

MIAMI-DADE COUNTY LEAGUE OF CITIES
EIGHTH ANNUAL BEST PRACTICES
CONFERENCE
October 18, 2018

CAN I SPEAK UP AT CITY HALL?
Free Speech in the Public Forum

SEMINAR MATERIALS

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DISCUSSION HYPOTHETICAL 1

**Adapted from *Lozman v. City of Riviera Beach*
Supreme Court Case No. 17-21 (June 18, 2018)**

Facts:

A known Citizen Advocate regularly appears at publicly noticed commission meetings and is an outspoken critic of the municipality's leadership. The Citizen often makes critical comments about public officials during the public-comment period of commission meetings. The Citizen had filed litigation against the municipality on a number of issues, including violations of the Open Meetings Law.

The commission held a closed-door executive session with counsel to discuss the lawsuit. During that meeting, the transcript of which became publicly available, some of the elected official discussed potential strategies for dealing with the Advocate, including the possibility of truncating the Advocate's presentations at the meetings due to the potential for disruption. The discussion included comments about alerting the Sergeant-At-Arms whenever the Advocate appeared at the podium.

At a public meeting held after the closed-door executive session, but before the transcript was made available, the Advocate began to address the officials about officials from other jurisdictions being arrested or charged with criminal conduct arising from violations of the Open

Meetings Law. When the Advocate refused an official's request to stop making the remarks, the presiding officer instructed the Sergeant-At-Arms (a police officer), to escort the Advocate out of the chambers. The officer complied, handcuffing the Advocate and leading the Advocate out of the meeting.

The Advocate was arrested for violating the Commission's rules of conduct and procedure by discussing issues unrelated to the municipality and for refusing to leave the podium.

The prosecutor determined there was probable cause for the arrest, but exercised discretion to dismiss all criminal charges.

The Advocate challenged the municipality's actions, claiming a violation of the First Amendment and the Citizen's Bill of Rights. The Advocate also asserted the municipal action was done in retaliation and for harassment.

Discussion Points:

- 1. First Amendment Free Speech Rights.**
- 2. First Amendment retaliation claim.**
- 3. Legality of Advocate's conduct.**
- 4. Did official have authority to order the Advocate's arrest and to be escorted out of the room?**
- 5. Discuss the legality of the Advocate's arrest/**
- 6. Do officials have qualified immunity.**
- 7. Impact of Citizens Bill of Rights.**

DISCUSSION HYPOTHETICAL 2

Expulsion from Commission Meeting

Facts:

A political party representative appeared at a publicly-noticed commission meeting to raise concerns about issues pending in the community. During the public comment portion of the meeting, the representative began addressing an issue that was pending in active

litigation, and excoriated the commissioners for the positions taken on the matters. When the political party representative began making pointed comments that were perceived as attacking the commissioners, the presiding officer directed the representative to cease discussions and to leave the podium. Before security was called, the speaker left the podium. She then filed a complaint with the Commission on Ethics.

Discussion Points:

- Does the presiding office have the authority to ask the speaker to desist?
- Are speakers permitted to engage in *ad hominem* attacks against commissioners?
- Can speakers address matters that are currently in litigation?

DISCUSSION HYPOTHETICAL 3

Lobbyist Addressing Commission During Public Session

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Facts:

A Registered Lobbyist has filed an appropriate registration with the municipality to lobby on listed issues. During a Commission Meeting that does NOT have the Lobbyist's issues on the agenda, the Lobbyist rises to speak during the public speaker session. The Lobbyist begins addressing an issue for which the Lobbyist is NOT registered, but involves a matter concerning one of the Lobbyist's disclosed clients. The presiding officer interrupts the Lobbyist and asks the City Attorney if the Lobbyist is registered on that issue. When the City Attorney answers NO, the presiding officer inquires of the City Attorney whether the Lobbyist can be allowed to speak for client concerning an unregistered matter. The City Attorney informs the presiding officer that the failure to register is a violation of the Code.

The presiding officer then precludes the Lobbyist from speaking without first registering. The Lobbyist objects, stating he merely wants to present information to the Commission during the public session.

Discussion Points:

- Must the Lobbyist register in order to be able to speak?
- Can the presiding officer allow the Lobbyist to speak, if doing so violates the Lobbyist Ordinance?
- Is the Lobbyist allowed to speak on a matter on behalf of a client during the public speaker session without registering?
- Does an official risk any liability by allowing an unregistered lobbyist to speak?

DISCUSSION HYPOTHETICAL 4

Setting Rules for Public Comment Speakers

Facts:

A municipality sets rules for public participation during official commission meetings. The rules, approved by the administration but not made as an ordinance, limit the public comment session to 30 minutes each meeting, requires speakers to sign up at least 30 minutes before the meeting begins, obligates speakers to identify the subject(s) of their talking points and whether they represent any person or organization, prohibits making comments disparaging any municipal officials or employees, and allows no more than two (2) minutes per speaker. The administrative justification for the rules is to promote order and decorum, to allow more public participation, and to provide advance notice of the intended topics to enable the administration to be prepared if a response is needed.

Discussion Points:

- Discuss the validity of the rules.
- Must the rules be approved by the Commission to be enforceable?
- Can the Commission restrict the number of speakers?
- Is prior disclosure of the talking points permissible?
- Discuss the impact of Florida Law mandating public comment sessions.

- Identify any issues implicating the Citizens Bill of Rights.
- Are there any First Amendment issues addressed in the rules?

