



**AGENDA
FERNANDINA BEACH CITY COMMISSION
WORKSHOP
DECEMBER 10, 2020
5:00 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PRESENTATION**
 - 3.1 SUNSHINE, PUBLIC RECORDS, AND ETHICS LAW ORIENTATION**
 - 3.2 COMMISSION RULES OF PROCEDURE & ROBERTS RULES OF ORDER**
- 4. DISCUSSION**
- 5. PUBLIC COMMENT**
- 6. ADJOURNMENT**

ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSES, 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 MADE. AT THE DISCRETION OF THE MAYOR, A RECESS MAY BE SCHEDULED EVERY NINETY MINUTES.

Persons with disabilities requiring accommodations in order to participate should contact the City Clerk at (904) 310-3115 or TTY/TDD 711 (for the hearing or speech impaired).

CITY OF FERNANDINA BEACH
SUNSHINE, PUBLIC RECORDS, AND ETHICS LAWS
TRAINING
December 10, 2020

I. SUNSHINE LAW

The purpose of the Sunshine Law is to provide a right of access to government proceedings. All public agencies are subject to the Sunshine Law.

The Sunshine Law is set forth in Florida Statutes § 286.011 and Article 1, Section 24 of the Florida Constitution. **The Sunshine Law extends to discussions and deliberations taken by a public board and is applicable to any gathering (formal or casual) of two or more members of the same board or commission to discuss some matter on which foreseeable action will be taken by the board or commission.**

THREE BASIC REQUIREMENTS OF THE SUNSHINE LAW AS SET FORTH IN FLORIDA STATUTES § 286.011:

1. Meetings of the public must be open to the public;
2. Reasonable notice of such meetings must be provided; and
3. Minutes of the meeting must be taken.

MEETINGS:

1. The Sunshine Law applies to meetings between individuals who are members of the same board.
2. Meetings with agency staff are not ordinarily subject to the Sunshine Law unless staff ceases to function in a staff capacity and is delegated authority normally within the public agencies discretion.
3. Discussions between a public board and its attorney are subject to the Sunshine Law, except in limited circumstances.
4. Members of the same board or commission may meet socially provided that matters which are coming before the board, or may come before the board, are not discussed.
5. The Sunshine Law applies to subcommittees, unless they are solely fact-finding or information gathering.

MEETINGS OPEN TO THE PUBLIC:

1. Meetings must occur in a location that is easily accessible to the public.
2. The public must be provided “reasonable opportunity” to be heard on a matters prior to a board taking official action. Any violations of this provision may result in the recovery of attorney’s fees by the affected party.

REASONABLE NOTICE:

1. Reasonable notice of all meetings must be provided. According to the Florida Attorney General, the definition of “reasonable” depends on the facts of the situation and board involved.
2. The Sunshine Law does not mandate that an agency provide notice of each item to be discussed through a published agenda. A public body may add additional items to the agenda at regularly noticed meetings and take action on the added item.

MINUTES:

1. Written minutes of all meetings and workshops must be recorded and open to the public for inspection. Verbatim minutes are not required.

CONSEQUENCES OF SUNSHINE VIOLATIONS:

1. Any member of a board or commission who knowingly violates the Sunshine Law may be subject to criminal penalties of a misdemeanor of the second degree. Fla. Stat. § 286.011(3)(b).
2. Sunshine Law provides that a fine not exceeding \$500.00 may be imposed for noncriminal infractions.
3. In civil actions to enforce the Sunshine Law, reasonable attorney’s fees will be assessed against any board or commission found to have violated the Sunshine Laws.

NOTE:

Lorenzo v. City of Venice, Case No. 2008 CA 8108 SC (Fla. 12th Cir. Ct. Oct. 7, 2009) –The City of Venice was ordered to pay \$777,114.42 in attorney’s fees and costs to the Plaintiff’s attorney. This judgment is one of the highest and most costly judgments entered against a local government for violations of the Public Records and Sunshine Laws.

II. PUBLIC RECORDS LAWS

Chapter 119, Florida Statutes, and Article I, Section 24 of the Florida Constitution set forth Florida's Public Records laws. These laws apply to the City Commission.

Article I, Section 24 of the Florida Constitution states:

Every person has the right to inspect or copy **any public record made or received in connection with the official business** of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution.

Florida Statutes § 119.011(12) defines public records as “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

PUBLIC RECORDS:

1. **Public records include all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge no matter the form.**
2. There is no “unfinished business” exception to the public inspection and copying requirement of Chapter 119, Florida Statutes; i.e., draft documents are public record.
3. Social networking site communications (Facebook, Twitter, YouTube, LinkedIn, etc.) and text messages (even on your personal devices) are considered a public record if related to official City business. The content of the communication is the determining factor.
4. There are a number of statutory exemptions to disclosure.

RIGHT TO INSPECT/COPY:

1. **Any person is authorized to inspect and receive copies of public records. Individuals are not required to have a special or legitimate interest. Requests do not have to be made in writing.**
2. The records custodian or his/her designee, is responsible for making public records available for inspection and/or copying “at any reasonable time, under reasonable conditions”. Fla. Stat. § 119.07.

3. Any exemption from the public records laws must be stated in writing. Fla. Stat. § 119.07(1)(e). **The public records laws are construed in favor of open government**, so exemptions are strictly construed.

CONSEQUENCES OF PUBLIC RECORD VIOLATIONS:

1. Any member of a board or commission who knowingly violates the Public Records Act may be subject to criminal penalties of a misdemeanor of the first degree (one year in prison or \$1,000 fine, or both). Fla. Stat. § 119.10(1)(b).
2. The Public Records Act provides that a fine not exceeding \$500 may be imposed for noncriminal infractions by a public officer. Fla. Stat. § 119.10(1)(a).
3. If a civil action is filed against an agency and the court determines that the agency unlawfully refused to permit a public record to be inspected or copied and the complainant provided written notice identifying the public record request to the agency's custodian of public records at least 5 business days before filing the civil action, the court shall assess and award attorney's fees against the agency responsible. If the court determines the complainant request to inspect or copy a public record for an improper purpose, the court may not assess and award the reasonable costs of enforcement, including reasonable attorney fees, to the complainant, and shall assess and award against the complainant and to the agency the reasonable costs, including reasonable attorney fees, incurred by the agency in responding to the civil action.
4. Further, any person who willfully and knowingly violates any provision of the Public Records Act commits a misdemeanor of the first degree punishable by one year in prison or \$1,000 fine, or both. Fla. Stat. § 119.10(2)(a).

