

**Town of Fort Myers Beach Town Council
Policies and Procedures Manual
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1. Introduction

This Town Council Policies and Procedures Manual is for the purpose of helping the Council Members in the discharge of their duties.

As the Town Council continues to discover situations that are unique to Fort Myers Beach, it will want to update and amend this manual. Experience may show that some of these policies and procedures need to be modified or eliminated and new ones adopted.

By adopting this manual, members of Council will find in one handy reference, answers to policy and procedure questions that come up from time to time. By having an agreed-upon guide, members of Council also may develop common expectations on proper conduct of Council meetings, dealings with the public, and the roles of Town staff and committees.

This manual should be used in conjunction with the Town Charter, Comprehensive Land Use Plan (Comp Plan), Land Development Code (LDC), Code of Ordinances (Code), and the annual budget as necessary. In the event of a conflict between this document and Florida Statute, Town Charter or other Town guiding documents, such other document shall prevail over the language in this Policies and Procedures Manual

2. Town Council Mission and Job Description

Mission: To legislate and police the powers of the Town, including establishing boards, commissions and committees. To perform all duties and obligations imposed on the municipality by law. To insure by strategic planning and clear policies that the unique and natural characteristics of the island are preserved.

Functions, Powers and Duties:

- Review and interpret the Comprehensive Plan and conduct public hearings as may be needed in order to make changes.
- Review and interpret the Land Development Code and conduct public hearings as may be needed in order to make changes.
- Conduct hearings regarding zoning matters.
- Introduce and approve Charter Amendments for adoption by referendum.
- Appoint a Town Manager.
- Appoint a Town Attorney.
- Establish Administrative Departments.
- Introduce and enact ordinances.
- Introduce and adopt resolutions.
- Review and adopt the Operations and Capital Improvement Budgets.
- Review and approve budget amendments.
- Create Special Assessment Districts as may be needed.
- Establish advisory committees as needed.
- Review and approve inter-local agreements.
- Review and approve contracts with the Town above the threshold limit allowed the Town Manager.
- Elect a Mayor and Vice Mayor.
- Perform any other duties that are lawfully defined by the Charter and Florida Statutes.

Council Member Requirements:

- Be a resident and registered voter and reside within the corporate limits of Town of Fort Myers Beach for a minimum of 1 year.
- File a Statement of Financial Interests (Form 1) with the Lee County Supervisor of Elections every year.
- Complete and file Form 1F – Final Statement of Financial Interest, within 60 days of leaving office.

Desired Council Person Qualities:

- Analytical – ability to research and analyze information and data
- Decisive
- Knowledgeable – Such as, the Town Charter, Comprehensive Plan, Land Development Code, Sunshine Laws, Parliamentary Procedure
- Communication – Listening, Speaking, Writing
- Proactive – identify and seek solutions
- Ethical - open, sincere and truthful
- Ability to work in a team environment
- Ability to work with and listen to people having diverse interests
- Fair with no strong allegiance to any individual or group
- Common sense
- Time to do the job effectively

3. How Town Council Will Operate

Principles and Values

Town Council should:

- Demonstrate Integrity
 - Keep promises*
 - Maintain high ethical standards*
- Show Self-Discipline
 - Accept responsibility for choices*
 - Follow a strict Code of Conduct*
- Be Proactive
 - Seek Town goals and visions*
 - Control our destiny*
- Show Empathy
 - Listen, think and then speak*
- Demonstrate Humility
 - Respect everyone and treat everyone with dignity*
- Use Teamwork
 - Together we will succeed*

Code of Conduct

Recognizing that persons holding a position of public trust are under constant observation, and recognizing that maintaining the integrity and dignity of the public office is essential for

maintaining high levels of public confidence in our institutions of government, every member of the Town Council pledges to adhere to the following CODE OF CONDUCT.

1. Regularly attend all scheduled meetings of the Town Council as well as special or called meetings relevant to the office.
2. Regularly attend all scheduled meetings of outside committees.
3. Prepare for each meeting.
4. Create a positive environment in meetings of Town Council.
5. Maintain an attitude of courtesy and consideration toward colleagues, citizens and staff during all discussions and deliberations.
6. Allow citizens, colleagues and staff sufficient opportunity to present their views, within the prescribed rules for conduct of meetings of Town Council.
7. Avoid the use of abusive, threatening or intimidating language or gestures directed at colleagues, citizens or staff.
8. Avoid comments, body language or distracting activity that conveys a message of disrespect and lack of interest.
9. Respect all local, state and federal laws, rules and other regulations.
10. Submit completed financial disclosure forms to the Lee County Supervisor of Elections by the specified deadline.
11. Publicly acknowledge the adopted position when asked about a decision of Town Council.
12. Read the Town Comprehensive Plan and follow its directives in all decision-making processes for the Town.
13. Follow the procedural and substantive requirements of the LDC.

Code of Ethics

Members should ethically serve the public interest by making decisions and taking actions that will enhance the public health, safety and welfare of the region and the citizens served by the Town Council and by promoting public confidence in the integrity, independence, ability and impartiality of Town Council.

1. Members should uphold the prestige of their office and avoid impropriety and the appearance of impropriety.
2. Members should not convey the impression that they are in a position to influence the outcome of a decision of Town Council and shall not attempt to use their office to influence or sway the professional staff recommendation.
3. Members should discharge their duties and responsibilities without favor or prejudice toward any person or group. Members should not allow personal or business relationships to impact upon their conduct or decisions in connection with Town Council business and shall not lend their influence towards the advancement of personal interests or towards the advancement of the interests of friends or business associates.
4. Members should avoid creating the appearance of impropriety by refraining from engaging in private discussions with the applicant or their representatives about specific upcoming Town Council agenda items without declaring ex parte communication. If a Member receives a private written, telephonic or electronic communication about an agenda item, the Member will promptly forward the information to the Town Manager and the Town Clerk so that it may be shared with all other Members and filed with the Town official records to comply with the Public Records Law requirements.

5. Members should refrain from any private discussion of Town Council business with other Members per the requirements of Florida's Government-in-the-Sunshine Law, Chapter 286, Florida Statutes.
6. Members should not accept or solicit a gift, loan, payment, favor, service, promise of employment or business contract, meal, transportation or anything else of value, if such thing is given with the understanding or possibility that it will influence the official action of the Members during Town Council proceedings. The same standard should apply to a gift, loan, favor, etc. for the spouse, child, relative or business partner of the Member.
7. Members should refrain from participation in any proceeding in which their impartiality may reasonably be questioned. A Member whose personal, employment or business relationship with a person or entity that is subject to a recommendation of Town Council shall seek the advice and counsel of the Town Attorney, if such relationship could conceivably influence the Member's impartiality during Town Council discussion of the subject. The provisions of Chapter 112, Florida Statutes, and the Code of Ethics for Public Officers and Employees, shall govern conflict of interest determination.
8. Members should not actively participate or interfere in a code enforcement investigation.
9. Members should remain vigilant against deviations from Town Council policies and procedures.

As a legislative and quasi-judicial body, Town Council must be ever cognizant of the important legal requirements of due process and equal protection. These principles are derived from the United States Constitution, the Constitution of the State of Florida, and Florida Statutes, the Town Charter, Town code and LDC, and apply to legislative and quasi-judicial actions.

The legal requirement for due process is separated into two prongs: substantive due process and procedural due process. The principle of substantive due process requires the benefits of a given regulation be within the scope of governmental authority, i.e., health, safety, morals, or general welfare, and that the regulations be accomplished in a rational manner, i.e., not be arbitrary or capricious. This is a principle of fundamental fairness in the substance of a given regulatory scheme or provision.

The other due process prong, procedural due process, requires a fair method of adjudicating the rights of property owners, requiring notice and an opportunity to be heard by an impartial decision maker. In legislative matters, this requirement is derived from Florida Statutes, the Town Code and LDC that provide the type and period of notice depending on the nature of the property interest subject to regulation at a public hearing. Quasi-judicial decisions have an underlying Constitutional requirement for procedural due process.

Equal protection limits governmental regulation from establishing irrational classifications, protects the rights of suspect and quasi-suspect classes, and assures against the exercise of fundamental or important rights of persons in ways different from others.

Key overarching principles to keep in mind is that every person must be treated equally and reasonably by the quasi-judicial or legislative substance and process and that decisions and recommendations be deliberated in an open process with adequate notice and allowance for participation of affected parties. Reasonable, consistent, and timely notifications in quasi-judicial matters to be heard by the Town Council provide an applicant and other parties potentially affected by a requested decision these fundamental protections.