The 2018 Florida Statutes

[Title XIX](#)

[Chapter 286](#)

[View Entire Chapter](#)

PUBLIC BUSINESS

PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS

286.0114 Public meetings; reasonable opportunity to be heard; attorney fees. —

- (1) For purposes of this section, “board or commission” means a board or commission of any state agency or authority or of any agency or authority of a county, municipal corporation, or political subdivision.
- (2) Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decisionmaking process and is within reasonable proximity in time before the meeting at which the board or commission takes the official action. This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting. The opportunity to be heard is subject to rules or policies adopted by the board or commission, as provided in subsection (4).
- (3) The requirements in subsection (2) do not apply to:
 - (a) An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board or commission to act;
 - (b) An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
 - (c) A meeting that is exempt from s. [286.011](#); or
 - (d) A meeting during which the board or commission is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.
- (4) Rules or policies of a board or commission which govern the opportunity to be heard are limited to those that:
 - (a) Provide guidelines regarding the amount of time an individual has to address the board or commission;
 - (b) Prescribe procedures for allowing representatives of groups or factions on a proposition to address the board or commission, rather than all members of such groups or factions, at meetings in which a large number of individuals wish to be heard;
 - (c) Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her support, opposition, or neutrality on a proposition; and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses; or
 - (d) Designate a specified period of time for public comment.
- (5) If a board or commission adopts rules or policies in compliance with this section and follows such rules or policies when providing an opportunity for members of the public to be heard, the board or commission is deemed to be acting in compliance with this section.
- (6) A circuit court has jurisdiction to issue an injunction for the purpose of enforcing this section upon the filing of an application for such injunction by a citizen of this state.
- (7)(a) Whenever an action is filed against a board or commission to enforce this section, the court shall assess reasonable attorney fees against such board or commission if the court determines that the defendant to such action acted in violation of this section. The court may assess reasonable attorney fees against the individual filing

such an action if the court finds that the action was filed in bad faith or was frivolous. This paragraph does not apply to a state attorney or his or her duly authorized assistants or an officer charged with enforcing this section.

(b) Whenever a board or commission appeals a court order that has found the board or commission to have violated this section, and such order is affirmed, the court shall assess reasonable attorney fees for the appeal against such board or commission.

(8) An action taken by a board or commission which is found to be in violation of this section is not void as a result of that violation.

History.—s. 1, ch. 2013-227.

Miami - Dade County, Florida, Code of Ordinances >> PART I - CONSTITUTIONAL AMENDMENT AND CHARTER >> **CITIZENS' BILL OF RIGHTS >>**

CITIZENS' BILL OF RIGHTS

- (A). This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:
1. *Convenient Access.* Every person has the right to transact business with the County and the municipalities with a minimum of personal inconvenience. It shall be the duty of the Mayor and the Commission to provide, within the County's budget limitations, reasonably convenient times and places for registration and voting, for required inspections, and for transacting business with the County.
 2. *Truth in Government.* No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
 3. *Public Records.* All audits, reports, minutes, documents and other public records of the County and the municipalities and their boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.
 4. *Minutes and Ordinance Register.* The Clerk of the Commission and of each municipal council shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than 30 days after the conclusion of the meeting.
 5. *Right to be Heard.* So far as the orderly conduct of public business permits, any interested person has the right to appear before the Commission or any municipal council or any County or municipal agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the governmental entity involved; provided, nothing herein shall prohibit the Commission or any municipal council from referring a matter to a committee of each of their respective bodies to conduct a public hearing, unless prohibited by law. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits for the presentation of a matter.
 6. *Right to Notice.* Persons entitled to notice of a County or municipal hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for cancelling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

7. *No Unreasonable Postponements.* No matter once having been placed on a formal agenda by the County or any municipality shall be postponed to another day except for good cause shown in the opinion of the County Commission, the municipal council or other governmental entity or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for cancelling the hearing or rendering invalid any determination made at such hearing.
8. *Right to Public Hearing.* Upon a timely request of any interested party a public hearing shall be held by any County or municipal agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the Law Department of the County or of any municipality, nor to any body whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.
9. *Notice of Actions and Reasons.* Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any County or municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.
10. *Mayor's, City Managers' and Attorneys' Reports.* The County Mayor and County Attorney and each City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.
11. *Budgeting.* In addition to any budget required by state statute, the County Mayor shall prepare a budget showing the cost of each program for each budget year. Prior to the County Commission's first public hearing on the proposed budget required by state law, the County Mayor shall make public a budget summary setting forth the proposed cost of each individual program and reflecting all major proposed increases and decreases in funds and personnel for each program, the purposes therefore, the estimated millage cost of each program and the amount of any contingency and carryover funds for each program.
12. *Quarterly Budget Comparisons.* The County Mayor shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.
13. *Adequate Audits.* An annual audit of the County and each municipality shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. A summary of the results, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy.

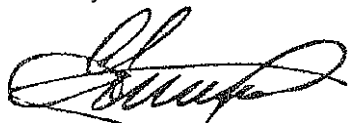
14. *Regional Offices.* Regional offices of the County's administrative services shall be maintained at locations in the County for the convenience of the residents.
 15. *Financial Disclosure.* The Commission shall by ordinance make provision for the filing under oath or affirmation by all County and municipal elective officials, candidates for County and municipal elective offices, such employees as may be designated by ordinance, and such other public officials, and outside consultants who receive funds from the County or municipalities, within the County and who may legally be included, of personal financial statements, copies of personal Federal income tax returns, or itemized source of income statements. Provision shall be made for preparing and keeping such reports current from time to time, and for public disclosure.
The Commission shall also make provision for the filing annually under oath of a report by fulltime County and municipal employees of all outside employment and amounts received therefrom. The Mayor and any City Manager may require monthly reports from individual employees or groups of employees for good cause.
 16. *Representation of Public.* The Commission shall endeavor to provide representation at all proceedings significantly affecting the County and its residents before State and Federal regulatory bodies.
 17. *Commission on Ethics and Public Trust.* The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by the County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances, lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.
- (B). The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of Dade County. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the County. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.
- (C). Remedies for Violations. A citizen may bring a cause of action alleging a violation of this Article filed in the Dade County Circuit Court pursuant to its general equity jurisdiction and if successful, shall be entitled to recover costs as fixed by the Court. The Commission on Ethics and Public Trust may also enforce the provisions of this Article and may impose any penalty authorized by County Code not otherwise prohibited by a collective bargaining agreement, for a violation of this Article. Any penalty imposed by the Commission on Ethics and Public Trust pursuant to this subsection may be enforced in the Miami-Dade County Circuit Court.
- (D). Construction. All provisions of this Article shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Article shall be declared invalid, it shall not affect the validity of the remaining provisions.

