

RESOLUTION 2013-05

A RESOLUTION OF THE CITY OF POLK CITY, FLORIDA; ADOPTING RULES AND POLICIES GOVERNING PUBLIC COMMENT; ADOPTING SAID RULES AND POLICIES IN COMPLIANCE WITH SECTION 286.0114, FLORIDA STATUTES; PROVIDING FINDINGS; PROVIDING DEFINITIONS; PROVIDING RULES FOR THE CONDUCT OF MEETINGS; PROVIDING RULES FOR PUBLIC PARTICIPATION AND CONDUCT; REQUIRING THE OBSERVANCE OF DECORUM; PROVIDING FOR WAIVERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF POLK CITY, FLORIDA:

SECTION 1. FINDINGS;DECLARATION OF PUBLIC POLICY. It is the intent of these rules that the deliberations and actions of the Council be conducted and taken openly in order that the citizens may be fully informed, it being the finding of the Council that the citizens must be fully informed if they are to be intelligently advised as to the conduct of public business by the Council. Towards that end, the City Council makes the following findings and declares the following legislative intent:

- (1) The City has traditionally permitted public participation in its public meetings.
- (2) Many Florida local governments allow public participation but have adopted rules to govern its conduct.
- (3) Public participation in government business is the bedrock of American local government and should be protected, permitted, and not discouraged consistent with principles of common and statutory law.
- (4) In 2013, the Florida Legislature adopted Section 286.0114, Florida Statutes, that requires municipal boards and commissions to provide members of the public a reasonable opportunity to be heard before official action is taken.
- (5) At the same time, some forms of comment that slander, defame, libel, disparage, or smear individuals through ad hominem attacks are neither germane to public business and are inappropriate to the decorum of public meetings involving the public business of a city.
- (6) The City is permitted to set reasonable ground rules for public participation within its city council meetings and within any other meetings of any board or commission of the City or its agencies or authorities.

SECTION 2. DEFINITIONS. For the purpose of these rules, the following definitions shall prevail:

(1) A "meeting" is a gathering of a quorum of the membership of the Council, or any board or commission or the City or its agencies or authorities for the purpose of receiving information relating to public business, or for discussion of public business, or for official action upon a proposition related to public business.

(2) A "regular meeting" is a meeting held pursuant to a schedule of such meetings as approved by a board or commission to enact ordinances and resolutions, conduct public hearings, or otherwise discuss or act upon matters of public interest.

(3) A "special meeting" is any meeting other than a regular meeting held by a board or commission. A "special meeting" is held for the purpose of addressing matters requiring the immediate attention of a board or commission or for the purpose of addressing matters which the board or commission has determined are best addressed at a special meeting. When a special meeting is called, the Mayor or presiding officer of the board or commission shall specifically state the purpose of the meeting and the board or commission shall address only those matters for which the meeting was called.

(4) A "board or commission" shall refer to the City Council of the City of Polk City, the Zoning Board of Appeals, the Planning Commission, and any other board or commission created in the future by the City Commission .

(5) "City Councilor" shall refer to the Mayor and members of the City Council of the City of Polk City.

(6) The "presiding officer" shall mean, in the case of the City Council, the Mayor, and in all other cases shall be the chairman of a particular city board or commission.

SECTION 3. MEETINGS.

(1) Location. All meetings of the City Council shall be held in City Hall, unless the Council indicates another location, and shall be open to the public as required by law. All meetings of any other city board or commission shall be held in a suitable location within the city limits of the City of Polk City, and shall be open to the public as required by law. The only exception to the requirement that meetings be open to the public shall be any executive session scheduled for those purposes expressly recognized by law.

(2) Regular Meetings. The City Council and the city's other boards and commissions shall hold regular monthly meetings as designated by the City Council or the city's other boards and Commissions.

(3) Public Notice. The City shall give public notice of the schedule of meetings and shall state the dates, times and places for such meetings. Public notice of any special meeting or of any reconvened meeting shall be given before such meeting. Public notice shall be given by posting a copy of the notice at City Hall. The City shall supply copies of the notices of its meetings to any local newspaper of general circulation, or any local radio or television station that has filed an annual request with the City Clerk for such notice.

SECTION 4. CONDUCT OF MEETINGS.

