.

13 G. City Commission Workshops/Informal Meetings can take place in any location as  
14 long as it meets the requirements of the Sunshine Law. Each workshop shall be properly noticed  
15 to the public and any topic may be discussed although no final policy actions shall be taken at  
16 these meetings. For all policy issues requiring consideration, workshops may be scheduled.  
17 The City Commission is expected to attend all scheduled workshops, although the Mayor and  
18 one (1) Commissioner or two (2) Commissioners may constitute a meeting for the purposes of  
19 the Sunshine Law.

## 20 AGENDA

21 The Clerk of the Commission shall prepare an agenda for each regular meeting of the  
22 Commission. All requests to address the Commission on subjects not then under discussion  
23 by the Commission, together with a notice of items to be presented at the Commission at the  
24 next regular meeting by any Committee, Board, or Administrative Official, shall be delivered  
25 to the Clerk of the Commission on or before 11:00 A.M. on the Monday preceding each

1 Regular Meeting. The Clerk of the Commission shall arrange a list of such matters according  
2 to the order of business, and furnish each Commissioner and Charter Officer with a copy as  
3 far in advance of the meeting as time for preparation will permit. The Clerk of the  
4 Commission will prepare copies of the agenda for the news media and the public.

5 **RULE IV.**

6 **QUORUM**

7 Four (4) members of the Commission shall constitute a quorum for the transaction of business,  
8 but a smaller number may adjourn the meeting.

9 **RULE V.**

10 **PRESIDING OFFICER - ELECTION AND DUTIES**

11 A. The Mayor shall be the presiding officer and Chair of the Commission. At the  
12 meeting held on the Thursday following the first (1st) Tuesday in May unless there is a  
13 runoff election in which event, the Thursday following the third (3rd) Tuesday in May, the  
14 Commission shall elect one of its members as Chair Pro tempore.

15 B. The Mayor, or in his/her absence the Chair Pro tempore, shall take the chair at  
16 the hour affixed for the meeting and call the members of the Commission to order. The  
17 presiding officer shall preserve order and decorum at all meetings of the Commission.  
18 He/she shall sign all ordinances or resolutions adopted by the Commission. The Mayor shall  
19 designate the seating arrangement at meetings of the Commission.

20 C. In the absence of the Mayor and the Chair Pro tempore, the Clerk of the  
21 Commission shall call the Commission to order; whereupon a temporary Chair shall be  
22 elected by the members of the Commission present. Upon arrival of the Mayor or Chair Pro  
23 tempore, the temporary Chair shall relinquish the chair upon the completion of the business  
24 immediately before the Commission.

1 D. In the absence of the Chair Pro tempore, the Mayor shall designate a member  
2 of the Commission as a temporary Chair Pro tempore. Upon arrival of the Chair Pro tempore,  
3 the temporary Chair Pro tempore shall relinquish the designation.

4 **RULE VI.**

5 **COMMITTEES - APPOINTMENT - PROCEDURE - REFERRALS**

6 A. The following standing committees, consisting of at least two Commissioners each,  
7 shall be appointed by the Mayor, with the concurrence of the City Commission at the  
8 organizational meeting of the Commission or as soon thereafter as may be heard:

- 9 Audit and Finance;
- 10 Community Development Committee
- 11 Economic Development/University Community
- 12 Equal Opportunity Committee
- 13 Legislative;
- 14 Personnel and Organizational Structure;
- 15 Public Works;
- 16 Public Safety;
- 17 Recreation and Cultural Affairs; and
- 18 Regional Utilities.

19 The first named member of each Committee shall be the Chair of the Committee. The  
20 personnel of the foregoing Committees, including change in the chairship thereof, may be  
21 affected at any time at the pleasure of the Mayor with the concurrence of a majority of the  
22 Commission.

23 B. The Mayor may appoint such Special Committees as he/she may deem necessary  
24 or as authorized by the Commission.

1 C. Standing and Special Committees shall consider matters referred to such Committees  
2 by the Commission, or if not so referred, if the subject is germane to the purposes for which the  
3 Committee exists, the fact that the Committee has such other matters or matters under  
4 consideration shall be promptly reported to the Commission at its next meeting in order that  
5 the Commission be generally aware of the matters under consideration by each of several  
6 Committees.