Memorandum

MIAMI-DAD.

Date: June 4, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance Relating to Citizens' Bill of Rights; Amending Section 2-1072 of the Code;
to Provide Penalties for Violation of Citizens' Bill of Rights

The proposed ordinance amends Section 2-1072 of the Code and provides for penalties for violation of Citizens' Bill of Rights and authorizes the Commission on Ethics to impose penalties contained in Section 2-11.1 (cc)(1) of the Code. Implementation of this ordinance may add revenue to the County from the imposition of new penalties, however, at this time, it is very difficult to estimate any amount.

sonKim

Director of Policy and Legislative Affairs

Fis4613



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca SosJI
and Members, Board of County Commissioners

DATE: June 4, 2013

FROM:!

SUBJECT: AgendaitemNo. 7(G)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☒ 6 weeks required between first reading and public hearing
- ☒ 4 weeks notification to municipal officials requh-ed prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact requh-ed
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more th:ian a majority vote (i.e., 2/3's____, 3/S's____, unanimous____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

AgendaitemNo. 7(G)
6-4-13

ORDINANCE RELATING TO CITIZENS' BILL OF RIGHTS;
AMENDING SECTION 2-1072 OF THE CODE OF MIAMI-
DADE COUNTY, FLORIDA, TO PROVIDE PENALTIES FOR
VIOLATION OF CITIZENS' BILL OF RIGHTS;
AUTHORIZING MIAMI-DADE COUNTY COMMISSION ON
ETHICS AND PUBLIC TRUST TO IMPOSE PENALTIES
CONTAINED IN SECTION 2-11.1(cc)(l) OF THE CODE;
PROVIDING SEVERABILITY, INCLUSION IN THE CODE,
AND AN EFFECTIVE DATE

Section 1. Section 2-1072 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

ARTICLE LXXVIII COMMISSION ON ETHICS AND
PUBLIC TRUST

* * *

(a) The Ethics Commission shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the County and municipal:

Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- (2) Conflict of interest Ordinances;
- (3) Lobbyist Registration and Reporting Ordinances;
[[and]]
- (4) Ethical Campaign Practices Ordinance[[.]]>>: and
- iii Citizens' Bill of Rights.<<

- (b) [[The Ethics Commission shall be authorized to review, interpret and render advisory opinions regarding the applicability of the Citizens' Bill of Rights as provided in Section 2-1074.JJ >> Violations of the Citizens' Bill of Rights are subject to the penalties set out in § 2-11.1(cc)(1) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.<<

* * *

Sec. 2-11.1. - Conflict of Interest and Code of Ethics Ordinance

* * *

- (cc) *Penalty.*

(1) *Proceeding before Ethics Commission.* A finding by the Ethics Commission that a person has violated this section shall subject said person to an admonition or public reprimand and/or a fine of five hundred dollars (\$500.00) for the first such violation and one thousand dollars (\$1,000.00) for each subsequent violation. Where the Ethics Commission finds that a person has intentionally violated this section and determines that a fine is appropriate, said person shall be subject to a fine of one thousand dollars (\$1,000.00) for the first such violation and two thousand dollars (\$2,000.00) for each subsequent violation. Actual costs incurred by the Ethics Commission, in an amount not to exceed five hundred dollars (\$500.00) per violation, may be assessed where the Ethics Commission has found an intentional violation of this section. The Ethics Commission may also order the person to pay restitution when the person or a third party has received a pecuniary benefit as a result of the person's

governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Gerald K. Sanchez

Prime Sponsor: Chairwoman Rebeca Sosa

Sec. 2-11.39.3. - Reasonable opportunity for the public to be heard before county boards.

- (a) In addition to the right to speak on any public hearing matter, if applicable, and notwithstanding and prevailing over any other provision of the Code to the contrary, members of the public shall be given a reasonable opportunity to be heard on any non-public hearing proposition that is under consideration by any county board as set forth in this part pursuant to Florida Statutes, Section 286.0114, as such may be amended from time to time.
- (b) For purposes of this rule, "proposition" shall mean a general substantive policy issue or matter proposed or offered for consideration or adoption, and shall not include:
 - (i) Procedural motions on propositions, or
 - (ii) Individual components, aspects or line items of a proposition.

While a single proposition may be considered multiple times before a board as the same or different agenda items, there shall only be one reasonable opportunity to be heard on each proposition during the decision-making process as set forth in this rule.

- (c) The opportunity to be heard does not apply to:
 - 1. An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board to act;
 - 2. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
 - 3. A meeting that is exempt from the Sunshine Law; or
 - 4. A meeting during which the board is acting in a quasi-judicial capacity, provided, however, that this provision does not affect the right of a person to be heard as otherwise provided by law.
- (d) Unless further time is granted by the presiding officer of a county board, the statement shall be limited to no more than two (2) minutes, subject to the limitations as set forth in Rule 6.06 of the Board of County Commissioners Rules of Procedure, as such may be amended from time to time.
- (e) A board may adopt additional rules or policies that govern the reasonable opportunity to be heard. In the event that a board does not adopt rules or policies, or adopted rules or policies do not address a particular situation, then the provisions of Rule 6.06 of the Board of County Commissioners Rules of Procedure, as such may be amended from time to time, shall apply.

(Ord. No. 14-07, § 2, 1-22-14)

Editor's note— Ord. No. 14-07, § 2, adopted January 22, 2014, set out provisions intended for use as § 2-11.39.2. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as § 2-11.39.3.

Sec. 1.04. - Citizens' bill of rights.