(1) The presiding officer shall preserve order and decorum at all meetings.

(2) When considering matters noticed for a public hearing of the City Council, the applicable ordinances shall first be read by its title only. The presiding officer shall declare the public hearing open and receive comments from the public.

(3) During any board or commission meeting, board members and commissioners shall maintain order and decorum.

(4) City staff and citizens must be recognized by the presiding officer before speaking or asking questions. The purpose of this requirement is so that there is order and so that the recording equipment will properly record all comments made by individuals wishing to comment on a specific subject.

(5) All comments must be made from the podium which is located at the front of the City Council Chambers or by other reasonable accommodations in any other location in which a board or commission meeting is held, and shall address the subject of the agenda item. Individuals that appear before any city board or commission are required to state their legal name and their actual address for the public record. The purpose of this requirement is so that they are properly reflected in any board or commission minutes and are available for future reference.

(6) At the discretion of the presiding officer, public comments to be offered for an item during which the board or commission is acting in a quasi-judicial capacity will be limited to three (3) minutes per person so that all may be heard on the matter and the presiding officer, or his designee, shall in such instances monitor the timing and give the speaker a thirty (30) second notice prior to the expiration of the time allotted. The presiding officer may, at his discretion, or at the direction of a majority of the board or commission, extend the time allowed for an individual to speak or to allow a speaker a single opportunity to rebut comments made by another speaker. Any such rebuttal shall be limited to three (3) minutes. After receiving public comments as provided herein, the public hearing shall be closed and all further discussion on the matter shall be limited to members of the Council. One participant's allotted time for addressing the board or commission may not be donated to another participant.

(7) Those persons wanting to express his or her opinion on an agenda item noticed for public hearing without addressing the board or commission may do so on the appropriate color-coded participation card which the clerk shall make available, and when completed and returned to the clerk shall be made part of the public record of the proceedings. Individuals may express on the card that they are "FOR", "AGAINST", or "UNDECIDED" regarding the agenda item they reference on the card.

(8) As a board or commission considers consent agenda items, emergency items, items involving official acts that involve no more than a ministerial act, approval of minutes, ceremonial proclamations and other similar items, the presiding officer may, at his discretion, or at the direction of a majority of the board or commission, accept comments from those in attendance.

(9) When considering the first or second reading of an ordinance, the City Council shall accept comments from those members of the public who have indicated their desire to address the Council concerning such ordinance by signing up at the commencement of the meeting on participation cards provided by the City Clerk.

SECTION 5. PUBLIC PARTICIPATION AND COMMENT. The City of Polk City has a long standing policy which encourages its citizens to contact the City Manager's office to redress issues which involve the City. In cases where a city board or commission's involvement is required, these matters are typically taken before that city board or commission as an agenda item. The City Council continues to believe that this procedure offers citizens the best avenue to resolve issues and encourages this procedure to be followed where practical. In order to comply with Section 286.0114, Florida Statutes, the City Council hereby establishes a Public Comment Policy applicable to all city boards and commissions to allow members of the public an additional opportunity to address city boards and commissions. In addition to public hearings, a special time is hereby set aside at all city board and commission meetings for the purpose of receiving comments and suggestions from members of the public. All comments made during any Public Comment period shall be subject to the following procedures:

(1) The City Council allocates 30 minutes at the beginning of each city board or commission meeting for citizens who wish to appear before that city board or commission to make a request of that board or commission, voice a complaint or concern, express an opinion, or for some other type of recognition. The presiding officer will divide the time equally between all who have signed up to speak; but in no case may a citizen speak longer than three (3) minutes. A Public Comment period not to exceed thirty minutes will be held during any board or commission meeting. The presiding officer may permit additional time to a given speaker on a case by case basis.

(2) Persons who wish to make a statement during the Public Comment period will register on a sign-up sheet available 30 minutes before the start of the meeting. No one will be allowed to have his or her name placed on the list by telephone request to city staff.

(3) Each person who signed up to speak will have up to 3 minutes to make his or her statement. Speakers will be acknowledged by the presiding officer in the order in which their names appear on the sign-up sheet. Speakers shall address that city board or commission from the podium, and not approach that city board or commission or staff. Speakers will begin their statement by first stating their legal name and actual address.

