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MEMORANDUM

TO: Mayor Teresa Jacobs
and
Board of County Commissioners *AM*

FROM: Jeffrey J. Newton, County Attorney
Kate Latorre, Assistant County Attorney *KML*

DATE: January 3, 2017

SUBJECT: **Consent Agenda Item for the Board Meeting on
January 24, 2017**
*Proposed Revised Administrative Regulation 2.09.01, titled "Compliance
With The "Sunshine Law" - Meetings Of County Advisory Boards"*

Attached for your review is a proposed revisions to Administrative Regulation 2.09.01.

I. EXPLANATION & SUMMARY OF PROPOSED REGULATION:

At the request of the Orange County Administrator's Office, the attached regulation was reviewed in depth and revisions were made to ensure that the regulation is consistent with current practices and procedures.

It is my intent to place the proposal on the January 24, 2017, Consent Agenda for approval by the Board of County Commissioners. Please advise me of any questions, comments, or modifications you may wish to make prior to that meeting.

II ACTION REQUESTED:


Approval of proposed revisions to Administrative Regulation 2.09.01, titled
"Compliance With The "Sunshine Law" - Meetings Of County Advisory
Boards"

AMC
Attachment

c: Ajit Lalchandani, County Administrator
Eric Gassman, Chief Accountability Officer

PROPOSED REVISIONS

12/30/16

 ORANGE COUNTY ADMINISTRATIVE REGULATIONS	No.: 2.09.01
	Date: 9/ 21/87
	Approved By: BCC Revised: 10/15/02; 6/27/06
Title: COMPLIANCE WITH THE “SUNSHINE LAW” – MEETINGS OF COUNTY ADVISORY BOARDS	Page 1 of 10

I. POLICY

- A. All meetings of County advisory boards shall comply strictly with the requirements of section 286.011 of the Florida Statutes (the “Sunshine Law”).
- B. All advisory boards are presumed subject to the Sunshine Law unless the County Attorney identifies an express exemption in the Florida Statutes or a clear, unequivocal exemption in Florida case law.
- C. The Agenda Development Office (or such other County department or office as the County Administrator from time to time may designate) shall oversee and administer the compliance by advisory boards with the Sunshine Law and this Administrative Regulation.
- D. For purposes of this regulation, “advisory board” means all boards, commissions, task forces, committees, and other groups formed for the purpose of carrying out County functions and/or making recommendations to the Board of County Commissioners regarding County business or County matters. This includes not only the boards and committees that constitute “advisory boards” under Section 2-203 of the Orange County Code, but also any County board, commission, committee, or other group that otherwise is described in the previous sentence and is not otherwise exempt from the Sunshine Law. The term also includes County staff committees, such as the development review committee and procurement committees, but does *not* include groups of County employees assigned to County tasks where the group does not constitute a “board” or a “committee” for purposes of the Sunshine Law. Finally, the term includes all committees and sub-committees of an advisory board.
- E. For purposes of this regulation, “County bulletin board” means the bulletin board located on the first floor of the County Administration Center. This bulletin board is used for posting of all public meeting notices, long-range agendas, and Board of County Commissioners meeting agendas. Only the Agenda Development Office



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has the authority to post to this bulletin board.

- F. No sign-in shall be required of any person desiring to attend any advisory board meeting, although individuals speaking at public hearings can be required to identify themselves by name and address.
- G. All meetings of County advisory boards shall be held in a County meeting room or office or in an office or meeting room at some governmental building where the public may freely attend, except in the case of a visit by the participating advisory board members to a site or sites which is or are the topic of the meeting. For site visits, the meeting shall be held at the site such that the public readily can attend the meeting and hear the discussion.

II. PROCEDURES

A. Regular Meetings of County Advisory Boards

1. The schedule shall be posted on the County bulletin board, and such posted schedule shall constitute the only required notice for regular meetings of the advisory board. The schedule shall be available for inspection by the public in the Agenda Development Office. The County staff shall endeavor to also post the schedule on the county internet website. However, failure to post the schedule on the website shall not be deemed as a failure to post the required notice. Furthermore, in the event the schedule posted on the website conflicts with or is not consistent with the schedule posted on the bulletin board, the schedule posted on the bulletin board shall control.
2. The notice of and agenda for each regular meeting shall contain the following language:

Section 286.0105, Florida Statutes, states that if a person decides to appeal any decision made by a board, agency, or commission with respect to any matter considered at a 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.

3. The notice of and agenda for each regular meeting also shall contain the



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following language:

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodation to participate in this proceeding, then not later than two business days prior to the proceeding, he or she should contact the Orange County Communications Division at 407-836-5631.

Para mayor información en español, por favor llame al 407-836-3111.