The citizens of the County establish this County government in order to protect and serve the citizens of the County. In order to secure to the County's citizens protection against abuses and encroachments by County government, and to insure all persons fair and equitable treatment, the following rights are guaranteed:

- A. *Access to Government.* Each Person has the right to transact business with the County with a minimum of personal inconvenience. It is the duty of the County to provide reasonably convenient times and places for transacting business with the County.
- B. *Truth in Government.* Each Person has the right to truthful and accurate information from Commissioners and County employees. Commissioners and County employees shall not knowingly omit any information or significant facts when disseminating public information.
- C. *Public Records.* Each Person has a right to access County records. All audits, reports, minutes, documents and other County public records shall be open for public inspection at reasonable times and places.
- D. *Right to be Heard.* Any Person has the right to appear before the County Commission, a Board, or Committee for the presentation, adjustment or determination of an issue, matter or request within the County's jurisdiction. Matters shall be scheduled for the convenience of the public, and specific portions of each agenda shall provide for designated times so that the public may know when a matter may be heard. The County may establish reasonable procedures relating to public hearings, including limitations on the time members of the public may speak on an issue.
- E. *Right to Notice.* The County shall provide timely notice to Persons entitled to notice of a hearing before the County Commission, Board, or Committee. The notice shall include the time, place and nature of the scheduled hearing, and the legal authority which forms the basis for the hearing. The County shall provide copies of proposed ordinances and resolutions at a reasonable time prior to the hearing, unless the matter involves the adoption of an emergency ordinance or resolution.
- F. *Right to Notice of Decision and Reasons.* The County, if requested, shall provide members of the public notice of the County's denial of a Person's request made in connection with any County decision or proceeding. A statement indicating the grounds for denial shall accompany the notice provided by the County.
- G. *Right to County Administrator's Report.* The public is entitled to a status report, on a periodic basis, from the County Administrator on all major matters which are either still pending or have been concluded.
- H. *Right to Public Budget Process.* The County Administrator shall annually prepare a budget which illustrates the cost of each County program. Prior to the County Commission's first public hearing on a proposed budget, the County Administrator shall publish a budget summary which sets forth the proposed cost of each individual program, all major proposed increases and decreases in funding and personnel for each County program, the reasons for any increase or decrease, the estimated millage cost of each program, and the amount of any contingency and carryover funds for each program.
- I. *Right to a Management Report on the Performance of County Government.* The public is entitled to have access to a Management Report published by the County Administrator, and made public on a quarterly basis, detailing the performance of the County government offices, divisions and departments. The Management Report shall include, but not be limited to, a report on the receipt and expenditure of County funds by each County office, division and department, and a report of the expected and actual performance of the activities of each County office, division and department.

- J. *Right to Prohibit Conflicts of Interest and the Implementation of a Code of Conduct.* The County Commission shall enact, by ordinance, a conflict of interest section in the County Code that requires Commissioners, County employees, and individuals appointed to Boards, Committees, Agencies, and Authorities to avoid even the appearance of impropriety in the performance of their duties and responsibilities. The County Commission shall also enact, by ordinance, a Code of Official Conduct that shall apply to Commissioners, County employees, and individuals appointed to Boards, Committees, Agencies, and Authorities. In the ordinances enacted pursuant to this sub-section, the County Commission shall provide procedures for the examination of matters related to the conduct of Commissioners, County employees, and individuals appointed to Boards, Committees, Agencies, and Authorities. The ordinances enacted pursuant to this sub-section shall also provide procedures for the removal of an employee or individual, other than a Commissioner.
- K. *Just and Equitable Taxation.* The County shall prevent the imposition of any tax within the County in excess of the limitations imposed by Article VII, Section 9, of the Florida Constitution or by the laws of the State of Florida.
- L. *Proper Use of Public Property.* The County shall prevent the use of public property or its taxing power for the benefit of private individuals, partnerships or corporations, in violation of the restrictions imposed by Article VII, Section 10, of the Florida Constitution, or by the laws of the State of Florida.
- M. *Power of Recall.* The public shall have the power to recall any Commissioner in accordance with the laws of the State of Florida.
- N. *Protection of Human Rights.* The County shall establish provisions, for protection of citizen human rights from discrimination based upon religion, political affiliation, race, color, age, gender, disability, familial status, marital status, or national origin by providing and ensuring equal rights and opportunities for all citizens of the County.
- O. *Protection of Consumer Rights.* The County shall enact ordinances for protection of citizen consumer rights from unfair trade practices by all Persons.
- P. *Sustainable Environment.* Broward County shall enact ordinances which protect its citizens' right to a sustainable environment, including clean air and clean water, while encouraging the stewardship of natural resources.

All provisions of this Article shall be construed to be supplementary to and not in conflict with the laws of the State of Florida. If any part of this Article shall be declared invalid, such invalidity shall not affect the validity of the remaining provisions.

Broward County

18.6. - Public Participation.

- a. *Addressing Commission; Manner; Time.* Each person, other than salaried members of the county staff, who addresses the Commission shall step up to the speaker's lectern and shall give the following information in an audible tone of voice for the minutes:
 1. His or her name;
 2. At the discretion of any Commissioner, he or she may also be asked to state:
 - (a) Whether the person speaks for himself or herself, a group of persons, or a third party. If the person states that he or she represents or speaks on behalf of another entity or individual(s), he or she shall be asked to provide documentary proof of that assertion or make that assertion under oath or affirmation. Otherwise, and in the absence of any such proof, oath, or affirmation, it shall be presumed that the individual represents only his or her own personal interests; and
 - (b) Whether the speaker is being compensated by the person or persons for whom he or she speaks. The speaker shall limit his or her address to the time limits set by the Mayor. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than Commissioners and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Commission, without the permission of the Mayor.
- b. *Oath or Affirmation.* Any person who is to give factual testimony in connection with a solicitation, contract, award, or any other procurement-related matter shall be asked to take an oath or affirmation prior to speaking. If that person refuses to do so, any factual representations made by that person may be given less credence than if made under oath or affirmation.
- c. *Decorum.* Any persons making impertinent or slanderous remarks or personal attacks or who becomes boisterous while addressing the Commission shall be barred from further audience before the Commission by the Mayor, unless permission to continue or again address the Commission is granted by the majority vote of the Commission members present.