7 D. Each Committee shall call upon, advise with, and seek the recommendation of the  
8 administrative staff and shall keep the appropriate staff personnel of the City advised of the  
9 matters under consideration by the Committee.

10 E. Committees shall meet in a public building within the City limits at the Call of the  
11 Chair at such time and place as is convenient to the members of the Committee and others  
12 involved in matters to be considered by the Committee.

13 F. All meetings of the Committees shall be opened to the public.

14 G. All Committees shall meet at least quarterly.

15 H. All referrals should be completed in six months unless otherwise directed.

16 I. All referrals not completed in six (6) months must seek re-authorization prior to the  
17 six month due date.

18 J. All Standing Committee Agendas should include the list of all outstanding referrals  
19 with due dates listed.

20 K. All Standing Committee Liaisons should update the referral list with intermediate  
21 updates.

22 L. The Clerk of the Commission shall include the City Commission referral list on a City  
23 Commission Agenda two times a year.

24 M. All Charter Officer referrals shall be for six months unless otherwise directed.



1 N. All Charter Officer referrals not completed in six months must seek re-authorization  
2 prior to the six months due date.

3 **RULE VII.**

4 **ADVISORY BOARDS AND COMMITTEES**

5 Residents appointed to advisory boards and committees of the City shall generally serve a  
6 maximum of two (2) terms. When filling a vacancy for an unexpired term, an appointee who  
7 serves more than half a term in office is considered to have served a full term. The  
8 Commission may make exceptions to the above general policy on a case-by-case basis when  
9 necessary to preserve the stability of a board or committee, to retain a particular appointee  
10 because of his/her special knowledge or expertise, or for such other circumstances as the  
11 Commission deems warranted.

12 For the purpose of balloting the following policy will apply:

13 1. Openings for vacancies on Advisory Boards and Committees previously filled by  
14 persons serving two consecutive terms, will not be included on the election ballot packet after  
15 the first advertisement.

16 2. If after a second advertisement there are no new applicants, the Clerk will  
17 include for consideration those persons who have already served two terms on that particular  
18 board/committee.

19 3. Board members who have served two (2) terms, but have not been replaced or  
20 reappointed remain on the board/committee until new members are appointed.

21 4. All Board and Committee Referrals not completed in six months must seek re-  
22 authorization prior to the six month due date.

23 5. All Board and Committee Agendas should include a list of all outstanding

1 referrals with due dates listed.

2 6. All Board and Committee Liaisons should update the referrals with  
3 intermediate updates.

4 **RULE VIII.**

5 **ORDER OF BUSINESS**

6 The Business of the Commission shall be taken up for consideration and disposition in the  
7 following order except as changed by the Mayor or by the Commission during the Adoption  
8 of the Agenda to allow greater citizen participation:

9 **1:00 P.M.**

- 10 A. Invocation
- 11 B. Adoption of the Consent Agenda (Including Committee Reports)
- 12 C. Adoption of the Agenda (Read if any, each item added or modified)
- 13 D. City Commission Comment (If time available)
- 14 E. Charter Officer Updates
- 15 F. Clerk of the Commission
- 16 G. City Manager
- 17 H. General Manager for Utilities
- 18 I. City Attorney
- 19 J. City Auditor
- 20 K. Committee Reports (Pulled from Consent)
- 21 L. Advisory Board/Committees (Appointments/Waivers/Reports) Committee Reports  
22 must be placed on the agenda by Charter Officer, through staff liaison after approval  
23 by Board/Committee.