Assignment of a Town Council Representative

Town Council may choose to assign a Member to lead a project or assess an issue. The Town Council Representative, or often-called a “Point Person,” may be assigned to do fact-finding and/or research, recommend a course of action and report back to Town Council for direction. Final decisions are made by a majority of Town Council.

Sunshine Issues

Members of Town Council and all Town advisory committees, boards and agencies are subject to the Sunshine Law (F.S. 286.011).

This means that any gathering of two or more members of the same advisory committee, board or agency must comply with all the Sunshine Law requirements if they participate in any discussion, directly or indirectly, regarding any matter where there is known or could be foreseeable action taken by the committee. Examples of indirect discussions are the use of email to a committee member or communication through a spouse or other go-between.

Town Council members cannot engage in discussions with each other (directly or indirectly) at outside meetings such as the Chamber of Commerce or Civic Association regarding any matter on which it is known or foreseeable that action may be taken, unless the Sunshine requirements are met.

These rules apply equally to any gathering, formal or casual, such as a Rotary Club (or other business or fraternal club gathering), fund-raiser, etc. They also apply to social events and functions unconnected to the advisory committee, such as a neighbor’s backyard barbeque. They also apply to casual discussions between or among members coming in the door for the committee meeting, at breaks during the meeting, and going out the door after the meeting. Every component of the decision-making process must occur in the Sunshine.

The penalties for violating the Sunshine law are severe and can include criminal and civil sanctions. The process of investigation of Sunshine violations is always unpleasant, embarrassing, and expensive, even if the person is ultimately cleared.

Email Policy

Email is a convenient way to communicate with staff, Town Council, Islanders and others. However, it presents unique legal and ethical challenges. All email regarding Town business must be properly retained as a public record. Any email regarding an issue that will come before Council in a quasi-judicial hearing must be properly disclosed as an ex-parte communication. Council members must be vigilant to not accidentally violate Sunshine Law requirements. Emailing anyone stating a position on an issue that will come before Town Council is particularly risky. Email actions to avoid include:

1. Sending an email to another Council member with anything that could be construed as a position.
2. Copying another Council member on a response to an email sent by an Islander, staff member or other person.

3. If someone sends an email stating a position being taken by another Council member, response to the sender that the email is a Sunshine issue and send a copy of your response to the Town Attorney.
4. If another Town Council member's email is "accidentally" forwarded to you respond to the sender recognizing its "accidental" nature, the fact that it is a Sunshine issue and retain a copy of your response.

Florida has a very broad public records law. Most written communications to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

Public Records

It is the policy of the State of Florida that municipal records shall at all times be open for personal inspection by any person (s.119.01, F.S.) To that end, the Legislature has enacted the Public Records Law (ch. 119, F.S.), which contains requirements that public records, as defined in s. 119.011, F.S., be made available for public inspection, they be kept in usable condition, they be kept in safe places, they be kept in convenient places, and copying of records be provided at reasonable costs.

As Council members, our responsibility is to not only be assured that our own public records are properly handled, but also to see that the law is adhered to by all employees of the Town. The Town Clerk has been assigned the responsibility of being the custodian of public records.

Most important is to know what is a "public record" that must be retained even after leaving office. As defined by the Government-in-the-Sunshine Manual, prepared by the Office of the Attorney General, a public record is "any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type." Documents of particular note for Council members would be inter-office or intra-office memos and emails. These materials should be made available to the custodian of public records. Emails on the Town website will be properly retained. Any use of personal email accounts for government business is allowed, but for a Council Person's own protection, it is suggested that these be copied to their Town email account for proper retention. Materials prepared for Town Council meetings, hearings, minutes and workshop will already be managed by the custodian of public records and do not need to be retained by the Council member. If there are any questions on retention of particular documents, consult with the custodian of public records and/or the Town Attorney before destroying.

4. Training Materials and First Meeting

Training Materials

Each new member of the Town Council will be provided copies of:

- Town Charter
- Comprehensive Plan
- Land Development Code
- Florida Code of Ethics

- Florida Sunshine and Public Records Laws
- Emergency Operations Plan
- Policies and Procedures Manual
- Town Personnel Manual
- Town Purchasing and Procurement Manual
- Other materials as determined by the Town Attorney, Town Manager and Town Council members

As part of a Council Person’s orientation, they will be provided a tour of the Town facilities with introductions with all staff members.

Training Recommendations

- Successful completion of National Incident Management System (NIMS) Courses IS-100, IS-700 and IS-704.
- Florida League of Cities, Inc., Institute of Elected Officials Basic IEMO Course.
- Making Good Planning Decisions
- Hands-on Emergency Operations Training
- Other courses as determined by the Town Attorney, Town Manager and Town Council members.

Election of Officers

At the first regularly scheduled meeting following the Town’s regular election, the Council’s Mayor and Vice Mayor will be chosen. In a non-election year the election of officers will take place at the first regularly scheduled meeting in April. Each Council member may nominate a person for each of these positions. A second is not required. A vote is taken in the order that a candidate was nominated. The positions are filled by a majority vote. If a majority is not received on the first ballot, a second ballot is taken for the two candidates receiving the most votes from the first ballot.

Outside Committee Representation

Charlotte Harbor National Estuary Program – www.chnep.org

Meetings: The Policy Committee meets the Third Monday every other month at 9:30 am.

Mission: The CHNEP is a partnership that protects the estuaries and watersheds from Venice to Bonita Springs to Winter Haven. This partnership gives citizens, elected officials, resource managers, and commercial and recreational resource users in the 4,700-square-mile study area a voice to address diverse resource management concerns including fish and wildlife habitat loss, water quality and water flow. The watershed in the study area includes all or parts of Lee, Charlotte, Sarasota, Manatee, Polk, Hardee and DeSoto counties.

Coastal Advisory Committee – www.lee-county.com

Meetings: Last Monday of each month at 9:30 am.

Mission: The Council’s charge is to advise the Board of County Commissioners, staff and the various related advisory boards when proceeding with a

project affecting beach and shoreline preservation regarding the proper methods in helping to conserve the Beaches of Lee County.

Horizon Council – www.lee-county.com/business

Meetings: First Friday of each month

Mission: The Horizon Council is the advisory board to the county commission on economic development issues. This unique public-private partnership is made up of 62 members from government, education, business and community organizations.

Established in 1991, the mission of the Horizon Council is to:

- Work toward improving the business environment in Lee County;
- Retain and encourage the expansion of existing businesses; and
- Attract new and diversified employment to the area.

Human Services Council – www.lee-county.com

Meetings: Third Tuesday of each month

Mission: The Council will ensure the efficient delivery of community health and human services through:

- Communication
- Coordination
- Strategic Planning
- Innovation
- Integration and collaboration
- Measurable Outcomes

Metropolitan Planning Organization – www.mpo-swfl.org

Meetings: Third Friday of each month at 9 am

Mission: The MPO is responsible for conducting a continuing, cooperative, and comprehensive transportation planning process for all of Lee County. It must plan for the movement of both people and goods within the county by all modes of travel--including highways, public transportation, bicycles, and foot. It also plans for the connections (such as airports, seaports, or bus, railroad, and pipeline terminals) linking these modes or tying us to the rest of the world.

The MPO sets priorities among surface transportation improvement projects within Lee County for state or federal funding. In order for them to be eligible for federal funds, federal law requires that the MPO endorse a transportation improvement program identifying the projects to be done over the next few years.

Southwest Florida Regional Planning Council – www.swfrpc.org

Meetings: Third Thursday of each month at 9 am

Mission: The Southwest Florida Regional Planning Council is a locally formed regional planning agency serving six counties: Charlotte, Collier, Glades,

Hendry, Lee, and Sarasota. Its mission is to protect and improve the Region's physical, economic, and social environment. The agency is directed by a thirty-four member Council composed of local elected officials and gubernatorial appointees.

The activities of the Southwest Florida RPC can be classified into three major areas: long range planning, tactical planning and transportation planning.

Estero Bay Agency on Bay Management - www.swfrpc.org/abm.shtml

Meetings: Second Monday of each month at 9:30 am

Mission: Its directive is to make comments and recommendations regarding the management of Estero Bay and its watershed. The ABM collects and maintains data and it reviews and comments to regulatory agencies on issues affecting the watershed.

5. Town Advisory Committees, Boards and Agencies

Standing Advisory Committees

Council Selection of Advisory Board, Agency and Committee Members:

Residency:

Except as required by Town Charter, Town Ordinance or Florida statute, residency on Fort Myers Beach will not be a requirement for nomination or election to a committee, commission, or board of the Town.