(2002-976, 11-4-02; 2007-729, 10-23-07; 2010-370, 6-8-10)

Sec. 2-33. - Order of business and rules of procedure.

- (a) The rules and regulations regarding the procedure of the city commission at all regular meetings are hereby established and adopted.
- (b) The first order of business shall be the approval of the minutes of the previous meeting. A copy of said minutes shall be distributed to the mayor and each of the commissioners prior to the meeting to enable the mayor and each commissioner to review the contents thereof.
- (c) After approval of the minutes of the previous meeting(s), all business that shall come before the city commission shall be taken up in the order as such items of business appear on the city commission agenda in accordance with the following provisions:
 - (1) The agenda shall be prepared by the city manager in an appropriate form approved, from time to time, by the city commission. Matters may be placed on the agenda by the mayor, any member of the city commission, the city manager, the city attorney, the city clerk, and a city board as created by resolution of the city commission or as defined in section 2-882 of this Code.
 - (2) Any member of the public shall be entitled to speak on any proposition before the city commission in which the city commission may take any action through the presiding officer. Members of the public shall be limited to the time limitations specified in subsection 2-33(i) of the City Code. The opportunity to be heard need not occur at the same meeting at which the city commission takes official action on the proposition, if the opportunity occurs at a meeting that is during the decision making process and is within reasonable proximity in time before the meeting at which the city commission takes official action. This does not prohibit the city commission from maintaining orderly conduct or proper decorum in a public meeting.
 - (3) The requirements of subsection (c)(2) shall not apply to:
 - a. An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the above requirements would cause an unreasonable delay in the ability of the city commission to act, and
 - b. A ministerial act, including but not limited to, approval of minutes and ceremonial proclamations.
 - (4) Any member of the public shall be entitled to be scheduled on the agenda of a regular meeting of the city commission for presentation of information and material to be considered by the commission within the scope of the jurisdiction of the city commission after the city manager has communicated with the member of the public and reviewed or investigated the member's issue, unless otherwise directed by the mayor or a member of the city commission. If the city manager is able to resolve or remedy the concerns of the member of the public, the member of the public may elect to withdraw the request to appear before the city commission. If the matter is not or cannot be resolved or remedied by the city manager, then, at the will of the member of the public, the request for appearance shall be scheduled on the next available agenda and the city manager shall submit a report in the agenda packet detailing actions taken to resolve or remedy the matter and administrative recommendations.
 - (5) The total number of items that may be scheduled on a regular city commission agenda shall not exceed 60 items.
 - (6) The lunch recess shall begin:
 - a. At 12:00 noon; or
 - b. At the conclusion of deliberations of the agenda item being considered at 12:00 noon; or
 - c. At the conclusion of statements made by the person who has been recognized to address the commission immediately prior to 12:00 noon; or
 - d. At any time deemed appropriate by the city commission.

- (7) The city commission meetings, shall adjourn:
- a. At the conclusion of deliberation of the agenda item being considered at 10:00 p.m., unless the time is extended by unanimous agreement of the members of the city commission then present, or
 - b. At the conclusion of the regularly scheduled agenda, whichever occurs first. This rule does not apply to city commission meetings required for annual budget hearings.
- (8) Any vote of the city commission pertaining to the establishment of a rescue mission, the continuation of a rescue mission, or action relating to a rescue mission in the city that arises pursuant to the zoning ordinance or comprehensive plan requires the concurrence of four affirmative votes.
- (d) A copy of requests, petitions and applications shall be placed before the mayor and each member of the city commission, supported by administrative memoranda and such information as may be necessary to enable the city commission to reach a decision. All such requests, petitions and applications, except in cases of extreme emergency, shall be in the hands of the city manager for a period of at least 21 days prior to a regular meeting, to enable the administration to prepare necessary memoranda, data or reports.
- (e) A copy of each agenda item including each resolution and ordinance and all attachments and back-up material shall be furnished to the mayor and members of the city commission at least five full business days before each regular city commission meeting with the exception of veto items. This rule shall be deemed suspended unless invoked by a commissioner before the commission takes action on the resolution or ordinance in question. Once the rule is invoked no action can be taken on the resolution or ordinance unless the rule is suspended by unanimous vote of the commissioners present. Nonscheduled ("pocket") items may be introduced for consideration at a city commission meeting by the mayor, each commissioner, the city manager and the city attorney provided that the city commission unanimously deems such resolution or ordinance to be of an emergency nature.
- (f) Consistent with the time frame requirements set forth in subsection 2-33(e) above, the following shall be posted on the internet:
- (1) The city commission agenda simultaneous with its distribution;
 - (2) The supplemental agenda and any information related to the upcoming agenda simultaneous with its distribution; and
 - (3) The city clerk's report and annotations to the agenda immediately after its release by the city clerk subsequent to the city commission meeting to which it applies.
- (g) All notices of all intentions to ask questions, together with a copy of such questions, shall be given to the city manager five days before each regular meeting. In all questions of policy presented to the city commission by the mayor, the city manager or any departmental head, notice thereof, together with a copy of questions supported by memorandum setting forth the rules of action by the city commission, shall be filed three days before the meeting and given to the mayor and each member of the city commission.
- (h) All ordinances shall be read by title only prior to passage. All resolutions shall be briefly described upon a printed agenda, which agenda shall be furnished to the mayor and members of the city commission at least five full business days before each regular city commission meeting.
- (i) Unless further time to speak is granted by the presiding officer of the city commission, any person addressing the commission shall limit his or her address to two minutes.
- (j) Unless impractical to do so, all portions of the agenda shall be scheduled to be heard at 9:00 a.m. on the date of the city commission meeting. The agenda portion entitled "consent agenda" shall be scheduled among the initial items for commission consideration. Consent agenda items that are removed from the agenda prior to city commission consideration shall automatically be scheduled as a regular agenda item at the next regularly scheduled meeting of the city commission, unless, by an

unanimous vote of all commissioners present, the city commission considers such consent item as a regular item at the same meeting.