III. FLORIDA'S ETHICS CODE

Florida's Ethics Code is found in Part III of Chapter 112, Florida Constitution and Article II, Sec. 8 of the Florida Constitution.

1. Premised upon maintaining public trust and prohibiting public officials from using their office for "private gain". Private gain references a public official's ***financial interest*** which is directly affected as result of a vote.
2. Voting Restrictions: You must abstain from voting and refrain from participating in discussion on any measure that would inure to your special private gain or loss, or that of any employer, principal, or relative. Fla. Stat. § 112.3143

- a. If conflict is known, publicly state to the assembly the nature of the conflict and abstain from voting.
- b. The Memorandum of Voting Conflict form must be filed with the City Clerk within 15 days.

Also note that Fla. Stat. § 286.012 provides that a member of a municipal governmental board, commission, or agency who is present at a meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may not abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, unless, with respect to any such member, there is, or appears to be, a possible conflict of interest under s. 112.311, s. 112.313, s. 112.3143. If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice.

pensacola news journal

NEWS

Escambia County to hire law firm in Doug Underhill public records request lawsuit

Jim Little Pensacola News Journal

Published 6:00 a.m. CT Jan. 6, 2020

Story Highlights

The county is defending two lawsuits brought by David Bear over multiple public records requests he made to Underhill for messages from his Facebook account.

The retention letter calls for an hourly rate of \$275 for firm partners and \$210 for associate attorneys working the case.

The case could set a new precedent in Florida public records law.

Escambia County is turning to an outside law firm in lawsuits over public records requests made to Commissioner Doug Underhill.

The county is defending two lawsuits brought by David Bear, vice president of The Lewis Bear Co., over multiple public records requests he made to Underhill for messages from his Facebook account.

The County Commission is set to vote Tuesday to ratify the hiring of the Nabors Giblin and Nickerson law firm based out of Tallahassee. The retention letter signed by County Attorney Alison Rogers calls for an hourly rate of \$275 for firm partners and \$210 for associate attorneys working the case.

Bear sued the County Commission and Underhill in October in state court, alleging Underhill had not fulfilled multiple public records requests involving both his personal Facebook account and a page called "Commissioner Doug Underhill." The lawsuit also alleged that Underhill's Facebook page settings, which hide the full discussions in his posts, violated Bear's First and 14th Amendment rights.

Because of the constitutional questions raised by the lawsuit, the case was moved to federal court.

Bear filed another lawsuit in December, again in state court, after receiving more than 1,700 screenshots of Underhill's private messages in response to his records request. The lawsuit alleges that the information was non-responsive to his records request because the screenshots appeared to be in a random order and parts of exchanges cut off.

► **Lawsuit filed:** Escambia County Commissioner Doug Underhill sued over public records request

► **Crowdfunding defense:** Doug Underhill launches GoFundMe to pay for legal defense

► **Unprecedented:** Lawsuit over Underhill's Facebook may set precedent for how politicians use social media

Underhill has maintained the lawsuits are politically motivated. The Bear family contributed heavily to Underhill's 2018 opponent and to a political action committee that ran negative advertisements against Underhill during the election.

"I think it's appropriate that the county have an outside law firm, one that doesn't have any connections to the politics of this county," Underhill said. "Because at the end of the day, this is not about whether or not I did anything wrong. It's whether or not a commissioner is allowed to oppose the Bear family."

The case could set a new precedent in Florida public records law. The Florida attorney general has issued an opinion that social media pages of government accounts should be retained as public record, but there have been few, if any, court cases on the issue.

Rogers told the News Journal that one of her jobs as county attorney is to ensure the county's legal expenses remain as small as possible.

"I take that very seriously, but I also have to make sure that we don't get ethically sideways with the Florida Bar," Rogers said.

Bear's two lawsuits against the county could result in a situation where the legal interest of the Board of County Commissioners conflicts with the legal interest of Underhill, Rogers said.

"The possibility is ripe here for all the parties to blame each other, and that then sets up a problem ethically with the Florida Bar," Rogers said. "You can't represent multiple sides of the same dispute."

Additionally, Rogers said, attorneys in her office have been listed as material witnesses in the case as Bear made several of his records requests through the county attorney's office.

"That certainly creates some ethical conundrums for us now because there aren't going to be a lot of other witnesses," Rogers said.

Jim Little can be reached at jwlittle@pnj.com and 850-208-9827.

Herald-Tribune

VENICE

North Port is sued for alleged Sunshine Law violation

Earle Kimel Sarasota Herald-Tribune

Published 3:25 p.m. ET Oct. 14, 2020 | Updated 5:36 p.m. ET Oct. 14, 2020

NORTH PORT – Denovo Law Services has filed suit against the City of North Port and City Manager Peter Lear, claiming they violated the state's Sunshine laws for not producing electronic records in a timely fashion.

In a suit filed in the 12th Judicial Circuit Court Tuesday, Michael Barfield, a paralegal consultant with Denovo and president of the American Civil Liberties Union of Florida, claims that more than 20 days have elapsed without a response from the city since he filed a Sept. 24 public records request asking for all electronic communications from Lear between Feb. 3, 2020, and Sept. 23, 2020.

Barfield said he picked that time period because it covered the time period relevant in the investigation conducted by Sproat Workplace Investigations of a complaint filed with the city's Human Resources Department against Lear.

Lear was ultimately suspended for five days following the investigation. At a mid-August budget workshop, the city commission imposed a Sept. 4 deadline on Sproat, who was not given a due date when originally contracted.

"I think the public is entitled to see the records sent and received between Mr. Lear and his staff member paramour," Barfield said. "I think the investigation was cut short, according to the investigator."

The suit, filed by attorney Robert Watrous on behalf of Barfield, asked for, among other things, an accelerated hearing on the complaint, as well as an award of costs and attorney fees and any other relief the court deemed appropriate.

On Tuesday, Circuit Judge Hunter W. Carroll issued an order for the city and Lear to either comply with the request or show cause as to why Denovo's petition should not be granted.

The city has 10 days from the receipt of Carroll's order to respond.

Ironically, on Sept. 24, the city used its GovQA public records portal to send Barfield an invoice for \$2,524.32 to complete the required work.