1 M. Outside Agencies Must be submitted by a Charter Officer. Update limited to ten (10)  
2 minutes.

3 N. Members of the City Commission

4  
5 O. Commission Comments (if time available)

6  
7 **5:30 p.m.**

8  
9 P. Pledge of Allegiance

10 Q. Proclamations/Special Recognitions Placed on Agenda by Commissioner or Charter  
11 Officer

12 **6:00 p.m.**

13 R. Citizen Comment

14 S. Public Hearings

15 1. General Public Hearings

16 2. Ordinances

17 3. Resolutions

18 4. Plan Board Petitions

19 5. Development Review Board

20 T. Scheduled, Evening Agenda Items

21 U. Unfinished Business

22 V. Commission Comments

23 W. Citizen Comments (If Time Permits)

24 Adjournment no later than 11:00 p.m. Mayor to schedule date and time to continue meeting.

25 **RULE IX.**

26 **VOTING**

27 The Yeas and Nays on any question before the Commission shall be taken at the Call of any

1 Commissioner. Each member of the Commission will vote first every sixth time only, with  
2 the Mayor (Chair) always voting last. Commissioners will vote "yea" for support of a  
3 motion and vote "no" when voting not to support a motion. Except in a Roll Call, silence by  
4 a member shall be recorded as an affirmative vote.

5

6 **RULE X.**

7

**PROCEDURES**

- 8 A. The presiding officer shall decide all questions regarding the priority of business  
9 without debate.
- 10 B. All ordinances and resolutions shall be introduced in writing.
- 11 C. All motions or amendments thereto shall be reduced to writing if the presiding  
12 officer or a member desires.
- 13 D. Every petition, communication, or other paper addressed to the Commission or  
14 presented in writing to the Commission at any meeting shall be retained (or a copy  
15 thereof) by the Clerk of the City Commission with appropriate reference made in the  
16 minutes if presented at a Commission meeting together with the identification of the  
17 sender or writer.
- 18 E. No motion shall be debated or put to a vote unless seconded. No member of the  
19 Commission may reserve the priority to make a motion.
- 20 F. If a motion is made to vote immediately (or move the previous question), it shall be  
21 put in this form: "I move that we vote immediately"; or "I move the previous  
22 question(s)."
- 23 This motion can apply to any immediately (or series of) pending debatable or amendable  
24 motion(s). Further, any motion to vote immediately: (1) must be seconded; (2) is not

1 debatable; (3) cannot interrupt a speaker; (4) requires a two-thirds vote (because it prevents  
2 or cuts off debate); (5) takes precedence over all subsidiary motions except one postponed  
3 temporarily; and (6) can have no motion applied to it except withdraw.

4 G. The tape recordings made by the Clerk of the City Commission meetings are  
5 for exclusive benefit and use of the Clerk in making and keeping minutes and records of the  
6 Commission. In order that there be no possibility of altering, damaging, losing or tampering  
7 with such tapes and matters contained thereon, the tape recordings of the Commission  
8 meetings shall be used only by the Clerk. A copy of such tape recordings may be made by  
9 the Clerk and then by him/her made available to the press and public.

10 **RULE XI.**

11 **RULES OF DEBATE**

12 The presiding officer may move, second and debate, subject only to such limitations of  
13 debate as are enforced by these rules on all members, and shall not be deprived of any of the  
14 rights and privileges as commissioners by reason of his/her action as presiding officer. If the  
15 presiding officer desires to make a motion or second a motion, the officer shall relinquish  
16 the chair to a member as the officer shall designate until he/she has finished his/her debate  
17 on said question or matter. Every member desiring to speak shall address the chair and,  
18 upon recognition by the presiding officer, shall be confined to the question under debate,  
19 avoiding all personalities and indecorous language. A member, once recognized, shall not be  
20 interrupted when speaking unless it be to call said member to order, then the member shall  
21 cease speaking until the question or order is determined by the presiding officer without  
22 debate and, if in order, said member shall be at liberty to proceed. After the decision of any  
23 question, it shall be in order for a member voting on the prevailing side to move a  
24 reconsideration at the same meeting or at the next succeeding regular meeting, but not