Advertising:

All advisory committees will be listed on the Town website. Information included will be the committee mission, current projects, when the committee meets and current members on the committee and whether submission of an annual Form 1 (Financial disclosure) is required by the Florida Commission on Ethics.

Openings for committees will be listed on the website with a date when applications must be submitted to the Town Clerk for consideration by Town Council. 30 days after proper notification, committee selection will be scheduled for Town Council to make selections. Advertising in local newspapers can be considered if approved by the Town Manager.

Preliminary matters:

- Council should decide how to go about voting prior to any voting taking place. Do not change mind or method during voting.
- Decide the number of members on committee ahead of time.

Voting:

1. Each Council member picks his selections, marking no more than the total number of seats available (or writes the names down), and initials his ballot.
2. Those receiving the most votes are selected to seats available.
3. If there is a tie for any number of seats still left open, there will be a runoff consisting only of the persons who are tied.

Example of voting procedure:

First Ballot:

Seats available – 9

Candidates – 15

Votes on First Ballot: Results of First Ballot

3 get 5 votes apiece 3 are elected

3 get 4 votes apiece 3 are elected

4 get 3 votes apiece 4 go on a second ballot

3 get 2 votes apiece 3 are eliminated

2 get 0 votes apiece 2 are eliminated

There would be a second ballot containing only the names of the four candidates who got three votes. Council would vote for three candidates. This process would be repeated in case of a tie until all seats are filled.

A variation on this method of voting is that after the first ballot, if there is a tie which prevents all of the seats from being filled, the runoff would consist of all of the unselected candidates, not just the ones involved in the tie.

4. The ballots are given to the Town Attorney, who, with the Town Manager, conducts the tallying and announces the results.
5. Once all selections are made, Council adopts a motion containing the new members' names.

Effective Date of Appointment and Follow Up

Newly appointed advisory board, agency and committee members who are required to file a Financial Disclosure Statement, will be notified of the disclosure requirements no later than the date of appointment. The Town Manager is responsible for such notification. These appointments should be made effective as of some future date, so that there is sufficient time to provide the required notification. For convenience, the notice could be accompanied by a copy of the required disclosure forms, which are available from the Supervisor of Elections or on-line from the Florida Commission on Ethics (<http://www.ethics.state.fl.us/>).

Ad Hoc Committees

Town Council has the authority to form ad hoc committees requesting participation by volunteers. Ad hoc committees can be used at Town Council's discretion to address specialized and or short-term Town issues.

The mission, specific objectives, expected products, membership and timelines of an ad hoc committee should be clearly stated and agreed to by Town Council. One Town Council member will be an ex-officio member of each ad hoc committee. If the issue is controversial or involves significantly diverse opinions, an attempt will be made to have a balanced committee membership. Minutes or verbal reports will keep Town Council informed on a regular basis. A final report will document findings and recommendations, and will be presented at a Town Council meeting or workshop.

Ad hoc committees are subject to the public records laws, sunshine laws, quorum and statutory ethical requirements. It is the Town's responsibility to ensure that each committee member is educated on these issues.

Outline of Committee Orientation Material:

- Meeting Requirements
 - o Notice
 - o Location Requirements, such as ADA compliance
 - o Agendas
 - o Minutes
 - o Quorum
- Sunshine Requirements
- Public Records Requirements
- Statutory Ethical Requirements

6. Meeting Preparation and Planning

Meeting Schedule

Regular meetings of Town Council are normally scheduled for the first and third Mondays of each month. The meeting on the first Monday of the month will commence at 9:00 am. The meeting on the third Monday of the month will commence at 6:30 pm. If a scheduled Council meeting falls on a holiday, the meeting will be rescheduled as soon as possible, and generally one week later. Land-use matters will be heard at any regular or special meeting of Town Council. Management and Planning meetings (M&P's) are scheduled for the third Wednesday of the month and will commence at 9:00 am. M&P meetings are for discussing financial issues for the Town. Workshops, special, continued or rescheduled meetings will be determined by consensus of the Town Council members, the Town Manager and Town Attorney.

As a matter of general policy, any special meeting or workshop desired by Council shall be held immediately before, immediately after, or incorporated into a regularly scheduled meeting rather than be set at a separate time. This shall not be construed to be in derogation of Section 4.11 of the Town Charter regarding special meetings.

Source of Items

Items for Town Council agendas are generated by requests and/or legislation (ordinances or resolutions) from members of Town Council prepared by the Town Attorney, requests and actions from the Local Planning Agency, continuations from previous council meetings, in addition to anything Council members, the Town Manager or Town Attorney may wish to have included. Some of these inquiries are routine and can be handled by staff because Town Council policy and procedures have been previously approved which apply.

When an item arises that requires Town Council action either to make a decision or to direct staff or the Town Attorney how to proceed it will appear on the agenda identified as a Council member's request or as an item under the Town Manager's section of the agenda which is the "catch all" for miscellaneous items, or Town Attorney's section, as appropriate.

For an item to appear on an agenda, an individual Council member need only direct the Town Manager to do so, provided time schedules allow. (Note the agenda preparation timetable below.) Any material written and distributed by Council members as part of the agenda should be included in Council members' packets — allowing ample time for review. This preserves the integrity of the seated Council, conforms to the Florida Public Records laws and lessens the opportunity for misunderstandings and miscommunication. No significant Town staff or Town Attorney time will be spent on an agenda item requested by an individual Council member without approval by a majority of Council in advance.

Written requests to be placed on a council agenda from the general public should be submitted directly to the Town Manager.

Timetable and Preparation Process

Absent an emergency or a pressing need, items and any back-up material shall be submitted to the Town Manager by noon of the eleventh (11th) day preceding the next regular Council meeting to be considered for inclusion on the agenda. The Town Manager and Town Attorney will finalize the items and their order by 4:00 PM on that day. A draft agenda will then be sent to Town Council for review and comment within 24 hours.

Absent an emergency or a pressing need, by 4:30 pm on the seventh day preceding the next regular Council meeting, a packet including the finalized agenda and supporting material will be placed in the Council members' mailboxes and delivered to the Fort Myers Beach Public Library if possible.

The Council members packets include complete documentation for agenda items (actions required, implications, backup information, memos, ordinances, resolutions, etc.) A sincere effort is made to see that Council packets are complete; if something is not available, a written explanation will be provided. As a general rule, items requiring documentation (recommendations, memos, ordinances, resolutions, etc.) will not be included on an agenda until the documentation is complete.

The agenda is posted at Town Hall, on the Town website and at the Fort Myers Beach Public Library. Copies of the agenda are available to the public. Town Council agendas will be advertised in local newspapers.

Occasionally an item comes up late and may be placed on an amended agenda, or as an "add on" (added too late to be included on the published agenda). Such additions are kept to an absolute minimum so as not to burden the Council or the public with items not receiving sufficient advance notice. Important, potentially controversial items are not made as "add on items" except in extreme emergencies. The Town Council chair may modify the order of the agenda subject to the approval of the Town Council.

Length of Agenda Items

In order to set reasonable agendas, the Town Manager shall use best efforts to establish the time needed for presentations, public comment and subsequent discussions of agenda items. Any person submitting topics to the Town Manager shall provide an estimate of the time needed. If

the time needed for a hearing, legislative matter or administrative topic exceeds the allotted time by more than 15 minutes, the Chair may table the item until later in the meeting or continue the item until a subsequent meeting upon approval of Council. Town Council members should be cognizant of time limits and act appropriately.

Continued Hearings and Legislative Issues

It is the goal of the Town Council to complete a hearing during the scheduled meeting. If additional time is required and the hearing must be continued to a later date, any Town Council member who missed the initial hearing should attempt to review the DVD prior to participating in the continued hearing or legislative discussion and resolution.

If the applicant submits new information or modification(s) to previously submitted information at the hearing, or immediately prior to the hearing, the Town Council shall consult with the Town Manager and the Town Attorney to determine if a continuance of the hearing is appropriate and proceed accordingly. Nothing contained in this section shall be construed to limit the Director's discretion to defer or continue the public hearing as set forth in LDC Section 34-213(3).

If substantive changes have been submitted by an applicant for a quasi-judicial land-use hearing subsequent to the recommendation made by the Local Planning Agency (LPA), Council may consider continuing the hearing to allow the LPA time to review the changes and make a recommendation.