- (k) Any scheduled agenda item not considered prior to the adjournment of the first regular monthly city commission meeting shall be perfunctorily regarded as a continued item and scheduled on the next immediate month's first regular city commission agenda. Any scheduled agenda item not considered prior to the adjournment of the second regular monthly city commission meeting shall be perfunctorily regarded as a continued item and scheduled on the next immediate month's second regular city commission agenda.
- (l) Special meetings. Nothing in this section shall prohibit either the mayor, or the commissioner designated as the presiding officer of the city commission, or three city commissioners, upon the written notice delivered to the city clerk, from calling special meetings at any time set by the city clerk, provided that reasonable advance notice of same is given to the mayor, each member of the commission, city manager, city attorney and the public. No business shall be conducted or a vote taken at a special city commission meeting on business other than the subject(s) for which the special meeting is called.
- (m) Any commissioner who so desires may be a signatory on city proclamations.
- (n) If the engagement of an executive director, regardless of title, of any board as defined in section 2-882 of this chapter, is required to be approved, ratified, or confirmed by the city commission, prior to such approval, ratification or confirmation, the individual engaged by a board shall make every reasonable attempt to meet with each member of the city commission. The city clerk shall assure that such meetings between the individual and the members of the city commission have been scheduled prior to the meeting at which the city commission is to consider the ratification.

(Code 1967, § 2-9; Ord. No. 8857, § 1, 9-28-78; Ord. No. 11114, § 1, 1-13-94; Ord. No. 11120, § 1, 2-17-94; Code 1980, § 2-13; Ord. No. 11293, § 2(2-13), 9-14-95; Ord. No. 11532, § 2, 7-24-97; Ord. No. 11564, § 4, 10-28-97; Ord. No. 11642, § 2, 4-14-98; Ord. No. 11654, § 2, 5-12-98; Ord. No. 11723, § 1, 11-17-98; Ord. No. 11724, § 1, 11-17-98; Ord. No. 11786, § 1, 4-27-99; Ord. No. 11865, § 2, 11-14-99; Ord. No. 11942, § 1, 7-20-00; Ord. No. 12074, § 2, 5-24-01; Ord. No. 12134, § 1, 10-11-01; Ord. No. 12310, § 1, 12-12-02; Ord. No. 12352, § 1, 4-10-03; Ord. No. 12409, § 1, 9-25-03; Ord. No. 12498, § 1, 2-26-04; Ord. No. 12586, § 1, 9-9-04; Ord. No. 13182, § 1, 6-10-10; Ord. No. 13438, § 2, 3-13-14)

Editor's note— Ord. No. 12498, § 1, adopted February 26, 2004, enacted provisions intended for use as subsection (c)(7). Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as subsection (c)(8).

Charter reference— Authority of commission to determine its own rules of procedure, § 4(e).

Editor's note— Ord. No. 12352, § 1, adopted April 10, 2003, enacted provisions intended for use as subsection (m). Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as subsection (n).

Sec. 2-83. - Citizen input; addressing the city commission.

- (a) *Citizen input.* The commission recognizes the importance of protecting the right of all citizens to express opinions on the operation of city government and encourages citizen participation in the local government process. The commission also recognizes the necessity for conducting orderly and efficient meetings in order to complete city business in a timely manner.
- (b) *Citizen input on a matter pending before the commission.* Each person who addresses the commission on an agenda item pending before the commission may complete a citizen's input card if requested by the chairperson, and submit the card to the receptionist or to the chairperson. The remarks of each speaker shall be limited to no more than three minutes. The chairperson has the discretion to either extend or reduce time limits, based on the number of speakers.
- (c) *Addressing the commission.* If requested by the chairperson, prior to addressing the commission, the person shall complete the "request to speak reference card" and place same back into a cardholder whereupon, following the closure of said commission meeting, the city clerk shall collect all cards.
 - (1) When the person's name is called, the person shall step up to the speaker's lectern and shall give the following information in an audible tone of voice for the minutes:
 - a. Name;
 - b. Place of residence or business address;
 - c. The person shall state whether the person speaks for a group of persons or a third party, if the person represents an organization, whether the view expressed by the person represents an established policy or position approved by the organization, and whether the person is being compensated by the organization.
 - (2) All remarks shall be addressed to the commission as a body and not to any member thereof.
 - (3) No person, other than a member of the commission, and the person having the floor, may be permitted to enter into any discussion, either directly or through a member of the commission, without permission of the chairperson. No question may be asked except through the chairperson or by vote of the commission.
 - (4) Speakers should make comments concise and to the point, and present any data or evidence for consideration to the city commission. No person may speak more than once on the same subject unless specifically granted permission by the chairperson.
- (d) *Decorum.*
 - (1) Order must be preserved. No person shall, by speech or otherwise, delay or interrupt the proceedings or the peace of the commission, or disturb any person having the floor. No person shall refuse to obey the orders of the chairperson or the commission. Any

person making irrelevant, impertinent, or slanderous remarks or who becomes boisterous while addressing the commission shall not be considered orderly or decorous. Any person who becomes disorderly or who fails to confine remarks to the identified subject or business at hand shall be cautioned by the chairperson and given the opportunity to conclude remarks on the subject in a decorous manner and within the designated time limit. Any person failing to comply as cautioned shall be barred from making any additional comments during the meeting by the chairperson, unless permission to continue or again address the commission is granted by the majority of the commission members present.

- (2) If the chairperson or the commission declares an individual out of order, the individual will be requested to relinquish the podium. If the person does not do so, the individual is subject to removal from the commission chambers or other meeting room and may be arrested by the police chief, or designee, subject to F.S. § 810.08(1).
- (3) Any person who becomes disruptive or interferes with the orderly business of the commission may be removed from the commission chambers or other meeting room for the remainder of the meeting.

(Code 2006, § 2-73; Ord. No. 2006-03, § 2, 2-28-2006)

RESOLUTION NO. <B-161

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING RULES AND PROCEDURES FOR CITY COUNCIL MEETINGS OF THE CITY OF HIALEAH, FLORIDA, IN A FORM AS ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "I".