Barfield said Wednesday he never received that invoice.

He submitted the records request via email to Lear, City Clerk Heather Taylor and Cynthia Kelly, the records management administrator for the city. He did get an automated response that his request had been read by Lear and received by Taylor and Kelly.

City spokesman Josh Taylor said Wednesday that before work would begin, the city should receive a deposit of \$1,262.16. The public records would be delivered only upon receipt of the balance of the cost.

The invoice estimated that it would take 99.5 hours at \$24.58 per hour to compile and redact the emails, messages and Teams/Share point messages, for a cost of \$2,445.71, and another two hours to compile social media records at a cost of \$52.41 per hour, though 30 minutes of that would be waived, which came to an additional \$78.61.

"If I had gotten the bill for \$2,500, I can say this, I would have filed a lawsuit a long time ago," said Barfield, who added that he double-checked for a response from the city before filing the suit.

Taylor later said in an email that Barfield's request came in at 11:49 a.m. Sept. 24 and that the response was sent through its GovQA portal.

More: North Port Commission to discuss brownfield application for Central Parc

More: North Port residents step in with alternative Halloween events

That system shows the estimate was sent at 4:45 p.m., and the GovQA system and the system showed that message was confirmed as delivered, he added.

Upon reviewing a copy of the invoice supplied to him by a reporter, Barfield said that it was unclear whether the city would also examine messages on his nongovernmental account.

"Those messages become relevant under the public records act as it relates to the subordinate city employee," Barfield said, then later added, "The Supreme Court has said location doesn't matter, it's content that matters."

Barfield said he is particularly interested in the decisions related to restructuring Neighborhood Development Services by placing the Planning and Social Services Division as well as the Economic Development on the third floor – where the City Manager’s offices are located – as part of a new Office of Community & Environmental Planning.

More: North Port commission candidates offer visions for future at League of Women Voters forum

More: North Port commissioners plan to increase impact fees

While the department would have a new director, it would report directly to Lear.

Barfield said that after reading the Sproat investigation, he has more questions he’d like answered – especially in relation to the potential department reorganization.

“I know people have a perception of North Port,” Barfield said. “I don’t live there, but it is the largest city in the county, so I look at it from the respondents point of view – the citizens are paying taxes, and I think they’re entitled to know what their government is up to; that includes Mr. Lear.

“And now a \$2,500 bill to find out what he’s up to?” he added. “That’s just ridiculous.”

NEWS

State Attorney clears Destin Mayor Gary Jarvis of Public Records Law violations

Tom McLaughlin Northwest Florida Daily News

Published 6:13 p.m. ET Sep. 30, 2020

DESTIN — The State Attorney's Office has cleared Mayor Gary Jarvis of any violations of the state's Sunshine Law.

The decision was announced in a news release issued Wednesday afternoon.

Jarvis has freely admitted that he violated Florida's public records laws on two occasions. He has personally reported those violations to the Florida Commission on Ethics and to the state's Attorney General's Office, and said he would willingly pay any fines he might incur.

More: Destin mayor asks Ethics Commission to review possible Sunshine Law violations

The first alleged violation involved Jarvis' failure in 2019 to turn over text messaged discussions between himself and a developer concerning a project that was to be brought before Destin officials.

After a group called Pointe Mezzanine LLC filed a public records lawsuit, Jarvis admitted he had failed to turn over text messages he'd sent to development consultant Joe Winkeler, who was working for Pointe Mezzanine. He testified in a deposition that he believed the texts were already in Pointe Mezzanine's hands.

After reviewing the first offense, Chief Deputy State Attorney Greg Marcille reported that following Jarvis' revelations and the settling of the Pointe Mezzanine lawsuit, which cost Destin some \$30,000, the city had changed its public records policies.

The policy changes "should help prevent these problems from occurring in the future," his investigative report said. "For this reason, no further action will be taken."

The second alleged offense, actually committed more than once, occurred in February of this year when Jarvis sent more than one email urging another group of potential developers to contact him at a personal email address to "keep the emails off the public record."

More: Legal fees at heart of spat between Destin Council member, mayor

More: Destin finally provides answers to legal expense questions

The State Attorney's Office found that "while the mayor may have had the intent to violate the Public Record Law there is no evidence that any records were not produced as a result of his actions."

"For that reason there is insufficient evidence to establish that a crime has been committed," the report said.

Jarvis's initial request for the Ethics Commission to review of his violations was turned down.

In a letter to the mayor, the commission's executive director informed Jarvis that state statutes "do not authorize the filing on an ethics complaint against oneself" and Jarvis was therefore not subject to commission action.

But Marcille said in the press release issued Wednesday that his office would resubmit details of the case to the Ethics Commission. The Ethics Commission can take action based on a third-party complaint.

More: Destin's Mayor Jarvis cleared of ethics violation

Marcille said the Attorney General's Office was aware that a complaint against Jarvis had been filed with the State Attorney's Office. The two agencies had discussed the reported violations and the State Attorney's Office led the investigation into possible criminal offenses.

After Destin's city attorney submitted notification of the possible records' laws violations to the State Attorney's Office, City Councilwoman Prebble Ramswell provided additional information for the agency's review.

"Based on emails and information I was privy to as a City Council member I recognized that relevant information had not been included in the initial request for review," Ramswell said. "Because I had knowledge of this information I felt I had a duty to be fully transparent and provide the missing information I had knowledge of for the State Attorney's Office review."