Special Events

- Town Council will be noticed of any new special event application inclusive of a request regarding music or outdoor events or alcohol. Any Council member may put this matter on the next available agenda for full Council consideration.
- Town Council will be noticed of any event application, new or otherwise, which contains a funding request. Any Council member may put this matter on the next available agenda for full Council consideration.
- The Town Manager or designee shall provide advance notice to Town Council as to any application for a recurring special event with music or an outdoor event and any Councilmember may put this matter on the next available agenda for full Council consideration.
- The Town Manager or designee handles all other special event applications administratively.
- This section shall not be in derogation or limitation of any Town ordinance regarding special events.

Attendance Policy

The Charter states: "A member of Council may forfeit the office, if the member: (d) Misses three consecutive regularly scheduled Council meetings." This statement recognizes that because of the significant meeting preparation required by staff, applicants and other supporting personnel it is imperative that a quorum of the Town Council members be present for all noticed meetings. The Town Manager should be notified of a planned Council member's absence as soon as known. The Town Manager or designee will notify the Town Attorney and Mayor. It is important that the Town Council know that it will have a quorum of its members prior to

notification of a meeting/hearing. Florida Statutes require notice of a public hearing at least seven (7) days before a scheduled meeting. Town Council has the discretion to define what will be an “excused” absence. The policy of Town Council is that if an absence is reported at least fourteen (14) days prior to a planned meeting the absence will automatically be considered an excused absence. This will allow sufficient time for a planned meeting to be rescheduled if it appears that a quorum will be questionable.

Telephone Participation

A Council member may participate in a Town Council meeting via telephone or videoconference if one of the following conditions is met:

1. There is a medical reason for unavailability, or
2. Permission is granted from the Council for an “extraordinary circumstance.” A quorum of Town Council members must be met without the missing Council member in attendance.

Teleconferencing for quasi-judicial hearings is not recommended when visual props will be used.

7. Meeting Procedures

Order of Agenda Items

Generally the agenda will proceed in the following order:

1. Call to Order
2. Pledge of Allegiance
3. Invocation
4. Approve final agenda
5. Proclamations, Recognition, and Awards
6. Public Comment (Any issue can be discussed, but if an agenda item is addressed, the speaker cannot comment at the time such agenda item comes up. For testimony to be considered for a public hearing, it must be made during the hearing.)
7. Approval of Minutes (Requires a motion and vote.)
8. Consent Agenda
9. Advisory Committee Items and Reports
10. Public Hearings of proposed ordinances (At conclusion of hearing, requires motion and a roll call vote.)
11. Administrative Agenda
 - a. Introduction of proposed ordinances (Requires a motion and a vote for passage.)
 - b. Resolutions (Requires a motion and vote for passage.)
 - c. Unfinished business (Items from previous agendas scheduled by Town Manager. Should be listed separately on the agenda.)
 - d. New business (Scheduled by the Town Manager; should be listed separately.)
12. Final Public Comment (not limited to Agenda items)
13. Town Manager’s Items and Reports
14. Town Attorney’s Items and Reports
15. Council Members Items and Reports
16. Agenda Management
17. Review New Actions from Meeting
18. Adjournment (Requires a motion and vote – no second is required. It is a privileged motion allowing no discussion before vote.)

Conduct of Council Meetings

The Mayor will conduct Council meetings, and in the Mayor's absence the Vice Mayor will do so.

Robert's Rules of Order shall be the reference for parliamentary procedure governing the conduct of Town Council meetings when not in conflict with the Town Charter, Town Ordinances or Florida Statutes. It is not intended that Council meetings be unnecessarily formalistic, but rather that parliamentary procedure will be invoked only when necessary for orderly conduct of the meeting.

All participants and audiences at Town Council meetings are expected to exhibit common courtesy and proper decorum. No personal attacks will be tolerated.

Individuals wishing to speak during the Public Comment times must (1) fill out an index card (available in the meeting room) indicating their name and the topic they will address and (2) give that card to the Clerk prior to the start of the meeting. When recognized by the Chair, the speakers will advance to the podium and state their name for the public record. Public comments will generally be limited to three minutes per speaker. The Chair may modify the three-minute limit with approval by vote of the council. The Public Comment times are intended as opportunities for interested parties to present their viewpoints to the Council members. They are not intended as question-and-answer sessions or as dialog with the Council. Response to questions and/or clarifications requested during public comment may, with the approval of Town Council, be answered immediately if there is a straight-forward, short answer, directed to the appropriate person for response at a later time or placed on an agenda for a future Council meeting.

After a proper motion and second, discussion by the Council members shall be limited to agenda items with expression of ideas, facts and conclusions. No member will speak twice on the item until all others who want to speak have spoken.

The time period for Council members comments is intended as an opportunity for Council members to share their viewpoints with each other. Since this opportunity does not exist outside of Council meetings under the Florida Sunshine Law, this is the primary purpose of this time and it generally should not be used to obtain information from the Town Manager or Town Attorney, which could be obtained outside of the Council meeting. It is intended primarily for presentation, not discussion. While there is no time limit or censorship on comments, Council members should take into consideration the total time available in the meeting for the published agenda and the time allocated for the specific item in the agenda.

Any Council member may present resolutions. They are reviewed by the Town Attorney and require a motion and a vote.

The approval of the minutes is intended for Council members to accurately document the proceedings of the Town Council. Before moving approval the minutes should be amended, if necessary, to more accurately portray what occurred at a Council meeting. This time is not intended for comment or discussion on what should have or should not have been done, but rather to document what actually was done.

Rules of Civility for Public Participation

The Town of Fort Myers Beach Town Council recognizes that public discourse is essential to the democratic system of government. It also embraces civility in public deliberations. Rules for public participation while conducting meetings and workshops are as follows:

1. Speakers are permitted to deliver his or her comments without interruption, absent inappropriate language, conduct or personal attacks.
2. Speakers and debates should focus on issues, not on persons or personalities.
3. Persons are encouraged to participate in the governmental process.
4. To allow time to hear all points of view, speakers are allotted 3 minutes.
5. Sidebar discussions while others are speaking are not permitted in Council Chambers. These discussions are to be removed from the chamber so as not to be disruptive to those conducting and following Council business.
6. Only the speaker recognized by the Chairperson has the floor. Speakers should identify themselves for the record. Speakers should utilize the microphone so that their comments can be recorded.
7. We seek to understand one another's points of view.
8. Anger, rudeness, ridicule, impatience and lack of respect for others are not acceptable behavior. Demonstrations in support or opposition to a speaker or idea such as clapping, cheering, booing or hissing or intimidating body language are not permitted in Council Chambers or workshop facilities.
9. We should all take initiative to make things better. Our goal is to foster an environment, which encourages a fair discussion and exchange of ideas without fear of personal attacks.
10. No use of profanity will be tolerated.

Minutes

Notes will be taken of all meetings and work sessions. The notes are then transcribed into summary minutes that become the written record of subjects discussed, conclusions reached, actions taken and assignments given. The minutes include the names of all those participating in the meeting including Council members, staff, Town Attorney; applicants, their attorneys and witnesses, and people who offer public comments. The minutes also serve as a record of motions and votes on all Council decisions.

Once completed, the minutes are provided to Council members for approval at their next meeting. Once approved by Council, the original is filed in a secured file and a copy is placed on the Town's web page.

Town Council minutes are not verbatim. Video recordings are considered to be the legal record of the meeting, and copies are available at the request of the public or anyone who wishes to listen to the meeting or a portion of the meeting. The original DVDs are stored in a secured area for safekeeping. Any request for production of a verbatim transcript, in whole or in part, of any meeting, workshop or other function of the Town Council or any Town Committee thereof by Town staff or paid for by the Town shall require prior consent of the Town Council, except for such requests as are initiated by a Court of competent jurisdiction or quasi-judicial officer in the proper exercise of its powers.

Council Members Items and Reports

Items and Reports time is set aside for Council Members to report on activities of interest to fellow members, staff and the public. Council Members are encouraged to send as much information as possible prior to the meeting. Unless an issue is time sensitive, the item will be placed on a future agenda if a vote is required.

Agenda Management

The Town Manager is responsible for compiling and distributing a schedule of future meetings and work sessions.

Action List

The Town Manager is responsible for compiling and distributing a list of action items that includes a short status and expected date of completion.

How Voting Order is Established for Role Call Votes

The voting order for calling the roll on Town Council votes will start with the motion maker and move from right to the left of the Chair.

Votes on ordinances require a roll call vote; any Council member may call for a roll call vote on any motion before the Council.

Voting – Abstention

Florida law severely restricts the ability of Council, commission, board or committee members to abstain from voting on issues. Florida only permits abstention where there is or may appear to be a financial conflict of interest.