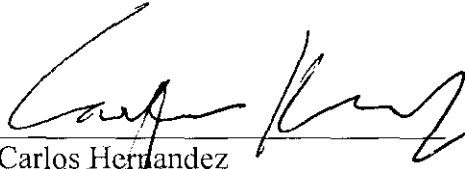
WHEREAS, the City of Hialeah, Florida finds it in the best interest for the proper governance of the City of Hialeah, its elected officials and residents to adopt in writing rules and procedures for the conduct of meetings of the Hialeah City Council; and

WHEREAS, the City of Hialeah has incorporated well-settled existing practices of conduct and public participation that has achieved an effective balance between public participation and inclusion with the proper administration of governmental proceedings.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The City of Hialeah, Florida hereby approves Rules and Procedures for City Council meetings of the City of Hialeah, Florida, in a form as attached hereto and made a part hereof as Exhibit "I".

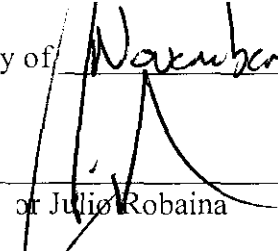
PASSED AND ADOPTED this 25th day of November, 2008.

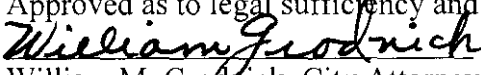

Carlos Hernandez
Council President

Attest:

Approved on this 28 day of November, 2008.


Rafael E. Granado, City Clerk


Mayra Robaina

Approved as to legal sufficiency and form:

William M. Grodnick, City Attorney

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Resolution was adopted by a 6-0-1 vote with Councilmembers, Casals-Munoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, **1** Yedra voting "Yes" and Councilmember Caragol absent.
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GENERAL RULES AND PROCEDURES FOR THE CITY OF HIALEAH CITY COUNCIL MEETINGS

WHO MAY SPEAK

Meetings of the City Council are open to the public. Such meetings are not, however, public forums. Any resident who wishes to address the City Council, on any subject within the scope of the City Council's authority, may do so, providing it is accomplished in an orderly manner and according to the procedures outlined below.

CONSENT AGENDA ITEMS. These are items that the City Council does not need to discuss individually, and which are voted as a group. Any City Councilmember, the Mayor or resident who wishes to discuss any individual item on the consent agenda, may request the City Council President or presiding officer to pull such item from the consent agenda. Those items pulled will be discussed and voted upon individually.

REGULAR AGENDA ITEMS ON THE ADMINISTRATIVE PORTION OF THE MEETING. These are items that the City Council will discuss individually in the order listed on the agenda. The Council President or presiding officer, at his or her discretion, may allow any person to be heard on an item that does not require public hearing.

PUBLIC HEARING ITEMS ON THE ADMINISTRATIVE PORTION OF THE MEETING. Some items on the administrative portion of the meeting require a public hearing and the City Council President or presiding officer will allow any person to be heard on the item during formal public hearing. A maximum of three speakers in favor and three speakers in opposition are allowed to address the City Council on any one item. Each speaker's comments will be limited to three minutes. The City Council President or presiding officer reserves the right to expand the time limit for any one speaker or expand the number of speakers addressing the City Council on any one item depending on the nature or importance of the item. If the item involves the adoption of the ordinance, the second reading of the ordinance is the public hearing where the public may speak on the item. The City Council President or presiding officer during the first reading of an ordinance may decline, at his or her discretion, any public comment on the item until second reading.

PUBLIC HEARING ITEMS ON THE ZONING AND LAND USE PORTION OF THE MEETING. The City Council President will allow any person to be heard on the item during formal public hearing. A maximum of three speakers in favor and three speakers in opposition are allowed to address the City Council on any one item. Each speaker's comments will be limited to three minutes. The City Council President or presiding officer reserves the right to expand the time limit for any one speaker or expand the number of speakers addressing the City Council on any one item depending on the nature or importance of the item. If the item involves the adoption of the ordinance, the second reading of the ordinance is the public hearing where the public may speak on the item. The City Council President or presiding officer during the first reading of an ordinance may decline, at his or her discretion, any public comment on the item until second reading.

SPEAKING ON SUBJECTS NOT ON THE AGENDA. Any resident may address the City Council on any item pertaining to City business during the Comments and Questions portion of the meeting. Persons wishing to speak are encouraged to sign in with the City Clerk in advance of the commencement of the meeting.

ADDRESSING THE CITY COUNCIL, MANNER, TIME. All comments or questions of the public are to be directed to the City Council President or presiding officer or the Mayor. The length of time that each individual may speak as stated above is limited in the interest of order and conduct of the business before the City Council. Individuals speaking to members of the City Council shall first approach the podium for the public to speak before the City Council and request permission from the City Council President or presiding officer before speaking, unless invited to speak by the Council President or presiding officer. Individuals shall come to the podium and clearly state their name and address for the record. Individuals speaking to the City Council cannot engage in cross conversation with other members of the public. Individuals should be respectful of the elected officials and staff that are on the dais and make every effort to speak with a moderate tone using appropriate language and avoiding personal attacks. Members of the public in the audience shall refrain from shouting or making remarks from their seats to the Mayor, Council members or staff sitting on the dais. Groups are encouraged to select a representative to conserve time and avoid repetition. Any Councilmember or the Mayor, through the presiding officer, may recall an individual to the podium to provide additional information or to answer questions. A Councilmember or the Mayor may address comments from the public. The presiding officer may implement other rules or procedures to assure a fair hearing to all who are present as speakers and members of the audience.

DECORUM. If a member of the audience or speaker becomes unruly or disruptive, the Council President or presiding officer has the right to require the person to leave the Council Chamber, and may ask the Police Chief or other police officers to escort that person from the Council Chamber. If a crowd of people becomes unruly or disruptive, the Council President or presiding officer may recess or adjourn the meeting.