CITY COMMISSION RULES OF PROCEDURE CITY OF FERNANDINA BEACH, FLORIDA

TABLE OF CONTENTS

Section 1. AUTHORITY.....	2
Section 2. MEETINGS	
2.1 Regular Meetings	2
2.2. Special Meetings	2
2.3. Public Notice.....	2
2.4. Quorum.....	2
2.5. City Manager Participation	2-3
2.6. City Attorney Participation	3
2.7. City Clerk Participation	3
2.8. Workshop Meetings	3
Section 3. CODE OF CONDUCT	
3.1. City Commission Members	3-4
3.2. Administrative Staff.....	4
3.3. Citizens and Other Visitors.....	4-5
3.4. Enforcement	5
Section 4. DUTIES AND PRIVILEGES OF MEMBERS	
4.1. Seating Arrangement.....	5
4.2. Right of Floor	5
4.3. Conflict of Interest	5
4.4. Right of Appeal.....	5-6
4.5. Voting	6
4.6. Excusal from Attendance.....	6
4.7. Excusal During Meeting	6
4.8 No Cell Phones During Meetings	6
Section 5. CHAIR AND DUTIES	
5.1. Chair.....	6
5.2. Call to Order	6
5.3. Preservation of Order	7
5.4. Questions to be Stated.....	7

Section 6. AGENDA AND PUBLIC SPEAKING

6.1. Citizen Speakers.....	7-8
6.2. Order of Business and Public Speaking	8
6.3 Agenda	9

Section 7. CONSIDERATION OF ORDINANCES, RESOLUTIONS AND MOTIONS

7.1. Printed Form	9
7.2. Rules of Order.....	9
7.3. Order of Precedence of Motions	9-10
7.4. Reconsideration.....	10
7.5. The Previous Question.....	10
7.6. Withdrawal of Motions	10
7.7. Amendments to Motions.....	10
7.8. Suspension of Rules.....	11

Section 1. AUTHORITY

Florida Statutes provide for open meetings of the City Commission at which reasonable opportunity shall be given for citizens to be heard under such rules as the City Commission may provide. The Rules of Procedure establish guidelines to be followed by all persons attending a City Commission meeting, including members of the City Commission, administrative staff, news media, and visitors. [Section 286.011, Florida Statutes, and City Charter Section 19]

Section 2. MEETINGS

2.1. Regular Meetings. The City Commission shall meet at 6:00 P.M. on the first and third Tuesdays of each month [Section 2-61 City Code]

2.2. Special Meetings. The Mayor, any two members of the Commission or the City Manager may call special meetings of the Commission upon at least twenty-four (24) hours written notice to every Commissioner [City Charter Section 19] in accordance with Florida Sunshine Law requirements.

(A) Special Meetings of Boards and Committees. The City Manager or any two members of the Commission may call special meetings of any ad hoc or standing committee or board whose members are appointed by the City Commission.

2.3. Public Notice. The agenda for all regular meetings and the notice listing items to be considered shall be posted by the City Clerk's Office on the City's official bulletin board at City Hall and on other public bulletin boards on City property in accordance with the Florida Open Meetings Laws. [Chapter 286, Florida Statutes]

2.4. Quorum. A majority of the members of the City Commission shall constitute a quorum. A quorum of the City Commission must be present to conduct a City Commission regular or special meeting, except that a quorum is not required to hear proclamations and special recognitions. [City Charter Section 21].

2.5. City Manager Participation. The City Manager or City Manager pro tem, shall attend all meetings of the City Commission. The City Manager may make recommendations to the City Commission and shall have the right to take part in all discussions, but shall have no vote. [City Charter Section 29]

2.6. City Attorney Participation. The City Attorney or City Attorney pro tem shall attend all meetings of the City Commission and shall upon request, give an opinion, either written or oral, on questions of law. The City Attorney shall act as the City Commission's parliamentarian. [City Charter Section 31].

2.7. City Clerk Participation. The City Clerk or designated Deputy City Clerk shall attend all meetings of the City Commission and shall keep accurate records of all actions taken by the City Commission. [City Charter Section 47].

2.8. Workshop or Work Session Meetings. During workshop or work session meetings, City Commission members shall refrain from calling on members of the public to speak unless a majority of the City Commission decides by consensus to allow members of the public to speak at a particular workshop or work session.

Section 3 - CODE OF CONDUCT

3.1. City Commission Members.

(a) During City Commission meetings, City Commission members shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the orders of the Mayor (or other presiding officer) or the rules of the City Commission.

(b) A City Commission member desiring to speak shall address the Mayor and, upon recognition by the Mayor, shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and refrain from personal attacks and verbal abuse.

(c) A City Commission member desiring to question the administrative staff shall address questions to the City Manager who shall be entitled either to answer the inquiries or to designate some member of city staff for that purpose. City Commission members shall not berate nor admonish staff members.

(d) A City Commission member, once recognized, shall not be interrupted while speaking unless called to order by the Mayor, unless a point of order is raised by another member, or unless the speaker chooses to yield to questions from another member. If a city Commission member is called to order while speaking, that member shall cease speaking

immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks so as to comply with rules of the City Commission.

(e) City Commission members shall confine their questions to the particular matters before the Commission and in debate shall confine their remarks to the issues before the City Commission.

(f) When there is more than one speaker on the same subject, City Commission members will delay their comments until after all speakers on the subject have been heard.

3.2 Administrative Staff.

(a) Members of the administrative staff and employees of the City shall observe the same rules of procedures and decorum applicable to members of the City Commission.

(b) Although the Mayor has the authority to preserve decorum in meetings, the City Manager also is responsible for the orderly conduct and decorum of all city employees under the City Manager's direction and control.

(c) The city manager shall take such disciplinary action as may be necessary to ensure that decorum is preserved at all times by city employees in City Commission meetings.

(d) All persons addressing the City Commission, including the city manager, other staff members, or members of the public shall be recognized by the Mayor and shall limit their remarks to the matter under discussion.

(e) All remarks and questions addressed to the City Commission shall be addressed to the City Commission as a whole and not to any individual member.

(f) No staff member, other than the staff member having the floor, shall enter into any discussion either directly or indirectly without permission of the Mayor.

3.3 Citizens and Other Visitors.

(a) Citizens and other visitors are welcome to attend all public meetings of the City Commission and will be admitted to the City Commission chamber or other room in which the City Commission is meeting up to the fire safety capacity of the room.

(b) Everyone attending the meeting will refrain from private conversations while the City Commission is in session.

(c) Citizens and other visitors attending City Commission meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the City Commission.

(d) Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the City Commission or while attending the City Commission meeting shall be removed from the room if the Chief of Police or his/her designee is so directed by the Mayor, and the person shall be barred from further audience before the City Commission during that session of the City Commission. If the presiding officer fails to act, any member of the City Commission may move to require enforcement of the rules, and the affirmative vote of a majority of the City Commission shall require the Mayor to act.

(e) Unauthorized remarks from the audience, stamping of feet, whistles, yells, clapping and similar demonstrations shall not be permitted by the Mayor, who may direct the Chief of Police or his/her designee to remove offenders from the room. In case the Mayor shall fail to act, any member of the City Commission may move to require enforcement of the rules, and the affirmative vote of the majority of the City Commission shall require the Mayor to act.