This means that the member must vote yea or nay on all issues upon which a vote is taken, unless the measure inures to her/his special or private gain, or gives the appearance of doing so. Conversely, if the measure does inure to his special or private gain, he/she is prohibited by law from voting upon it and must abstain.

Memorandum of Voting Conflict for County, Municipal and Other Public Officers. This must be filled out by any member who abstains and must be filed within 15 days with the Clerk. Instructions are on the form. It must be incorporated into in the minutes.

What should a member do?

1. If the measure being voted upon is not going to result in a special financial benefit to the member or his relatives, as defined by Florida statute, the member must vote.
2. If the measure being voted upon is going to result in special financial benefit, the member must not vote and must file the appropriate documents promptly.

If there is a doubt, see the Town Attorney. Staff members, including recording secretaries, should also be alert to abstention rules so that errors can be avoided. Copies of Form 8B shall be available in Council Chamber for ready use by Town Council members.

Voting Conflicts

Florida Statute has very specific rules regarding voting conflicts

If a Town Council member has a voting conflict, he/she must disclose that conflict in writing to Town staff prior to the meeting in question and this disclosure must be publicly read. A form is available from the Town Clerk. The rules also contain an exception for disclosure at the meeting itself. A Town Council member is permitted to participate in the discussion, but cannot vote on the subject. The specific rules are set out in F.S. 112.3143(3)(a), quoted below:

(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. [112.312\(2\)](#); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

NOTE: F.S. 112.3143(b) defines “relative” as follows: “any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.”

Guidelines for Legislative Hearing Procedures

1. The Chair opens the hearing on.....
2. Staff presents Affidavit of Publication or copy of the legal advertisement from the Newspaper of Record, which shall become an exhibit to the Hearing’s resulting Resolution.
3. The Chair or Town Attorney reads the ordinance caption.
4. The Town Clerk, Town Manager or designee, or Town Attorney presents the Affidavit of Publication for approval by Council.
5. Staff and/or the Town Attorney present(s) a brief overview of the ordinance.
6. Public input is taken.
7. Public input is closed.
8. Town Council members ask questions, if any, of staff/Town Attorney.
9. Town Council members discuss ordinance, including changes, deletions, etc.
10. A motion is made and seconded to either pass the Ordinance as-is or with modifications, or to take some other action.
11. The Motion is discussed and voted upon, with roll call voting as appropriate. Upon consideration and passage of all appropriate motions, the Chair declares the hearing on the ordinance to be concluded, continued, tabled, or other action in conformity with the Motion.

Notes:

- There is no ex parte disclosure for legislative hearings.
- Members of the public are not sworn in.
- Generally there is no discussion between Town Council and public.
- The above is intended as a guide and the Council may conduct the legislative hearing utilizing another procedure, so long as due process requirements are met.

Guidelines for Quasi-Judicial Land Use Hearing

1. The Chair opens the hearing.
2. Staff presents Affidavit of Publication or copy of the legal advertisement from the Newspaper of Record, which shall become an exhibit to the Hearing's resulting Resolution.
3. The Town Clerk, Town Manager or designee, or Town Attorney presents the Affidavit of Publication for approval by Council.
4. The Chair asks if any Council member has had an ex parte communication regarding this matter. This includes any site visit, receipt of expert opinion, conducting of investigations, discussions with any person, or any direct or indirect communication in any form with any person outside a public hearing and not on the record. See Section 34-52 of the Land Development Code.
5. All witnesses are sworn in. This includes Town staff, applicant and applicant's representatives, and anyone who wishes to make public comment on this case. All persons are requested to state their name for the record when they address the Council.
6. The applicant presents its case.
7. Town Council may ask clarification questions of applicant. *
8. Staff presents its case.
9. Town Council may ask clarification questions of staff. *
10. Local Planning Agency representative, if available, presents LPA recommendation. Town Council may ask clarification questions of LPA representative.
11. Public comment/testimony is opened. At its conclusion, the Chair closes the public comment/testimony portion of the hearing.
12. Applicant presents rebuttal, if any. Town Council may ask detailed informational questions of applicant. **
13. Staff presents rebuttal, if any. Town Council may ask detailed informational questions of staff. **
14. The testimony portion of the hearing is closed, and Council discussion starts.
15. Council votes on a resolution or takes other action.
16. The hearing is closed or continued, or other action is taken in conformity with the successful motion, and the time of closure is verbally noted for the record.

* Council has determined that these Council questions are to clarify the applicant's and staff's presentations of factual information and are intended to be short Q's and A's.

** Council has determined that these Council questions are to discuss detailed, substantive matters involving the application.

NOTE: The above is intended as a guide and the Council may conduct the quasi-judicial hearing utilizing another procedure, so long as due process requirements are met.

If new evidence is submitted prior to or at a Town Council hearing for a quasi-judicial matter subsequent to the final LPA hearing, Town Council can choose to:

1. Send the matter back to the LPA for review and recommendation,
2. To continue the hearing to provide sufficient time for the staff and Town Attorney to make recommendations, or
3. To complete the hearing if agreeable to the staff and Town Attorney.

8. Reimbursement Procedures

Travel Expenses

It is the desire of the Town of Fort Myers Beach that Town Council members be reimbursed for certain expenses incurred while traveling on Town business. This section of the manual is designed to define maximum limits for travel expenses authorized by Town Charter and Ordinance. In the event that this section conflicts with Florida statutes, including but not limited to F.S. 112.061 (per diem and traveling expenses of public officers, employees, and authorized persons), Town Charter, Town Ordinance and/or the Land Development Code, such other document(s) shall supersede this section.

These procedures are applicable to all Town officials, employees and authorized persons when making claim for travel expense allowances. They shall apply to the Town Council and Town Manager when authorizing, approving and reimbursing travel expenses.

Authorization:

Authorization to incur travel expenses will be subject to the following rules:

1. All regular travel and mode of travel must be authorized by budgetary action and approved in advance by the Town Manager. Under no circumstances shall a travel allowance be paid without prior approval.
2. Local mileage allowance will be authorized by budgetary action and approved in advance by the Town Manager.

Method of Travel:

All travel should be by the most economical method of transportation available. Extra costs due to travel by an indirect route which is less economical will be borne by the traveler.

It is the policy of the Town that air travel will be by use of air coach operated by a scheduled airline. Use of common carrier, other than air coach, will not be authorized if air coach service is available absent an emergency or exigent circumstance.

Private airplane expense may be authorized when justified by convenience for the Town. Private airplane expense cannot exceed common carrier air coach fare to the same destination absent an emergency or exigent circumstance.

Travel by privately owned vehicle may be authorized in lieu of common carrier. No transportation allowance shall be paid when the traveler is gratuitously transported by another person or by another traveler who is entitled to a transportation allowance.

Forms Used:

The following forms are used in compliance with this procedure:

- Travel Approval Request, Form. This form is used for obtaining approval of method of travel, travel advances and prepayment of registration fees and tuition.
- Travel Expense Report, Form. This form provides for entering all information necessary to support claims for travel allowances.
- Mileage Certificate, Form. This form provides for entering all information necessary to support claims for local or vicinity mileage.

Travel Allowances:

All travel allowances must be for official Town business and within the limits prescribed by Town Charter and/or Ordinance. Convention, conference or school travel is further restricted by the provision that attendance must serve a direct public purpose with relation to the Town. Following are the only expenses authorized to be claimed as travel expenses.

Transportation Allowances:

- Fare - Commercial, not to exceed Coach fare, utilizing the most economical route available.
- Mileage - The mileage allowance shall not exceed the current established rate per mile for mileage traveled either during regular travel or local trips in the immediate vicinity of the Town. The current mileage rate is available in the personnel manual.

Lodging Allowances:

Reimbursement for lodging shall be at the single occupancy rate. Cost of lodging must be supported by paid bills. Choice of lodging shall be appropriate to the purpose of the travel and economical.

Meals allowance:

- Breakfast – as recorded in the personnel manual.
- Lunch – as recorded in the personnel manual.
- Dinner – as recorded in the personnel manual.
- Actual cost for meals may be allowed when travel is in high cost areas and reimbursement is approved by the Town Manager. Paid receipts shall be furnished to support reimbursement in excess of the general allowance.

Other Expenses:

The following incidental travel expenses may be reimbursed:

- Taxi, ferry, and tolls
- Auto storage and parking fees
- Communication expenses incurred while transacting Town business
- Miscellaneous expenses not to exceed \$30.00 per trip, unless specifically approved by the Town Manager.
- Actual costs of registration or tuition fees while attending a convention, conference, short course or school
- Reasonable tips and gratuities.

