

**PALM BEACH COUNTY PROCEDURES FOR
CONDUCT OF QUASI-JUDICIAL HEARINGS**

1. DEFINITIONS:

- A. *Applicant*- the owner of record, or owner's agent, or any person with a legal or equitable interest in the property that is the subject of the proceeding.
- B. *Commission*- the Board of County Commissioners, Zoning Commissioners, or any other board to which this policy is made applicable.
- C. *Ex parte communications*- any written or oral communication with Commission members other than those made on the record at the time of the hearing.
- D. *Participants*- those members of the general public other than applicant who attends a public hearing for the purpose of being heard on a particular application.
- E. *Relevancy*- In order to be relevant, the evidence submitted must strengthen or weaken the application by supporting or disproving factual assertions contained in the application or be directly related to the application. The Commission shall determine the relevancy of evidence.

2. GENERAL STANDARDS.

- A. *Ex Parte Communications Between Commission Members and Public.* Applicants, participants and other members of the general public may communicate freely with Commission members regarding any issue which may be heard by the Commission.
- B. *County Staff Report.* The staff report on the case shall be sent to the Commission members and be available to the general public at least five (5) days prior to the hearing on the case.
- C. *Appearances and Evidence.*
 - (1) Persons claiming to represent a group or organization must demonstrate proof of membership of that group and proof that the person representing the group has actual authority to do so.

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(2) All participants must complete a public comment card, prior to the commencement of the agenda item on which they wish to speak.

3. COMMUNICATIONS BETWEEN COMMISSIONERS AND COUNTY STAFF.
 - A. Communications between Commissioners and County staff shall be limited to the staff report and recommendations. Staff may answer questions and render opinions.
 - B. Attorneys for the Commission may render legal opinions when requested by the Commission members, but shall not advocate one party's position over another, except to the extent necessary to respond fully to a legal question.
4. EX-PARTE COMMUNICATIONS.
 - A. Written Communications. All written communications received by Commission members concerning an application or pending case shall be deemed public information if made a part of the record prior to final action on the matter.
 - B. Oral Communications. Oral Communication may be permitted and shall be deemed public information provided the substance of the communication and with whom the communication took place is divulged and made part of the record prior to final action in the matter.
 - C. View of Property. Members of the Commission may drive by and physically inspect the property. Such investigation or site visits shall be disclosed and made a part of the record prior to final action on the matter.

5. COUNTY STAFF FILE.

All written communications shall be included in the file maintained by staff and available for public inspection. Any communication received by staff shall be reported as part of the oral staff report. The staff report, any petitions or other submissions from the public, and all other documents pertaining to the case shall also be kept in the file and

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available for public inspection. During its presentation, staff shall offer all such written communications into evidence, subject to any objections interposed by participants.

6. DISCLOSURE.

At the public hearing at which a vote is to be taken on a matter, a Commissioner who has received an ex parte communication, conducted an investigation, received expert opinions or has physically inspected the property, shall summarize for the record the substance of the communication, the person making the same, the nature of the investigation, substance of the expert opinion OR the date of the inspection.

7. BASIS OF DECISION.

All decisions by the Commission shall be based on the record of the evidence presented to the Commission at the hearing on the case, which shall include the staff testimony of all witnesses, and other evidence presented. Strict rules of evidence shall not apply, but evidence must be relevant to the issues before the Commission.

8. CONDUCT OF HEARING.

The order of appearance at the hearing shall be as follows:

- A. The County staff shall present its report and offer its file into evidence;
- B. Commission members shall summarize the substance of any ex parte communication; including the identity of the person, group or entity with whom the communication took place;
- C. The applicant shall present its case and/or respond to or refute any ex parte communication;
- D. Participants shall present their case and/or respond to or refute any ex parte communications;
- E. Cross-examination of witnesses.
- F. Commission discussion and decision.

Testimony may be subject to cross-examination, upon request, by the applicant, the designated representative of the participants and the County staff. The applicant, or its representative, and the designated representative of the

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participants wishing to cross-examine witnesses must reserve that right at the beginning of their presentation. Commission members may interpose questions at any time during the conduct of the hearing.

9. TESTIMONY UNDER OATH OR AFFIRMATION

The applicant, witnesses and all participants asking to speak shall be sworn collectively at the beginning of the hearing.

10. CROSS-EXAMINATION

- A. The applicant, participants and all witnesses are subject to cross-examination during the hearing.
- B. The cross-examination of the applicant, witnesses, and participants shall be limited two (2) minutes by the individual conducting the cross-examination for the adverse party.
- C. The scope of the cross-examination shall be limited to the facts alleged by the participant, witness or applicant in relation to the application.
- D. The cross-examination cannot be designed to merely harass, intimidate or embarrass the participants, applicant or witnesses.
- E. The chairperson of the County Commission will determine the scope of the cross-examination on its own initiative, or when the individual being questioned objects to the cross-examination for going beyond the scope of the facts alleged by the individual.
- F. The chairperson of the County Commission may defer to the County Attorney to determine the scope of the cross-examination.
- G. The chairperson of the County Commission may direct the party conducting the cross examination to stop a particular line of questioning that is not relevant and beyond the scope of the facts alleged by the individual being cross-examined.
- H. If the party conducting the cross-examination continuously violates directions from the chairperson to end a line of questioning deemed irrelevant and merely designed to harass, intimidate or embarrass the individual, the

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chairperson may terminate the cross-examination.

11. TIME LIMITS.

- A. Applicant - Up to thirty (30) minutes.
- B. Participants -
 - (i) members of public - three (3) minutes each.
 - (ii) speakers representing a group of six (6) or more in attendance at the meeting - five (5) minutes each.
 - (iii) speakers representing an organization - five (5) minutes each
- C. Expert witnesses - ten (10) minutes.
- D. At the discretion of the Chairperson of the Board, the time allowed for any testimony may be extended.

12. DECISION BY THE BOARD OF COUNTY COMMISSIONERS

At the close of the public hearing, the Board of County Commissioners shall make a decision on the application. The Board of County Commissioners shall:

- 1. Approve
- 2. Approve with conditions
- 3. Deny-with or without prejudice
- 4. Continue the hearing to another date and time.

In the event of a tie vote, the hearing shall be continued to the next hearing date.

~~12~~ 13. RECORD OF THE CASE.

All evidence admitted at the hearing, County staff reports, and the adopted resolution setting forth the decision of the Commission, shall be maintained in a separate file constituting the record of the case. The record shall be kept

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in the custody of the appropriate staff at all times during the pendency of the case, except that any member of the public may examine the file in the appropriate County staff office.

13 14. APPLICABILITY.

These rules shall apply to all site specific rezonings, conditional use proceedings, Development Order Amendments, status reports and at any time the Board of County Commissioners sits in an appellate capacity.