(f) No placards, banners, or signs will be permitted in the City Commission chamber or in any other room in which the City Commission is meeting. Exhibits, displays, and visual aids used in connection with presentations to the City Commission, however, are permitted. Video presentations requested by citizens as visual aids will not be broadcasted over cable television.

(g) Citizens or other visitors attending City Commission meetings shall not bring food or drink into the city Commission chamber or into any other room in which the City Commission is meeting.

3.4 Enforcement. The Chief of Police or his/her designee shall act as sergeant-at-arms for the City Commission and shall furnish whatever assistance is needed to enforce the rules of the City Commission.

Section 4 - DUTIES AND PRIVILEGES OF MEMBERS

4.1. Seating Arrangement. City Commission members shall occupy the seats in the City Commission chamber assigned to them by the City Clerk.

4.2. Right of Floor. A City Commission member who desires to speak must be recognized by the Mayor. No member shall address the Mayor or demand the floor while a vote is being taken.

4.3. Conflict of Interest. A Commission member prevented from voting by a conflict of interest shall not vote on the matter, but may participate in the discussion, disclose the nature of the conflict of interest to the Commission prior to a vote being taken, and shall otherwise comply with the state law and city ordinances concerning conflicts of interest.

4.4. Right of Appeal. Any member may appeal to the City Commission from a ruling of the Mayor. If the appeal is seconded, the Commissioner making the appeal may briefly explain the ruling; but there shall be no debate on the appeal, and no other Commissioner shall participate in the discussion. The Mayor shall then put the question, "Shall the decision of the chair be sustained?"

If a majority of the members present vote "Aye," (or "Yes") the ruling of the chair is sustained; otherwise, it is overruled.

4.5. Voting.

(a) Every Commission member present when a question is called shall vote either "Yes" or "No" except on matters involving a conflict of interests.

(b) After the result of a vote is announced, a Commission member may not change a vote unless, before the adjournment of that meeting, that member or a City Commission member on the prevailing side of the vote makes a motion to reconsider the action.

4.6. Excusal from Attendance. City Commission members are expected to attend meetings and stay in attendance during each meeting. No member shall be excused from attendance at a City Commission meeting except for good and valid reasons.

4.7. Excusal During Meetings. No member should leave a City Commission meeting while in session without advising the Mayor.

4.8. No Cell Phones or Mobile Devices During Meetings. Commissioners shall not have cell phones or other mobile devices on the dais during workshops or meetings of the Commission, and all such devices must be silenced. There shall be no text messaging or emailing during Commission meetings by City Commissioners. The dais is equipped with computers and/or tablets that provide internet access for research during meetings. City staff and the public are specifically exempted from this rule. However, City staff, contractors and consultants shall be mindful of the distracting nature of using mobile devices during Commission meetings and take care to silence all mobile devices.

Section 5 - CHAIR AND DUTIES

5.1. Chair. The Mayor, if present, shall preside as chair at all meetings of the City Commission. In the absence of the mayor, the Vice Mayor shall preside. In the absence of both the Mayor and Vice Mayor, the Commission shall elect a chair. If the Mayor vacates the chair during a meeting, and the Vice Mayor is not available, the Mayor may, subject to the approval of the City Commission, appoint a temporary chair.

5.2. Call to Order. The meetings of the City Commission shall be called to order by the Mayor.

5.3. Preservation of Order. The Mayor shall preserve order and decorum, call upon the sergeant-at-arms as necessary to enforce compliance with the rules, and confine members in debate to the question under discussion.

5.4. Questions to be Stated. The Mayor shall state all questions (restate motions) submitted for a vote and announce the result of the vote.

Section 6 – AGENDA AND PUBLIC SPEAKING

6.1. Citizen Speakers. At City Commission regular meetings, a person may address the City Commission concerning voting items on the agenda or may speak during the portion of the agenda providing for citizen and non-citizen speakers to speak on items not on the agenda in accordance with the following rules:

(a) Speakers to Register. A person wishing to address the City Commission must register with the City Clerk and complete a speaker's form provided by the City Clerk prior to the end of the meeting at which they speak.

(b) Speaker Rules. In order that the City Commission may properly consider each matter brought to it by citizens, speakers are asked to observe the following rules:

(1) Only one person may approach the microphone at any one time, and only the person at the microphone will be allowed to speak.

(2) There will be no substitutions or pooling of speakers.

(3) Speakers must address their comments to the Mayor rather than individual City Commission members or staff.

(4) Speakers may file copies of their remarks or supporting information with the City Clerk. The City Clerk will make the information available to the City Commission and City manager if requested.

(5) A person who addresses the City Commission during a public hearing must limit remarks to the specific subject matter being considered by the City Commission in that public hearing.

(6) Fernandina Beach citizens will be allowed to speak before nonresidents.

(c) Time Limits on Voting Items. The length of time a person will be allowed to speak on voting items at City Commission meetings will be determined according to the following rules:

(1) A person who registers to speak on a voting item on the agenda will be called on at the time the item is considered by the City Commission and will have a maximum of three (3) minutes to speak. The Mayor determines the order in which speakers are called. The order in which speakers are called is not required to be in the order that items appear on the agenda, nor are all speakers on a particular item required to be called at the same time. If an item is deferred from a City Commission agenda, a speaker who signed up to speak on the item may not be heard until the item is actually considered by the City Commission.

(2) The Mayor may impose more restrictive time limits on voting items

that are not public hearings, but for which a large number of persons register to speak.

(d) Time Limits for Speaking about Items not on the Agenda. The City Commission will provide an opportunity for citizens to present concerns or address issues that are not matters for consideration listed on a posted meeting agenda during the portion of the agenda providing for citizen and non-citizen comments at regular City Commission meetings, subject to the following rules:

(1) Each speaker may speak only once, and the length of time a person will be allowed to speak during the open citizen or non-citizen comment is (3) three minutes. If a large number of speakers register for the open comment portion of the agenda, however, the Mayor may, with the concurrence of a majority of the City Commission, impose more restrictive time limits in order to allow the maximum number of persons to speak.

(2) The order in which speakers will be called will be determined by the Mayor.