Travel Approval Procedure

A Travel Approval Request must be processed if the traveler expects to be reimbursed for expenses incurred during the trip. Each traveler must make separate requests, even if several persons are traveling together. After preparation, the request will be processed in accordance with the following instructions:

1. The traveler will sign the request and obtain Town Manager's approval. The original will be filed in the Travel Pending file until the Travel Expense Report is received.
2. If a pre-payment is requested, a copy will be filed along with a Direct Expenditure Voucher to the payee in the amount of the pre-payment. Also, brochures will be attached when attending conventions, conferences, short courses, or school. Upon approval by the Town Manager, a check will be issued for the amount requested.

Travel Expense Procedure

A Travel Expense Report will be submitted within ten days after return from travel. The traveler will sign the report and submit it to the Town Manager for approval. After approval payment will be made. If a travel advance was made and was more than the expense, the traveler must attach a personal check for the difference.

Mileage Certificate Procedure

A Mileage Certificate form will be used in making claims for mileage traveled on local trips in the immediate vicinity of the Town when no automobile allowance is authorized. The certificates will be submitted within thirty days after the mileage was traveled. The traveler will sign the report and submit it to the Town Manager for approval. After approval payment will be made.

Business Expenses

From time to time it may be necessary for the Mayor, Vice Mayor, members of Town Council, the Town Manager, the Town Attorney and/or other Town officials to entertain various Federal, State and county officials while transacting official Town business. Such business expenses would normally include lunches and/or dinners. A Direct Expense Voucher may be submitted for reimbursement and must be signed by the person requesting reimbursement, and the Town Manager. Invoices must be attached as supporting documentary evidence.

Educational Reimbursement

The purpose of the Educational Reimbursement Program is as follows:

1. To encourage Town employees, elected and appointed officials to improve their knowledge and skills needed for the Town's effectiveness.
2. To increase the quality of Town employees through the pursuit of study directly related to their career goals.
3. To comply with applicable state and federal laws.

Eligibility:

Employed as a full-time permanent employee, elected or appointed official of the Town.
Funding must be available in the budget to cover these expenses.

Allocation of Funds:

1. All approved educational programs are reimbursable when the Conditions of Reimbursement have been met.
2. All books, materials, supplies, transportation and meal expenses are reimbursable. At the conclusion of the course, the books and materials, along with a brief synopsis of the course and its value to the employee or elected official shall be added to the Town Hall library.

Conditions of Reimbursement:

1. Course must be related to applicant's present job or elected position.
2. Budget must include sufficient funds to cover reimbursement.
3. Payments will be made only upon submission of evidence of fee payment and satisfactory completion of the course, with a "C" average or better. These must be presented within thirty days of completion of the course. Applicants will be required to pay any necessary fees prior to the starting of the course. No reimbursement will be made for courses that are not satisfactorily completed or for incomplete courses.
4. If an employee is discharged or quits before completing the course, no tuition refund will be paid.
5. In the event of a lay-off, the Town will still pay the refund when it comes due, if all conditions are met and proper procedures are followed, as outlined in this section.

Form Used:

The Educational Reimbursement Request Form is used in compliance with this procedure. This form is used for obtaining approval of reimbursement prior to enrollment and for collecting reimbursement after successful completion of the course.

Procedure - Applying for Approval:

The applicant, prior to enrollment in a class, completes the Educational Reimbursement Request form. A separate form is used for each course.

The applicant signs the form and forwards it to the Town Manager for approval. The Town Manager determines if the request is acceptable based on the above criteria. If not approved, the Town Manager indicates the reason for non-approval and returns the request form to the applicant. Approved request forms are filed in the Reimbursement Pending file.

Procedure - Collecting the Reimbursement:

Within 30 days of completion of the approved course, the applicant sends a copy of the Educational Reimbursement Request form to the Town Manager along with the official grade report and proof of payment of fees. After the copy has been matched with the corresponding form in the pending file, payment is made.

The above are guidelines only; there may be variations if, in the opinion of the Town Manager, it is warranted.

If the course is reimbursable from another source, e.g., the Veterans Administration, then the provisions of the Town's educational reimbursement plan do not apply.

The number of courses for which one can receive reimbursement will be determined on the basis of the value of the courses to the individual and to the Town, and of the budget limitations.

Town Personnel Manual

Details of reimbursement amounts and procedures are documented in the Town Personnel Manual. Town Council must approve changes to the manual via a resolution.

9. Council Communications Policy and Processing Procedures

Council Communications Policy

Any communication by individual council members to the media, other governmental agencies, or in public forums should, as clearly as possible, distinguish between personal opinions and actions or direction taken by Town Council. This policy in no way means to censor viewpoints or restrict individual rights, but is solely suggested to preserve the integrity of the Council, staff, and the Town.

Policies on Letters, Faxes, and Memos:

No Council member or member of staff shall, at any time, in written or verbal form, insinuate, accuse, or make statements which cannot be substantiated by real evidence, e.g., minutes, correspondence, personal testimony. Once again, this policy is adopted to preserve the integrity of the Council, staff, and Town.

Mail Processing Procedures

Mail for the Town should be addressed to: 2523 Estero Boulevard, Fort Myers Beach, FL 33932

All mail is opened stamped and distributed. (It is all public record)

Council mail is given to the Administrative Assistant to log and process. Any Council mail that needs a prompt or detailed answer is pulled, copied, and a draft response is prepared for review, usually by the Mayor. The original is distributed, along with other mail; with a note stating a draft response is being prepared. When the response is finalized, it is copied and distributed to all Council members for reading at their leisure.

Communications With Potential Applicants for Zoning and Communications With Vendors or Service Providers

The following section of the Town's Land Development Code specifies regulations regarding communications with public officials in non-quasi judicial matters and ex parte communications with public officials in quasi-judicial matters.

Sec. 34-52. Communications with public officials.

(a) *Definitions.* The following terms and phrases, when used in this section, shall have these meanings:

Ex parte communication means any direct or indirect communication in any form, whether written, verbal or graphic, with the town council or local planning agency, by any person outside of a public hearing and not on the record, concerning substantive issues in any proposed or pending quasi judicial

action relating to appeals, variances, rezonings, special exceptions or any other quasi judicial action assigned by statute, ordinance or administrative code.

Legislative action means the formulation of a general rule or policy, such as enacting a comprehensive plan or a comprehensive rezoning of multiple properties.

Public official means an elected or appointed member of a town board or commission that recommends or takes quasi-judicial actions, specifically including all members of the town council and the local planning agency. Members of the town staff are not public officials under this definition unless they also serve on a board or commission that recommends or takes quasi-judicial actions.

Quasi-judicial action means the application by the local planning agency or town council of a previously adopted general rule or policy that will have an impact on a limited number of persons or property owners, such as individual appeals, variances, rezonings, and special exceptions.

Unrestricted communication means any communication by the public with public officials which are specifically allowed and encouraged, for instance, communications regarding the town budget or the general welfare of the community; or legislative actions such as proposed ordinances or general changes to the Fort Myers Beach Comprehensive Plan.

(b) Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the public official is a member.

(1) Except for quasi-judicial actions (such as appeals, variances, rezonings, and special exceptions), the town encourages unrestricted communications between all public officials and town residents, visitors, businesspeople, and property owners.

(2) When discussions on pending quasi-judicial actions (such as administrative appeals, variances, rezonings, and special exceptions) take place *prior to* an advertised public hearing, the following procedures, which mirror those in F.S. § 286.0115(1), shall remove any presumption of prejudice arising from such ex parte communications with public officials:

a. The substance of any ex parte communication with a public official which relates to quasi-judicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

b. A public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a public official shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

c. Public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

d. Disclosure made pursuant to subsections a., b., and c. must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication. This subsection does not subject public officials to the Code of Ethics for Public Officers and Employees (part III of F.S. ch. 112) for not complying with this paragraph.

Lobbying

No professional consultant shall submit any proposal to the Town for the performance of any services unless full disclosure is made prior to or concurrently with the submission of the proposal. The consultant shall have the obligation to amend any disclosure filed or file appropriate disclosures with the clerk upon utilization of the services of a lobbyist as defined herein whether same occurs before or after the employment of the consultant. Such disclosure shall include the following:

1. The name of any lobbyist, employed directly or indirectly by the consultant for the purpose of influencing or attempting to influence the selection of the professional consultant by the Town.
2. The name and address of the lobbyist.
3. The length of such agreement, contract or understanding and the amount of any fee, gratuity, compensation or consideration paid or promised to be paid to the lobbyist either before or after hiring whether or not same is set out as compensation for the lobbying or is for other services.