1 thereafter without unanimous consent. It shall likewise be in order for a member voting on  
2 the prevailing side to move a reconsideration at a special meeting occurring between the  
3 time of original consideration and the next succeeding regular meeting. In the case of a tie  
4 vote on any question, any member may move for a reconsideration at the time or times  
5 herein stated for reconsideration on motion by one voting on the prevailing side. If a motion  
6 to reconsider be lost, it shall not be renewed without the unanimous consent of the  
7 Commission; and no decision shall be a second time reconsidered without a like leave. A  
8 Commissioner may request, through the presiding officer, the privilege of having his/her  
9 written statement on any subject under the consideration by and presented to the Commission  
10 entered in the minutes. If the Commission consents thereto, such statement shall be entered  
11 in the minutes. The following Statement will be required on all City Commission Agendas:  
12 "Citizens are encouraged to participate in City of Gainesville meetings. In general, speakers  
13 will be limited to 3 (three) minutes per agenda item. Additional time may be granted by the  
14 Mayor or by the City Commission as directed. The City of Gainesville encourages civility  
15 in public discourse and requests that speakers limit their comments to specific motions and  
16 direct their comments to the Chair. Signs or Props are not permitted in the meeting room.  
17 Citizens are encouraged to provide comments in writing to the Clerk of the Commission  
18 before meetings and/or during meetings for inclusion into the public record. Citizens may  
19 also provide input to individual commissioners via office visits, phone calls, letters and e-  
20 mail, that will become public record. (In some instances, i.e. Quasi-Judicial Hearings, these  
21 particular contacts may be prohibited.)

22 **RULE XII.**

23 **APPROVAL OF COMMISSION MINUTES**

24 The Clerk of the Commission shall submit minutes of meetings for approval as timely as

1 possible. Unless a reading of a Commission meeting is requested by a majority of the  
2 Commission, such minutes may be approved without reading, if the Clerk of the Commission  
3 has previously furnished each member with a copy thereof.

4 **RULE XIII.**

5 **PERSONS APPEARING BEFORE THE COMMISSION**

6 **I. Citizen Comment**

7 A. Citizen Comment is limited to issues not located on other portions of the  
8 printed agenda.

9 B. Time Limits will be established by the Mayor based on the number of  
10 participants. Maximum of five (5) minutes per participant.

11 C. Participants may be required to fill out a form at the meeting.

12 **II. Generally Speaking**

13 A. Any person desiring to address the Commission on any matter pending before  
14 it shall first request recognition by the presiding officer. After being recognized, the person (1)  
15 give his/her name in an audible tone of voice; (2) shall limit the address to three or five  
16 minutes; and (3) address all remarks to the Commission as a body and not to any member  
17 thereof; (4) shall address the motion being considered.

18 B. No person other than a member of the Commission and the person having the  
19 floor shall be permitted to enter into any discussion, either directly or through a member of  
20 the Commission, without permission of the presiding officer. No question shall be asked  
21 except through the presiding officer.

22 C. If any person in any way interferes with or interrupts the orderly procedure of

1 the Commission, or any Commissioner, or the person speaking who has been properly  
2 recognized by the presiding officer, the persons shall fore with be subject to removal from  
3 the Commission room.

4 D. The Commission or the Chair may adopt a time limitation relating to opponents  
5 and proponents speaking to any particular issue.

### 6 **III. Public Hearings**

7 A. Citizens wishing to speak on public hearing items may be required to fill out a  
8 card and forward it to the Clerk of the Commission. Should more than ten (10) speakers  
9 want to participate on any particular item, registration cards will be strongly considered.

10 B. Citizens should follow all of the guidelines in Section II above, where  
11 appropriate.

### 12 **IV. Decorum**

13 Order must be preserved. No food, drink, props, signs, posters, or other material that would  
14 otherwise disrupt, delay, or interrupt the proceedings of the Commission are allowed in the  
15 meeting room. Outbursts of approval or disapproval, jeers or heckling are not permitted and  
16 are not acceptable. In the event of a disturbance or violation of this rule, the violator may,  
17 after warning, be ordered removed from the room as provided in Rule XVII Rules of the  
18 Commission, City of Gainesville.

### 19 **RULE XIV.**

#### 20 **UNFINISHED BUSINESS**

21 The Clerk of the Commission shall have, at every regular meeting of the Commission, a list  
22 of unfinished business in order of its introduction, which may be read at the request of the  
23 Commissioner.