(4) Statements are to be directed to the city board or commission as a whole, and not to individuals. Public comment is not intended to require a city board or commission to provide any answer to the speaker. Discussions between speakers and members of the audience will not be allowed.

(5) Speakers will be courteous in their language and presentation.

(6) Only one speaker will be acknowledged at a time. In the event a group of persons supporting or opposing the same position desires to be heard, in the interest of time, a spokesperson shall be designated to express the group's concerns. Likewise, in the event the number of persons wishing to attend the hearing exceeds the capacity of the meeting place, one or more delegates shall be selected to speak on behalf of each group. If the time periods expires before all persons who have signed up get to speak, those names will be carried over to the next Public Comment period, or if the presiding officer consents, these comments can be hearing at that meeting.

(7) Any action on items brought up during the Public Comment period will be at the discretion of that city board or commission. No city board or commission will likely take any action on subject matter for which it has not had the opportunity to fully investigate and gather complete information.

(8) These same rules shall apply to all city boards and commissions.

SECTION 6. DECORUM. The presiding officer shall preserve strict order and decorum at all meetings.

(1) In conducting the public's business, city boards and commissions are committed to the principles of civility, honor, and dignity. Individuals appearing before city boards and commission are requested to observe the same principles when making comments on items and issues presented to a given city board or commission for its consideration.

(2) Staff members and citizens are required to use proper language when addressing a city board or commission or the audience. Staff members and citizens shall not use profanity or cursing, aggressive or threatening behavior when addressing the city board or commission or other participants. All comments are directed to the presiding officer and not to individual members of the city board or commission or to the

audience. No personal verbal attacks toward any individual will be allowed during the conduct of a city board or commission meeting. The presiding officer may have individual(s) removed from the podium and/or meeting chambers if such conduct persists after a warning has been issued.

(3) All members of a city board or commission shall accord the utmost courtesy to each other, the City employees and the public members appearing before the board or commission and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities. During city board or commission meetings, cell phones are to be turned off or silenced. Use of cell phones by board or commission members and City staff for talking, texting, emailing or otherwise will not be allowed during meetings while at the dais, except for emergency communications, research, or during breaks.

(4) In addition to the prohibitions in (3), above, Section 871.01, Florida Statutes, declares that any person who willfully interrupts or disturbs any assembly of people meeting for any lawful purpose shall be guilty of a misdemeanor of the second degree, and may be arrested by police officers present. This may be done in the absence of the conduct being noted, or of the offender being called to order, by the presiding officer.

(5) In the case that any person is declared out of order by the presiding officer and ordered expelled, and does not immediately leave the meeting chambers, the following steps shall be taken:

- (i) The presiding officer shall declare a recess.
- (ii) The person shall be approached by a police officer and advised that he has been ordered expelled.
- (iii) In case the person does not remove himself from the area he may be placed under arrest for violation of Section 871.01, Florida Statutes, should the person continue to willfully interrupt or disturb the meeting.
- (iv) In the event any person who is ordered expelled leaves the meeting chambers voluntarily and then returns to the same meeting, he is subject to arrest for violation of Section 871.01, Florida Statutes, should the person continue to willfully interrupt or disturb the meeting.

The City Manager shall, during all City Council meetings, have a uniformed certified law enforcement officer present.

SECTION 7. WAIVER OF RULES. The city board or commission may, at any time, waive all or a portion of these rules of procedure during the course of a meeting. Provided, however, that any such waiver shall only be done upon a motion and majority approval of the waiver by members of the board or commission present and voting.

Such waivers shall only be granted to insure the protection of the right of members of the public to be given a reasonable opportunity to be heard before a city board or commission takes official action on a proposition.

SECTION 8. SEVERABILITY. If any provision or portion of this Resolution is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Resolution shall remain in full force and effect.

SECTION 9. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage.

RESOLVED, PASSED, AND CERTIFIED AS TO PASSAGE THIS _____ DAY OF _____, 2013.

CITY COUNCIL OF THE CITY OF POLK CITY

Joe LaCascia, Mayor

ATTEST:

Patricia R. Jackson, City Clerk

APPROVED AS TO FORM & LEGALITY

Thomas A. Cloud, Esquire, City Attorney