The disclosure shall be filed with the clerk and such records shall be open to the public.

A lobbyist who receives compensation directly or indirectly on an item before the Town shall register with the clerk prior to engaging in any lobbying activity within the Town. This shall be a continuing requirement. Every person required to register as a lobbyist shall register on forms provided by the Town and shall state under oath his name, business address, and the name and business address of each principal represented. A separate registration form shall be required for each principal represented. All registrations shall be open to the public.

10. Non-Discrimination Policy

It is against the public policy of the Town for the governing body of the Town or any Town agency, board, commission, department, or office, to refuse to hire or employ, to bar, or to discharge from employment any person or to otherwise discriminate against any person with respect to compensation, hire, tenure, terms, conditions, or privileges of employment, if the individual is the most competent and able to perform the services required, solely because of the race, color, national origin, sex, handicap, or religious creed of any individual.

11. Harassment Policy

The Town of Fort Myers Beach recognizes the value of diversity among its employees and Town Council members as a benefit to helping understand and meet the needs of its citizens. To that end, the Town Council respect for the differences of others.

Policy: It is the policy of the Town of Fort Myers Beach (FMB) Town Council to provide and maintain a work environment free from harassment. FMB maintains a strict policy of prohibiting harassment based upon race, sex, religious belief, color, national origin, ancestry, disability, age, or any other category of persons protected by federal, state, or local law, ordinance or regulation.

Workplace Harassment

1. Workplace Harassment is a form of employment discrimination. For workplace harassment to occur the “harassing behavior” *must* be on the basis of race, sex, religious belief, color, national origin, ancestry, disability, age, or any other category of persons protected by federal, state, or local law or ordinance or regulation. An unpleasant or harsh work environment is not a “hostile work environment” without a discriminatory basis for the behavior.

2. Pursuant to the guidelines on discrimination issued by the Equal Employment Opportunity Commission (EEOC), Lee County has adopted a formal policy prohibiting harassment in the workplace and adopts the EEOC definition of harassment as follows:

a) Verbal, nonverbal, or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, sex, national origin, ancestry, age or disability, or that of his or her relatives, friends or associates, and that (1) has the purpose or effect of creating an intimidating, hostile, or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual’s work performance; or (3) otherwise adversely affects an individual’s employment opportunities.

b) Harassment, sexual or non-sexual in nature, violates Title VII of the Civil Rights Act, is illegal, inappropriate, and is against Lee County policy. The Lee County Manager and the County Attorney are responsible for promoting a supportive atmosphere that makes it clear that any harassing behavior will not be tolerated.

Sexual Harassment

As part of its continuing efforts to maintain a productive workplace, Lee County has adopted a formal policy prohibiting sexual harassment in the workplace. Sexual harassment may be defined as unwelcome, one-sided attention, sexual advances, requests for sexual favors, or other unwanted verbal or physical conduct of a sexual nature that may come from supervisors, managers, co-workers, citizens, or other individuals in the workplace or at any County-sponsored activity, program, party or trip whether at the work site or not – regardless of the gender of the parties involved.

The following constitute sexual harassment:

Quid pro quo Harassment

a) Acceptance of such conduct is made a term or condition of an individual’s employment either explicitly or implicitly;

b) Acceptance, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual; or

Hostile Work Environment Harassment

c) Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile or offensive working environment. This form of harassment is normally repetitive behavior, not a single incident, unless the actions are egregious in nature.

Internal Complaint Procedure

Employees having reason to believe they have been subjected to harassment are urged to bring their concerns to the attention of the Director of Human Resources.

(a) Reporting Complaints

Employees or Town Council members who bring complaints of harassment from anyone in the employment of FMB, are urged to report such conduct within 15 days of the occurrence of the incident(s) in question to the Director of Human Resources so that the complaint may be investigated and resolved. Prompt reporting of incidents allows for timely investigation of the incident(s) while witnesses have immediate recollection of the facts and for quick resolution of complaints.

(b) Investigation of Allegations

1. FMB will endeavor to investigate all complaints as expeditiously and as professionally as possible. To provide consistency and objective third party determinations, the Lee County Office of Equal Opportunity shall be the department afforded the responsibility to investigate allegations of harassment, to determine probable cause and to be available to recommend appropriate corrective action - unless special circumstances require that the Manager – Office of Equal Opportunity assign a specific investigation to another party or agency.
2. If the preliminary investigation concludes that probable cause exists, appropriate measures will be taken to remove the accused party immediately from the work situation involving the complainant, if the situation requires such action.
3. If the investigation confirms the allegations in the complaint, the appropriate corrective and disciplinary action will be taken by the Town, based on the severity of the offense.
4. Regardless of the outcome of the investigation, resolution of the complaint will be communicated to all parties involved. Such communication shall include what actions have been taken and reference the appeals process if the parties are not satisfied with the final resolution of the issue.
5. The Department of Human Resources shall maintain a log of recommended disciplines, disciplinary actions taken, and associated circumstances for all incidents of harassment in order to provide a framework for reasonably uniform and consistent application of such disciplinary actions.

(c) Cooperation & Confidentiality

1. FMB employees are required to fully cooperate in any internal investigations that may be conducted. This includes, but is not limited to, answering all questions honestly and fully.
2. Employees interviewed at any time during an investigation shall keep any and all information that is shared during the investigation strictly confidential and shall not, under any circumstances, discuss the information or the investigation with anyone other than authorized individuals.
3. Failure to cooperate with an investigation, or failure to abide by the rule of confidentiality, will be grounds for disciplinary action.
4. FMB will take all reasonable and lawful efforts to keep the information provided to it in the complaint and investigation process as confidential as practically possible to provide for a thorough investigation, and to the extent permitted by Florida law.

(d) Retaliation Prohibited

1. Retaliation against employees for reporting harassment or assisting the designated Town personnel in the investigation of a complaint is illegal and will not be tolerated.
2. Retaliation includes, but is not limited to, such acts as refusing to recommend an employee for a benefit for which he or she qualifies, spreading rumors about the employee, encouraging hostility from co-workers, or escalating the harassment.

(e) Knowingly False Complaints/Accusations

1. No disciplinary or other personnel actions will be taken against any employee who makes a good faith complaint of sexual harassment, or workplace harassment, or provides information in good faith in any investigations, whether the investigation proves or disproves the claim.
2. The Town recognizes that false accusations of harassment have a serious effect on morale in the workplace. If after investigating a harassment complaint, the Town learns that an employee has made a complaint in bad faith or knowingly provided false information regarding a complaint, disciplinary action will be taken against the individual who provided such false information.

TO REPORT INCIDENTS OF HARASSMENT OR A PATTERN OF PROHIBITED CONDUCT, CONTACT THE DIRECTOR OF HUMAN RESOURCES.

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Appendix A - Legislative Change Process

The LPA evaluated the process of making legislative changes to the Land Development Code (LDC). The results of the study have been depicted as a flow chart as well as a written description of each sub-process. The arrows in the flow chart represent the direction that work “flows” through the process. Circles are inputs, such as a change request, or outputs, such as a resolution to be sent to Town Council. Rectangle boxes are places where action or work is taking place. A diamond is a decision point that may send the workflow in different directions dependent on the decision made. A “bullet” symbol is where the workflow is on “hold” until the next action can be scheduled. Holds are not necessarily a bad thing, but they can be areas of opportunity for moving change requests through the system faster. Finding ways to reduce the number of steps in a process flow is another way to reduce the time required to make changes to our LDC.

The flow chart also indicates who is “accountable” for each process operation. “Accountability” does not mean that person is “responsible” for doing all the work. It is their job to see that the work gets done.

Future LPAs and Town Councils may want to consider ways that the legislative change process can be altered to improve process time. Until then, performance can start to be measured in order to establish a baseline. One action that has been initiated is to generate a Legislative Change Action List (LCAL). The LCAL will provide clarification of the change requests, the priority and current status. Legislative requests will be categorized into LDC change that:

1. Require policy recommendations from the LPA through workshops or ad hoc committee activities. These changes would be substantive and likely time consuming for staff, consultants and LPA, but not necessarily the highest priority.
2. Are state mandated changes and recommendations of the Evaluation and Analysis Report (EAR) that are time sensitive. These may or may not be complex, but are high priority.
3. May need to be clarified for legal reasons. Complexity and priority must be determined on an individual case.
4. Need staff time. Most of these changes are clerical in nature, but can be time consuming. Priority is often low, but need to be made visible.