4. Except in the event of extraordinary circumstances beyond the control of the County, the agendas for regular meetings shall be available to the public at the assigned County Department, division, or other entity, and on the County's internet website no less than five full working days before the day of the meeting.~~No sign-in shall be required of any person desiring to attend any advisory board meeting although individuals speaking at public hearings can be required to identify themselves by name and address.~~
5. Minutes of regular meetings for each advisory board shall be taken and kept by the County department, division or other entity assigned to provide staff support for the advisory board.
6. The content of the meeting minutes shall include the date, time, location and topic or topics of the meeting, the names of the meeting participants, all official action (if any) taken by the advisory board at the meeting, and any other information as the advisory board members may elect to include.
7. The draft minutes shall be available to the public at the assigned County Department, division, or other entity, and on the County's internet website within 10 working days following the meeting. The draft minutes shall be issued with the word "DRAFT" as a watermark in the document.~~Once the meeting minutes are approved by the advisory board, the County department, division or other entity responsible for keeping the minutes shall place the minutes on a consent agenda for the Board of County Commissioners within 60 days for their receipt and filing for the official county record.~~
8. The approved minutes shall be available to the public at the assigned County Department, division, or other entity, and on the County's internet



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website within 10 working days following the meeting at which the minutes were approved. Within 60 days of approval, the minutes shall be placed on a consent agenda for the Board of County Commissioners for its receipt and filing for the official county record. The agendas for regular meetings shall be available to the public, at the assigned County department, division or other entity no less than two full working days before the day of the meeting.

B. Special Meetings of County Advisory Boards

1. The Agenda Development Office shall provide a meeting notice form for all special meetings.
2. Notice of each special meeting may be posted only by the Agenda Development Office, and each notice shall specify the date, time, location (including the street address), and specific topic or topics of the special meeting. The specified topic or topics in the notice shall be the only topic or topics that may be discussed and/or acted upon during the special meeting.
3. Notices of special meetings shall be posted on the County bulletin board, and ~~County staff shall endeavor to post it~~ on the County's internet website.
4. ~~The N~~notice and agenda of each special meeting shall be posted such that there are no fewer than two full working days between the day the notice is posted and the day the meeting takes place. The Agenda Development Office shall not post any special meeting notice that does not meet the time requirements listed herein.
5. The notice of and agenda for each special meeting shall contain the following language:

Section 286.0105, Florida Statutes, states that if a person decides to appeal any decision made by a board, agency, or commission with respect to any matter considered at a 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.



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6. The notice of and agenda for each special meeting also shall contain the following language:

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodation to participate in this proceeding, then not later than two business days prior to the proceeding, he or she should contact the Orange County Communications Division at 407-836-5631.

Para mayor información en español, por favor llame al 407-836-3111.

7. Minutes of special meetings shall be taken and kept by the County department, division or other entity assigned to provide staff support for the advisory board.
8. The content of the meeting minutes shall include the date, time, location, and topic or topics of the meeting, names of the meeting participants, the official action (if any) taken by the advisory board at the meeting, and any other information as the advisory board members may elect to include.
9. The draft minutes shall be available to the public at the assigned County Department, division, or other entity, and on the County's internet website within 10 working days following the meeting. The draft minutes shall be issued with the word "DRAFT" as a watermark in the document. Once the special meeting minutes are approved by the advisory board, the County department, division or other entity responsible for keeping the minutes shall place the minutes on a consent agenda for the Board of County Commissioners within 60 days for their receipt and filing for the official County record.
10. The approved minutes shall be available to the public at the assigned County Department, division, or other entity, and on the County's internet website within 10 working days following the meeting at which they were approved. Within 60 days of approval, the minutes shall be placed on a consent agenda for the Board of County Commissioners for its receipt and filing for the official county record.



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C. Emergency Meetings of County Advisory Boards

1. Emergency meetings may be held only in *bona fide* emergencies. A situation is a *bona fide* emergency only when there is a substantial probability that, without prompt action by the advisory board, the health or safety or fiscal welfare of the County and its citizens will be materially adversely affected.
2. The Agenda Development Office shall provide a meeting notice form for all emergency meetings.
3. Notices of emergency meetings may be posted only by the Agenda Development Office, and each notice must specify the date, time, location (including the street address) and the specific topic or topics of the emergency meeting. The specified topic or topics in the notices shall be the only topic or topics that may be discussed and/or acted upon at the emergency meeting.
4. Notice of each emergency meeting shall be posted on the County bulletin board, and County staff shall endeavor to post it on the County's internet website.
5. The Notice and agenda of each emergency meeting shall be posted at least 24 hours before the meeting and shall be posted before 5:00 p.m. on the workday proceeding the day of the meeting.
6. The notice of and agenda for each emergency meeting shall contain the following language:

Section 286.0105, Florida Statutes, states that if a person decides to appeal any decision made by a board, agency, or commission with respect to any matter considered at a 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.

Para mayor información en español, por favor llame al 407-836-3111.



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7. The notice of and agenda for each emergency meeting also shall contain the following language:

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodation to participate in this proceeding, then not later than two business days prior to the proceeding, he or she should contact the Orange County Communications Division at 407-836-5631.