24



1 **RULE XV.**

2 **COMMUNICATIONS**

3 Each Commissioner shall be furnished a copy of all communications addressed to the  
4 Commission by the Plan Board and appropriate city staff with the original and attachments  
5 filed with the Clerk of the Commission. Also, copies of proposed ordinances and resolutions  
6 prepared or approved by the City Attorney shall be furnished each Commissioner.

7 **RULE XVI.**

8 **ORDINANCES**

9 A. All ordinances shall be prepared, or approved as to form and legality, by the  
10 City Attorney prior to being introduced at a City Commission meeting.

11 B. No ordinance shall be adopted on a second and final reading until notice as  
12 required by law has been published.

13 C. All ordinances shall be signed by the presiding officer and attested by the  
14 Clerk of the Commission.

15 **RULE XVII.**

16 **SERGEANT-AT-ARMS**

17 The City Manager or the City Manager's designee shall be sergeant-at-arms of the  
18 Commission meetings. The City Manager shall carry out all orders and instructions given by  
19 the presiding officer for the purpose of maintaining order and decorum at the Commission  
20 meeting and the following policy will provide guidance in handling disruptions:

21 Procedure:

22 1. Individual refuses to relinquish the podium after being allowed to address the  
23 Commission.

24 A. The Mayor will inform the individual that their time to address the Commission

1 has expired and the Mayor will direct the individual to leave the podium.

2 2. Individual causes disruption in the Commission meeting site.

3 A. The Mayor will inform the individual causing the disruption to cease disruptive  
4 activity. If the disruption fails to stop:

5 A. The Mayor will inform the individual causing the disruption that their actions  
6 are contrary to the orderly running of the meeting and that the individual is to cease such  
7 action or the Sergeant-at-Arms (City Manager/designee) will be instructed to remove the  
8 individual from the meeting site.

9 B. The Mayor will revoke the individual's participation to attend the meeting and  
10 direct that the individual leave the meeting site. The Mayor will inform the individual that if  
11 the individual is directed to leave and fails to do so, the individual will be subject to arrest  
12 for trespass.

13 Final Action: In substantially the following words: As the Mayor, I inform you that your  
14 actions are inconsistent with the orderly function of this meeting and fails to comply with the  
15 lawful order of the Chair. I am instructing the Sergeant-at-Arms (City Manager/designee) to  
16 have you removed from this meeting site, and if deemed necessary by the Sergeant-at-Arms,  
17 to remove you from this building.

18 **RULE XVIII.**

19 **REPORTS AND RESOLUTIONS**

20 Most all reports and resolutions shall be filed with the Clerk of the Commission and made  
21 part of the minutes. Some lengthy and oversized documents may be stored at individual  
22 administrative areas.

23

24 **RULE XIX.**

1 **DOCUMENTS FOR EXECUTION**

2 All documents to be executed by the Mayor and Clerk of the Commission shall have first  
3 been submitted to the City Attorney's Office for approval as to form and legality before  
4 placing on the agenda and should be formatted for immediate signature after authorization  
5 of the execution.

6 **RULE XX.**

7 **ROBERT'S RULES OF ORDER**

8 Robert's Rules of Order, Newly Revised (Tenth Edition), so far as they are applicable and do  
9 not conflict with these Rules or the Ordinances or Charter of the City, shall guide the City  
10 Commission as needed.

1 **RULE XXI**

2 **QUASI-JUDICIAL ACTIONS**

3 **Part I. Request for Hearing**

4 **(A) Quasi-Judicial Hearings before the Commission**

5 The quasi-judicial hearings before the City Commission shall be either formal or  
6 informal hearings. A formal quasi-judicial hearing is a hearing where applicants and  
7 affected parties have the rights and responsibilities of a party as set forth in Sections  
8 (B) - (D) of the rules of formal quasi-judicial procedure. An informal hearing is a  
9 hearing where the applicant and public may present testimony for or against a proposal  
10 before the Board without the procedures of a formal hearing.