The LPA will prioritize, schedule and determine a path forward for legislative change requests that fall into LCAL category 1. Accountability for categories 2 through 4 belongs to the Town Manager, with likely input from the Director of Community Development, the LPA Attorney and the Town’s Planning Consultant.

A regular approach to legislative changes allows interested parties a predictable methodology to participate in the legislative process. For example, the Florida Legislature meets on an annual basis—unless a special session is called—at the same time each year to consider changes to the laws of the State. The effective date of these laws may vary to allow for a phased approach to changes in the law that might best occur if affected parties are afforded a reasonable period of time for adjustment to the change. From time to time, the LPA may wish to establish and refine the timing aspects of its legislative process to improve manageability and predictability.

Town of Fort Myers Beach Legislative Change Process

Overarching Principles:

- Trust is placed in the hands of those accountable for each step in the process to do their job to their best of their ability.
- Open, honest and timely communication will be maintained at all times.
- All parties in this process will be treated with respect.

Sub-Processes

A. Request Initiation

Requests to change the Land Development Code (LDC) can be initiated by: the Town Manager, the Town Council, the Local Planning Agency, a group/committee or an individual.

Process:

- Requests from the Town Manager and Town Council proceed directly to the “assign action” sub-process.
- LPA change requests are forwarded to Town Council for approval to proceed.
- All individual or group initiated LDC change requests come to the LPA for review and action. Consistency with the Comprehensive Plan will be the criteria for approving or denying requests.
- The Town Clerk handles scheduling functions with direction from the Town Manager or designee (likely the Community Development Director).

B. Assign Action

Process:

- The Town Manager or designee is accountable for the Legislative Change Action List (LCAL) with input from Planning Consultant, Staff and LPA Attorney.
- Each legislative change request will be put into a category for the purpose of prioritizing and scheduling.
- The LCAL will be reviewed at every LPA meeting.

C. Assessment

Assessment of an LDC change request can follow several paths depending on the complexity of the request and the expertise required for making recommendations.

The Town Manager or designee, the Planning Consultant and the LPA Attorney, choose the process path.

Process:

- Determine whether recommendations are needed from an ad hoc or standing committee.
- Determine whether a workshop is needed.
- Workshops will include: Planning Consultant, appropriate staff, LPA Attorney, LPA members, ad hoc or advisory committees (as needed) and the public.
- Recommendations from committees and/or workshops will be documented by resolution.
- Once all recommendations have been received, drafting of the LDC change can commence and an LPA hearing scheduled.

D. LPA Hearing

Process:

- The LPA must approve or reject LDC changes or possibly suggest multiple wording options for consideration by Town Council.
- Recommendations must be consistent with the Comprehensive Land Use Plan.
- Explanation of recommendations are forwarded to Town Council by resolution.

E. Town Council Hearings

Process:

- Introduction of Ordinance
- First Hearing
- Second Hearing. Approved or denied based on consistency with the Comprehensive Land Use Plan.
- At each hearing, Council may choose to deny the change request, return it to the LPA and/or committees and/or workshop participants for rework, or table it.

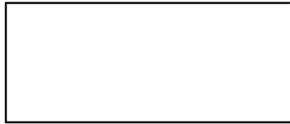
F. Documentation

Process:

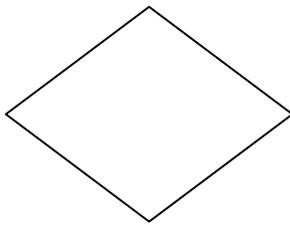
- If the ordinance is approved by Town Council, the Town Manager is accountable for seeing that appropriate steps are taken to codify and distribute changes in the Town of Fort Myers Beach Land Development Code.

Legislative Change Process for the Town of Fort Myers Beach

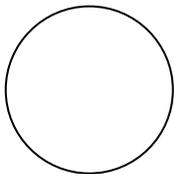
Flow Chart Symbols Used:



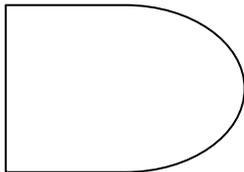
Process Operation



Decision (A Decision will have two or more directions of flow)



Input/Output



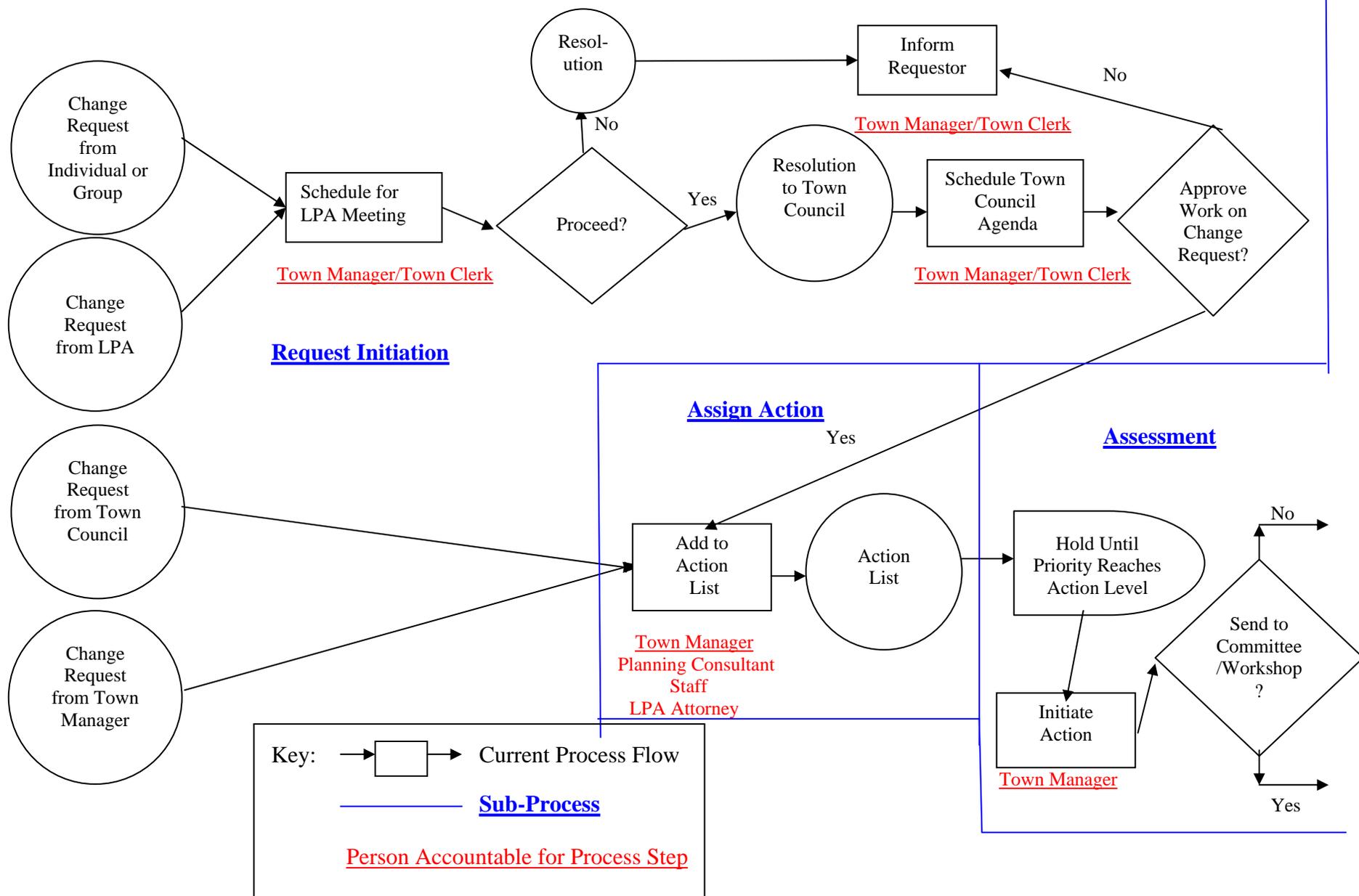
Delay/Wait/Hold



Direction of Flow

The flow chart is a graphic method for displaying a work process and sequence of activities. It graphically shows the process and potential opportunities for improvement within the process. It also identifies starting inputs and ending outputs that establish boundaries of ownership. This sequence of activities is represented by various flow chart symbols, which are connected by a direction of flow arrow.

Legislative Change Process for the Town of Fort Myers Beach



Legislative Change Process for the Town of Fort Myers Beach