(e) During designated speaker times, City Commission members may ask factual questions or make a brief acknowledgement of speakers. Speakers will have one (1) minute to respond. More time may be granted to the speaker for a response at the discretion of the Mayor or by a non-debatable motion approved by the City Commission. Commission members will refrain from debate on any item during time allotted to speakers unless a specific time is granted by the Mayor or by a non-debatable motion approved by the City Commission.

(f) Use of Interpreters. Whenever it is necessary for a speaker to use an interpreter to translate his/her comments to the City Commission, the time required for the translation will not be counted against the designated time allotted for the speaker to address the City Commission.

6.2 Order of Business; Public Speaking and Motions. For voting items on an agenda, the order of business shall be: 1) public input for speakers who registered to speak on that agenda item; 2) discussion by the City Commission; 3) motion made by Commission member and seconded by another Commission member; 4) any further discussion; 5) motion or amended motion restated by Mayor; and 6) Mayor asks the City Clerk to conduct the roll call vote.

6.3 Agenda. All discussion items (not resolutions or ordinances) and presentations shall be added to Commission agendas through the City Manager's Office in accordance with deadlines for submission approved by the City Manager. Only discussion items related to health, safety and welfare may be added to a Commission agenda with short notice. Presentations shall be limited to ten (10) minutes unless the City Manager or a majority of the City Commission waives or alters the time limit.

6.4 Information Provided by Commissioners. Any and all documents, information, memoranda, research materials and agenda item backup materials must be submitted to the City Manager and/or City Clerk in accordance with deadlines for submission approved by the City Manager for Commission meetings. PowerPoint or other projectable presentation formats may be prepared and submitted to the City Clerk for public display in the Commission Chambers on the projection screen as late as 24 hours prior to the public meeting as long as everything in the projectable presentation was previously submitted as backup material in accordance with agenda submission deadlines. If a Commissioner receives the meeting agenda and backup materials for a meeting and wishes to provide supplemental or rebuttal information, documents, research materials in response to information on a published agenda but too late to meet the City Manager's agenda deadlines, the Commissioner should still submit the information to the City Manager with the understanding that the applicable agenda item may be moved to the next available Commission meeting date by majority vote of the City Commission, subject to the Florida Sunshine Law.

Section 7 - CONSIDERATION OF ORDINANCES, RESOLUTIONS, AND MOTIONS

7.1. Printed Form. All ordinances and resolutions shall be presented to the City Commission only in printed form.

7.2. Rules of Order. These Rules of Order shall govern the proceedings of the City Commission of the City of Fernandina Beach. If there is a motion or action that is not covered by these Fernandina Beach City Commission Rules of Order, state law, City Charter, City ordinances, City resolutions and then the most recent edition of Roberts Rules of Order Revised shall govern the proceedings of the City Commission, in that order.

7.3. Order of Precedence of Motions. The following motions shall have priority in the order indicated:

1. Adjourn (when privileged) - See notes 1 and 2
2. Take a recess (when privileged) - See notes 1 and 3
3. Raise a question of privilege
4. Lay on the table
5. Previous question - See note 5
6. Limit or extend limits of debate - See notes 3 and 5
7. Postpone to a certain time - See note 3
8. Commit or refer - See note 3
9. Amend - See notes 3 and 4
10. Postpone indefinitely
11. Main motion - See note 3

Note 1: The first two motions are not always privileged. To adjourn shall lose its privileged character and be a main motion if in any way qualified. To take a recess shall be privileged only when

other business is pending.

Note 2: A motion to adjourn is not in order: (1) when repeated without intervening business or discussion; (2) when made as an interruption of a member while speaking; (3) while a vote is being taken.

Note 3: Can be amended - others cannot be amended.

Note 4: A motion to amend shall be non-debatable when the question to be amended is non-debatable.

Note 5: Two-thirds vote of members present required.

7.4. Reconsideration.

(a) A motion to reconsider any action of the City Commission may be made, seconded, and voted on not later than the next succeeding voting agenda meeting of the City Commission. If reconsideration of the Commission action has not been posted on the Commission agenda for the meeting at which the motion to reconsider is made, however, actual reconsideration of the item must be delayed until the next voting agenda meeting after the posting requirements of the Sunshine Law are met.

(b) A motion to reconsider an action of the City Commission may only be made by a member who voted with the prevailing side. It can be seconded by any member. No question shall be twice reconsidered except by unanimous vote of the City Commission, except that action relating to any contract may be reconsidered at any time before the final execution thereof.

7.5. The Previous Question (Calling the Question). When the previous question is moved and seconded, it shall be put as follows: "Shall the main question be considered now?" There shall be no further amendment or debate, but pending amendments shall be put in their order before the main question. If the motion for the previous question is lost, the main question remains before the City Commission. An affirmative vote of two-thirds of the City Commission members present shall be required to approve the previous question. (To demand the previous question is equivalent in effect to moving "that debate now cease, and the City Commission immediately proceed to vote on the pending motion." In practice, this is done with the phrase "Call for the Question," or by simply saying "Question.")

7.6. Withdrawal of Motions. A motion may be withdrawn, or modified, by its mover without asking permission until the motion has been restated by the Mayor. If the mover modifies the motion, the seconder may withdraw the second. After the question has been restated, the mover shall neither withdraw it nor modify it without the consent of the City Commission.

7.7. Amendments to Motions. No proposal of a subject different from that under consideration shall be admitted as a motion or amendment to a motion. A main motion may be amended by the mover stating the main motion with the amended language and having a seconder to the amended motion. If a majority of the City Commission concede, an amended motion may be amended several times and until the Mayor restates the amended the motion and asks for a vote.

7.8 Suspension of Rules. Subject only to the limitations imposed by the City Charter and state law, any of the foregoing rules may be suspended for the meeting then in session by unanimous vote of the City Commission.

RESOLUTION 2009- 102

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING RESOLUTION 96-123 REGARDING THE USE OF ROBERT'S RULES OF ORDER FOR PARLIAMENTARY PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Resolution 96-123, adopted September 3, 1996 appointed the City Attorney as Parliamentarian of the City Commission to provide guidance on parliamentary issues which may arise during the meetings of the Commission; and

WHEREAS, Resolution 96-123 requires the City Commission to follow The Scott, Foresman Robert's Rules of Order ("Robert's Rules of Order"), 1990 Edition/9th Edition, to the extent practicable; and

WHEREAS, the City Attorney, as Parliamentarian recommends using the most current edition of Robert's Rules of Order, as revised from time to time, only as a guide and that the City Commission may vary its parliamentary procedures at its pleasure from time to time; and

WHEREAS, there is no law, rule or regulation, other than Resolution 96-123 of the City that requires the City Commission to strictly follow Robert's Rules of Order.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. Resolution 96-123 is hereby amended to provide for the use of the most current edition of Robert's Rules of Order, as revised from time to time, only as a guide to parliamentary procedures and that the City Commission may vary its parliamentary procedures at its pleasure from time to time.