8. Notice of each emergency meeting shall be provided by the Agenda Development Office to the Communications Division. The notice shall then be provided immediately by the Communications Division to the media, by ~~either~~ telephone, fax, or email, and to other known interested parties and stakeholders by either telephone or email.
9. Minutes of emergency meetings shall be taken and kept by the County department, division or other entity assigned to provide staff support for the advisory board.
10. The content of the meeting minutes shall include the date, time, location, topic or topics of the meeting, names of the meeting participants, the official action (if any) taken, and any other information the advisory board members may elect to include.
11. The draft minutes shall be available to the public at the assigned County department, division, or other entity, and on the County's internet website within 10 working days following the meeting. The draft minutes shall be issued with the word "DRAFT" as a watermark in the document. ~~Once the emergency meeting minutes are approved by the advisory board, the County department, division or other entity responsible for keeping the minutes shall place the minutes on a consent agenda for the Board of County Commissioners within 60 days for their receipt and filing for the official county record.~~
12. The approved minutes shall be available to the public at the assigned County Department, division, or other entity, and on the County's internet website within 10 working days following the meeting at which they were approved. Within 60 days of approval, the minutes shall be placed on a



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consent agenda for the Board of County Commissioners for its receipt and filing for the official county record.

D. "Noticed" Meetings of County Advisory Boards

1. For purposes of this part, a "noticed" meeting is any meeting between or among two or more advisory board members to discuss some matter on which foreseeable action will be taken by the advisory board, and does not constitute a regular, special, or emergency meeting of the advisory board under the County Charter or the Board's Rules of Procedures. A noticed meeting, therefore, constitutes a "meeting" for purposes of the Sunshine Law, but is not a meeting at which official advisory board action can be taken.
2. The Agenda Development Office shall generate a meeting notice for all noticed meetings.
3. Notice of each noticed meeting may be posted only by the Agenda Development Office, and each notice shall specify the date, location (including the street address), time, and specific topic or topics of the meeting. The specified topic or topics shall be the only topic or topics that may be discussed at the meeting.
4. The Notices and agenda for each noticed meeting shall be posted such that there are no fewer than two full working days between the day the notice is posted and the day the noticed meeting is held. The Agenda Development Office shall not post any noticed meeting notice that does not meet the time requirements listed herein.
5. Notices for all noticed meetings shall be posted on both the County's internet website and the County bulletin board.
6. The notice of and agenda for each noticed meeting shall contain the following language:

Section 286.0105, Florida Statutes, states that if a person decides to appeal any decision made by a board, agency, or commission with respect to any matter considered at a meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need



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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.

7. The notice of and agenda for each noticed meeting shall also contain the following language:

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodation to participate in this proceeding, then not later than two business days prior to the proceeding, he or she should contact the Orange County Communications Division at 407-836-5631.

Para mayor información en español, por favor llame al 407-836-3111.

86. Minutes of noticed meetings shall be taken and kept by the County Department, division, or other entity assigned to provide staff support for the advisory board~~advisory board member who initiated the meeting and shall be made available by the advisory board member for inspection by public.~~
97. The content of the ~~noticed~~-meeting minutes shall include the date, time, location, and topic or topics of the meeting, the names of all meeting participants, and any other information as advisory board members may elect to include.
10. The draft minutes shall be available to the public at the assigned County Department, division, or other entity, and on the County's internet website within 10 working days following the meeting. The draft minutes shall be issued with the word "DRAFT" as a watermark in the document.
11. The approved minutes shall be available to the public at the assigned County Department, division, or other entity, and on the County's internet website within 10 working days following the meeting at which they were approved. Within 60 days of approval, the minutes shall be placed on a consent agenda for the Board of County Commissioners for their receipt and filing for the official county record.
8. ~~Noticed meetings shall be held only in a County meeting room or office or in an office or meeting room at some governmental building where the~~



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~~public may freely attend, except in the case of a visit by the participating advisory board members to a site or sites which is or are the topic of the meeting. For site visits, the noticed meeting shall be held at the site or on a bus or other means of transportation such that the public readily can attend the meeting and hear the discussion.~~

- E. In addition to this Administrative Regulation, any County advisory board that constitutes a "special district" for purposes of Chapter 189 of Florida Statutes, shall also comply with Section 189.417 of Florida Statutes.
- F. Any County advisory board that has legal counsel (other than the County Attorney's Office) shall consult with its counsel from time to time to solicit advice and to ensure the advisory board's compliance with the Sunshine Law, this Administrative Regulation, and any other applicable meeting-notice requirements of law. All other advisory boards shall consult with the County Attorney's Office. In all instances, legal counsel (whether outside counsel or the County Attorney's Office) shall construe the Sunshine Law and this Administrative Regulation in favor of public notice of and public access to all advisory board meetings.

FOR MORE INFORMATION CONTACT:

Agenda Development Office, County
Administrator's Office

REFERENCE:

Florida Statutes 286.011; Chapter 80-150,
Laws of Florida; Orange County Code,
Section 2-203; Florida Statutes 286.0105;
American's with Disabilities Act; Florida
Statutes 189.417