11 **(B) Scope of Quasi-Judicial Proceedings**

12 A quasi-judicial proceeding, either formal or informal, shall occur as provided by law.

13 **(C) Selection of Hearing**

14 All persons entitled to actual written notice of a matter before the City Commission,  
15 that is quasi-judicial may request a formal hearing before the City Commission by  
16 filing with the Clerk of the Commission the written request before the close of  
17 business at least seven (7) days prior to the City Commission meeting when the matter  
18 is scheduled to be heard. Persons who are not entitled to actual written notice but  
19 believe they are an "affected party", as defined in this rule, may request a formal  
20 hearing and determination of affected party status by filing with the Clerk of the  
21 Commission the written request for a formal hearing and an application for affected  
22 party status as provided in Part II of this rule, before the close of business at least  
23 seven (7) days prior to the City Commission meeting when the matter is scheduled to  
24 be heard. Failure to timely file such requests for a formal hearing shall set the matter

1 for an informal quasi-judicial hearing.

## 2 **Part II. Ex Parte Communications**

### 3 **A) Ex Parte Communication**

4 Florida Statutes Section 286.0115(1) provides that any person who is not otherwise  
5 prohibited by the Gainesville Charter, statute or ordinance may discuss with any  
6 member of the City Commission the merits of any matter on which the City  
7 Commission may take action. The following procedures for ex parte communications  
8 are adopted pursuant to §286.0115(1), F.S., and are intended to remove the  
9 presumption of prejudice arising from ex parte communications, as follows:

- 10 1. The subject of any oral ex parte communication, together with the identity  
11 of the person, group or entity with whom the communication took place,  
12 shall be disclosed and made a part of the record on file with the Clerk of the  
13 Commission prior to final action on the matter, as further provided in this  
14 Rule.
- 15 2. Any written ex parte communication read by a member of the City  
16 Commission that relates to a quasi-judicial matter pending before the City  
17 Commission, shall be placed in and made a permanent part of the record on  
18 file with the Clerk of the Commission prior to final action on the matter, as  
19 further provided in this Rule.
- 20 3. Members of the City Commission may conduct investigations and site  
21 visits and may receive expert opinions regarding quasi-judicial action  
22 pending before the City Commission. The existence of such investigation,  
23 site visit or expert opinion shall be made a part of the record on file with  
24 the City prior to final action on the matter, as further provided in this Rule.

1        **B) Time and Purpose of Disclosure**

2            Disclosure shall occur as provided in Parts III and IV of this Rule. Such disclosures  
3            shall be made a part of the record so that persons with opinions contrary to those  
4            expressed in the ex parte communication are provided a reasonable opportunity to  
5            respond to or refute the ex parte communication.

6        **C) Procedure for Disclosure**

7            Members of the City Commission shall disclose ex parte communications by placing  
8            on the record of the pending matter the following:

- 9            a. all ex parte written communications, including expert opinions, received and  
10            read;
- 11            b. all ex parte written responses to such communications;
- 12            c. the subject of all ex parte oral communications, including expert opinions, and  
13            the identity of the person, group or entity with whom the communication took  
14            place; and
- 15            d. the existence of investigations or site visits.

16        **D) Basis of Final Decision**

17            All decisions of the City Commission in a quasi-judicial matter must be supported by  
18            substantial competent evidence in the record pertinent to the proceeding, irrespective  
19            of such communications.

20        **E) Optional Participation**

21            This Rule does not require or obligate any member of the City Commission to engage  
22            in ex parte communication on any matter and any participation or receipt of ex parte  
23            communications in any quasi-judicial matter is purely voluntary and optional.

24        **F) Code of Ethics**

1 Members of the City Commission shall not be subject to Part III of Chapter 112, F.S.  
2 for not complying with the requirements of this Part of these Rules.

3 **Part III. Formal Quasi-Judicial Hearings**

4 **(A) Order of Presentation; Time Limits**

5 (1) The order of presentation, with corresponding time limits for each presentation,  
6 are as follows:

7	Order	Maximum Time Limit
8		(minutes)
9	1) Introduction of the matter by staff	3
10	*2) Petitioner	20
11	*3) Staff presentation	10
12	*4) Affected Party (if any) for	
13	(per person)	10
14	*5) Affected Party against (if any) against	
15	(per person)	10
16	*6) Rebuttal (Petitioner/Staff)	5
17	7) Close of presentation by Petitioner, Staff and Affected Parties	
18	8) Public hearing (per person)	5
19	9) Deliberation and vote of the Commission	

20  
21 (2) Cross examination is limited to ten (10) minutes per witness.