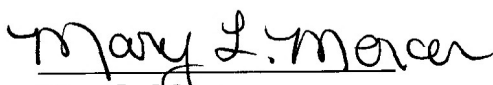
SECTION 2. This resolution shall become effective immediately upon passage.

ADOPTED this 7th day of July, 2009 with a quorum present and voting.

CITY OF FERNANDINA BEACH


Susan Hardee Steger
Commissioner – Mayor

ATTEST:


Mary L. Mercer
City Clerk

APPROVED AS TO FORM


Tammi E. Bach
City Attorney

RESOLUTION NO. 96-123

A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF FERNANDINA BEACH APPOINTING CITY
ATTORNEY AS PARLIAMENTARIAN.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA
BEACH, FLORIDA, THAT:

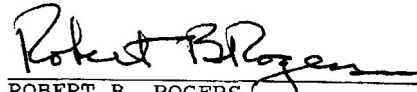
Section One: The City Attorney is hereby appointed as
parliamentarian of the City Commission to provide guidance on
parliamentary issues which may arise during the meetings of the
Commission.

Section Two: As a matter of clarification, the City
Commission will follow The Scott, Foresman Robert's Rules of
Order, 1990 Edition/9th Edition, to the extent practicable.

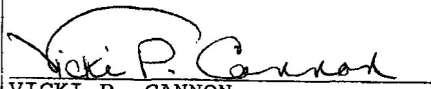
Section Three: Any deviation from strict compliance with the
provisions of said edition of Roberts Rules of Order will not
invalidate action taken by the Commission in good faith and
without objection, provided all other applicable laws,
regulations, ordinances and resolutions have been properly
observed.

ADOPTED this 3rd day of September, 1996.

CITY OF FERNANDINA BEACH


ROBERT B. ROGERS
Commissioner - Mayor

ATTEST:


VICKI P. CANNON
City Clerk



CITY COMMISSION AGENDA ITEM
CITY OF FERNANDINA BEACH

SUBJECT: Resolution 2009-102
Amending Resolution 96-123 Regarding Robert's Rules of Order

DEPARTMENT: City Attorney

ATTACHMENTS: ☐ Ordinance ☐ Resolution
☐ Support Documents ☐ Other

SUMMARY: Resolution 96-123, adopted September 3, 1996 appointed the City Attorney as Parliamentarian of the City Commission to provide guidance on parliamentary issues which may arise during the meetings of the Commission. The City Attorney, as Parliamentarian recommends using the most current edition of Robert's Rules of Order, as revised from time to time, only as a guide and that the City Commission may vary its parliamentary procedures at its pleasure from time to time. There is no law, rule or regulation, other than Resolution 96-123 of the City that requires the City Commission to strictly follow Robert's Rules of Order.

RECOMMENDED ACTION: Approve Resolution 2009-102.

DEPARTMENT HEAD Submitted: Tammi E. Bach, City Attorney Date: 6/23/09
Requested Agenda Date: 7/07/09

FINANCE DEPARTMENT Budgeted ☐ Yes ☐ No ☐ N/A Date

CITY ATTORNEY Approved for Form TEB Date: 6/25/09

INT
CITY MANAGER Approved Agenda Item for JS Date: 7/1/09

COMMISSION ACTION: ☐ Approved As Recommended ☐ Disapproved ☐ Other
☐ Approved With Modification ☐ Tabled To Time Certain

DISTRIBUTION: ☐ CA ☐ CC ☐ CM ☐ CDD ☐ FIN ☐ FD ☐ GC ☐ HR ☐ MD ☐ PD ☐ PRD ☐ UD ☐ AP

Approved at the City Commission
Meeting
Held on 7.7.09
Voted: _____ Initial: _____

Roberts Rules of Order – Simplified

Guiding Principles:

- Everyone has the right to participate in discussion if they wish, before anyone may speak a second time.
- Everyone has the right to know what is going on at all times. Only urgent matters may interrupt a speaker.
- Only one thing (motion) can be discussed at a time.

A **motion** is the topic under discussion (e.g., “I move that we add a coffee break to this meeting”). After being recognized by the president of the board, any member can introduce a motion when no other motion is on the table. A motion requires a second to be considered. If there is no second, the matter is not considered. Each motion must be disposed of (passed, defeated, tabled, referred to committee, or postponed indefinitely).

How to do things:

You want to bring up a new idea before the group.

After recognition by the president of the board, present your motion. A second is required for the motion to go to the floor for discussion, or consideration.

You want to change some of the wording in a motion under discussion.

After recognition by the president of the board, move to amend by

- adding words,
- striking words or
- striking and inserting words.

You like the idea of a motion being discussed, but you need to reword it beyond simple word changes.

Move to substitute your motion for the original motion. If it is seconded, discussion will continue on both motions and eventually the body will vote on which motion they prefer.

You want more study and/or investigation given to the idea being discussed.

Move to refer to a committee. Try to be specific as to the charge to the committee.

You want more time personally to study the proposal being discussed.

Move to postpone to a definite time or date.

You are tired of the current discussion.

Move to limit debate to a set period of time or to a set number of speakers. Requires a 2/3rds vote.

You have heard enough discussion.

Move to close the debate. Also referred to as calling the question. This cuts off discussion and brings the assembly to a vote on the pending question only. Requires a 2/3rds vote.

You want to postpone a motion until some later time.

Move to table the motion. The motion may be taken from the table after 1 item of business has been conducted. If the motion is not taken from the table by the end of the next meeting, it is dead. To kill a motion at the time it is tabled requires a 2/3rds vote. A majority is required to table a motion without killing it.

You believe the discussion has drifted away from the agenda and want to bring it back.
"Call for orders of the day."

You want to take a short break.
Move to recess for a set period of time.

You want to end the meeting.
Move to adjourn.