CELLULAR TELEPHONE USE. As a courtesy to others, members of the public shall refrain from using cellular telephones or other similar electronic devices in the Council Chambers. All members of the public shall place their cellular telephones on silent mode prior to or immediately upon entering the Council Chamber.

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RQO 02-125, October 24, 2002

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 23, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding the right to be heard provision of the Citizens' Bill of Rights.

In your letter, you advised the Commission that you have sought to schedule an agenda item regarding the fitness of the Town Manager. The Town of Golden Beach has a resolution that provides that ordinances and resolutions may only be scheduled upon a request by the Mayor, the Town Manager and a majority of the Town Council. You have made two written requests of the Town Manager, but he has not scheduled the matter as an action item.

The Citizens' Bill of Rights requires the Town of Golden Beach to provide an opportunity for you to be heard regarding this matter. Section (A) (5) of the Home Rule Charter Citizens' Bill of Rights provides that "So far as the orderly conduct of public business permits, any -interested person has the right to appear before the commission or any municipal council or any county or municipal agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the governmental entity involved .

Although the provision requires that all citizens have a right to be heard, the right is not absolute. The Town of Golden Beach has the right to enact restrictions for the purpose of maintaining an orderly and efficient government.

Therefore, the Town of Golden Beach may reasonably enact rules that limit the time, place and manner for such discussion. Moreover, in order to promote efficiency and orderliness, the town may require that action items require sponsorship by an elected official, the town manager or the town mayor.

However, Golden Beach may not enact a rule that enables the majority to prohibit a citizen from being heard on a particular issue. The preamble to the Citizens' Bill of Rights provides that this government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote effective administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following

rights are guaranteed. Since the preamble requires that all citizens have access to their government, a rule which enables the majority to prohibit the minority from being heard would violate this provision.

The public right to participate in a public meeting under the state sunshine law also is subject to reasonable time, place and manner restrictions. However, an affected party may not be barred from participating in proceedings.

This opinion construes the Miami -Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you' have any questions regarding possible conflicts under state law.

RQO 05-60, June 24, 2005

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 23, 2005 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding Section (A)(5) (Right to be heard) of the Citizens Bill of Rights.

In your letter, you advised the Commission that you seek to make a citizens' presentation before the Board of County Commissioners.

The Commission found the Citizens' Bill of Rights requires that a citizen must have the opportunity to speak before the Board of Commissioners regarding a matter of public concern within the Board of County Commissioner's jurisdiction. Section (A)(5) (Right to be heard) of the Home Rule Charter Citizens' Bill of Rights provides that "so far as the orderly conduct of public business permits, any interested person has the right to appear before the Commission or any municipal council or any County or municipal agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the governmental entity involved; provided nothing herein shall prohibit the Commission or any municipal council from referring a matter to a committee of each of their respective bodies to conduct a public hearing; unless prohibited by law. Matters shall be scheduled for the convenience of the public and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits for the presentation of a matter."

Rule 6.02 of the Board of County Commissioners Rules of Procedure provides that "any citizen shall be entitled to be placed on the official agenda of a regular meeting of the commission and be heard concerning any matter within the scope of the jurisdiction of the commission." The rules provide that such matters may be placed on the agenda by either the County Manager or a member of the Board of County Commissioners. The matter must be scheduled by the Monday of the week preceding the Board of County Commissioners meeting.

Therefore, you have several opportunities to address the Board of County Commissioners without the approval of your district commissioner. You may address the Board of County Commissioners during the budget hearings in September. You are also permitted to speak during public hearings on matters presented for action to the Board of County Commissioners. Public hearings are generally scheduled before Commission committees. Finally, pursuant to the rules of procedure for the Board of County Commissioners, you may make a citizen presentation under the sponsorship of the County Manager or any member of the Board of County Commissioners.

The rules adopted by the Board of County Commissioners comply with the Citizens' Bill of Rights. The rule permits citizens to address the Board of County Commissioners on issues within their jurisdiction without obtaining the approval of their district Commissioner.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

INQ 18-10, January 16, 2018

You have inquired concerning the limitations on public discussion at City Commission meetings in the City of South Miami, particularly in regard to the use of the public forum at a Commission meeting set aside for public comments.

In general, the jurisdiction of the Ethics Commission in this area comes under Section 2-11.1(g) of the County Ethics Code, Exploitation of Official Position. This would prohibit the use of one's public position or authority to provide any special privileges or exemptions to oneself or to others not specifically permitted by ordinance or resolution of the City Commission. This has been interpreted to limit public officials and employees from engaging in political activity on public time or using public resources for such purposes. Political activity conducted at public expense is not seen as different from other private purposes, such as private business activities, which should be conducted separately from official government business. I have attached a memo that has been circulated in the past to County and municipal public officials and employees. Section 104.30, Florida Statutes, which does not fall within the jurisdiction of the Ethics Commission, also addresses the use of official authority to influence another person's vote or affecting the results of an election.

The City of South Miami is required under Section 286.0114 to provide the public with a reasonable opportunity to be heard on a "proposition before a board or commission." This would require the City to provide public access at its Commission meetings for members of the public to comment on issues coming up before the Commission. The Ethics Commission does not have the authority to interpret or enforce this provision. However, it does not appear to me to require or authorize any political statements, i.e., statements made in support of particular candidates for public office, where such candidacies are not subject to any vote or decision of the Commission. I think that the Commission has the latitude to allow people to speak at its meetings for various community or public-interest purposes. However, I would be concerned that the use of an official Commission meeting for political purposes could be in violation of Section 211.1(g) of the Code or Section 104.30, particularly where it could result in certain political candidates obtaining benefits to their campaigns through the use of a government forum, which not all candidates would equally receive.

There is no prohibition against the use of public facilities for public forums or political debates, where properly sanctioned for such purposes, and held to provide

the public with information concerning candidates for public office that would enhance the public's understanding of their qualifications and positions on issues. However, the use of the public participation provision at official City meetings conducted by City officials regarding business of the City of South Miami to provide a forum for partisan political speech could be construed to violate Section 2-11.1(g) of the Ethics Code.