22 (3) The time limits set forth in Section (1) may be modified by the City Commission  
23 on its own motion or upon request of a party to the proceedings. Said request  
24 shall detail the modified time desired and the subjects to be discussed during the

1 additional time. A request for a modification of time should be considered by the  
2 City Commission to assure all parties have an opportunity to participate without  
3 undue repetition and delay.

4 \* **Witnesses may be presented during parts 2-6 of the presentation with cross-**  
5 **examination.**

6  
7 **(B) Affected Party Defined; Determination**

8 (1) An affected party is any person who is entitled to actual written notice of a matter  
9 before the Commission.

10 (2) An affected party who is not entitled to actual written notice but who believes that  
11 they have a special interest or would suffer an injury distinct in kind and degree  
12 from that shared by the public at large may request affected party status by filing  
13 an application, as provided in Part I of this rule. The Commission will consider  
14 an application for affected party status prior to the commencement of the hearing.

15 The decision of the Commission shall be final.

16 **(C) Registration of Affected Parties**

17 In order to participate in the formal quasi-judicial hearing, all affected parties shall  
18 complete the form prescribed by the Clerk of the Commission, stating their name and  
19 address and other pertinent information, and whether they support or oppose the matter or  
20 matter before the City Commission. The form shall be delivered to the City  
21 Commission's secretary at the commencement of the hearing.

22 **(D) Representation of Parties**

23 Any party may be represented by an attorney. If an attorney represents a party or several  
24 parties, the attorney shall complete the form prescribed by the City Commission and



1 identify the person or persons they represent and whether their client supports or opposes  
2 the matter before the City Commission. The form shall be delivered to the Clerk of the  
3 Commission at the commencement of the hearing proceeding.

4 **(E) The Hearing**

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

10 2) The members of the City Commission shall disclose any ex parte  
11 communications and provide a reasonable opportunity for any person with an  
12 opinion contrary to that expressed in the ex parte communication to respond or  
13 refute the ex parte communication through the Mayor.

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

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

24 5) The City Commission may call any witness it deems necessary to reach a

1 complete and informed decision.

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

20 **(F) Public Hearing**

21 After the quasi-judicial hearing is completed, those members of the public who were not  
22 a party to the quasi-judicial hearing may be permitted to speak up to five (5) minutes per  
23 person and present their testimony and evidence to the City Commission. No party or  
24 witness shall be allowed to speak during the public hearing portion of the proceedings.

1 **(G) Continuances**

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

4 **(H) City Commission Deliberation**

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

9 **(I) City Commission Oral Order**

10 The City Commission shall orally issue an order.

11 **(J) City Commission Written Order**

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

19 **Part IV. Informal Quasi-Judicial Hearings**

20 **(A) Informal Quasi-Judicial Hearing Procedure**

21 1) If no person files a timely request for a formal quasi-judicial hearing, the matter  
22 shall be set for an informal quasi-judicial hearing.

23 2) An informal hearing shall be presented to the City Commission in the following  
24 order:

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  
3 the ex parte communication to respond or refute the ex parte  
4 communication through the Mayor.

5 b) Staff presentation

6 c) Petitioner or Applicant

7 d) Public hearing

8 e) Deliberation and vote of the City Commission

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

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

1 vote, which shall constitute the oral order.

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


3 Passed and adopted this 27th day of March, 2006.

4   
5 Pegeen Hanrahan  
6 MAYOR  
7 Pegeen Hanrahan

8  
9  
10 ATTEST:

Approved as to form and legality:

11   
12 \_\_\_\_\_  
13 Clerk Of The Commission  
14 Kurt M. Lannon

By   
\_\_\_\_\_   
Marion J. Radson, City Attorney  
**MAR 30 2006**

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