You are unsure the president of the board announced the results of a vote correctly.
Without being recognized, call for a "division of the house." A roll call vote will then be taken.

You are confused about a procedure being used and want clarification.
Without recognition, call for "Point of Information" or "Point of Parliamentary Inquiry." The president of the board will ask you to state your question and will attempt to clarify the situation.

You have changed your mind about something that was voted on earlier in the meeting for which you were on the winning side.
Move to reconsider. If the majority agrees, the motion comes back on the floor as though the vote had not occurred.

You want to change an action voted on at an earlier meeting.
Move to rescind. If previous written notice is given, a simple majority is required. If no notice is given, a 2/3^{rds} vote is required.

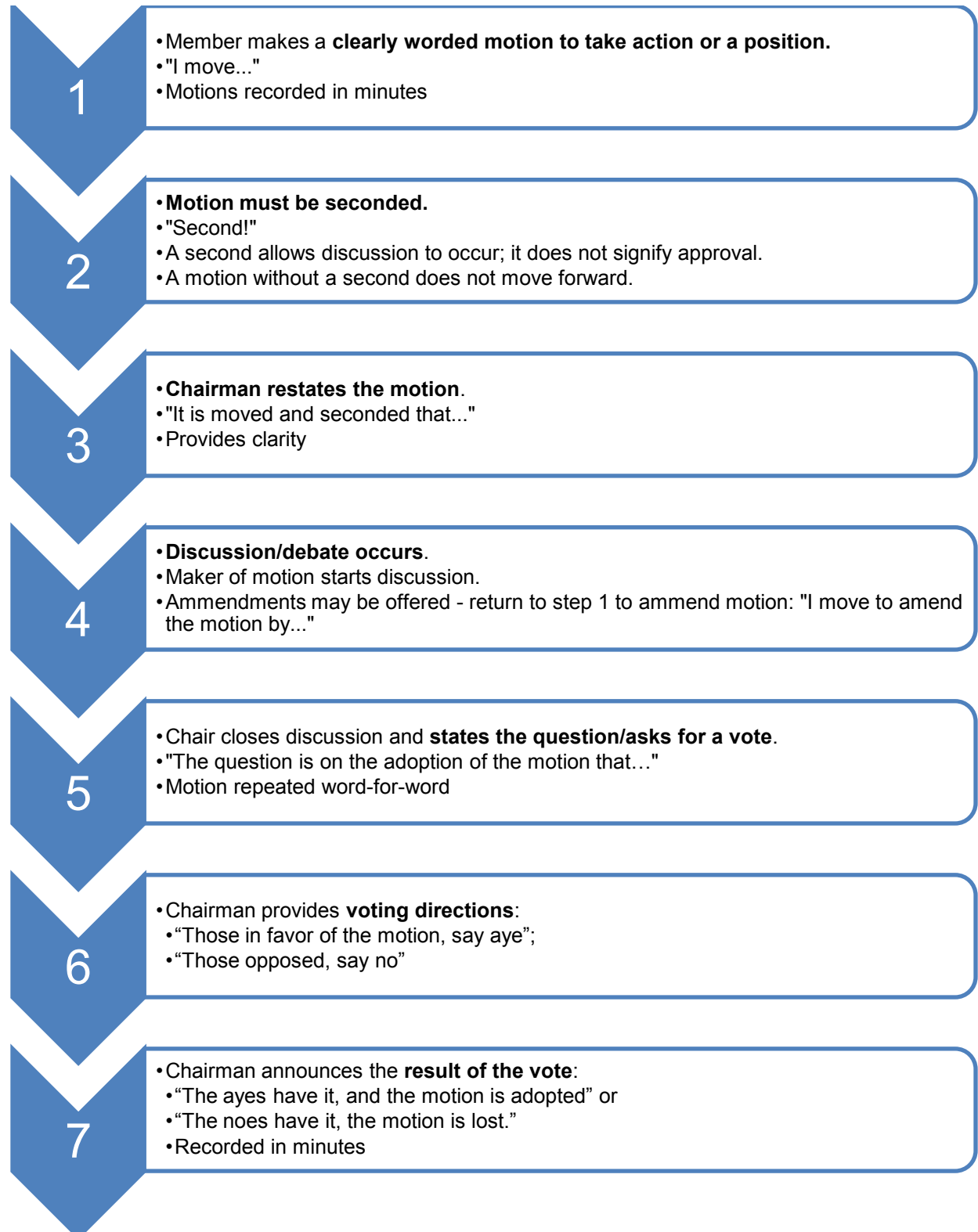
Unanimous Consent:

If a matter is considered relatively minor or opposition is not expected, a call for unanimous consent may be requested. If the request is made by others, the president of the board will repeat the request and then pause for objections. If none are heard, the motion passes.

- **You may INTERRUPT a speaker for these reasons only:**
 - to get information about business –point of information to get information about rules– parliamentary inquiry
 - if you can't hear, safety reasons, comfort, etc. –question of privilege
 - if you see a breach of the rules –point of order
 - if you disagree with the president of the board's ruling –appeal
 - if you disagree with a call for Unanimous Consent –object

Robert's Rules of Order Cheat Sheet

HOW TO INTRODUCE NEW BUSINESS – The Main Motion Process



Robert's Rules of Order Cheat Sheet

WHAT DO I SAY?

To Do This	Motion	You Say This	Debate Allowed?	Vote Required
Introduce Business	Main	"I move that..."	Yes	Majority
Second a Motion	Second	"Second!"	No	No
Change the Wording or add Clarity of a Motion	Amend	"I move to amend the motion by..." (adding words; striking out words; substitute words)	Yes	Majority
Send to Committee	Commit/Refer	"I move the motion be referred to ..."	Yes	Majority
Postpone Action until a Specific Time	Postpone	"I move the motion be postponed until..." (provide a specific time on the agenda or next meeting date)	Yes	Majority
Postpone Action until an Unspecified Time (a motion will be required to discuss in the future)	Lay on the Table	"I move to lay the motion on the table."	No	Majority
Limit Debate	Limit Debate	"I move that the debate on this motion be limited to (one) speech of (two) minutes for each member."	No	Two-thirds
End Debate or Request a Vote	Previous Question	"I move the previous question."	No	Two-thirds
Take Intermission	Recess	"I move to recess for (time)."	No	Majority
Close Meeting	Adjourn	"I move to adjourn."	No	Majority