

**MINUTES OF THE TOWN OF LADY LAKE  
SPECIAL PLANNING AND ZONING BOARD MEETING  
LADY LAKE, FLORIDA**

**November 14, 2016  
4:30pm**

The Planning and Zoning Board Meeting was held in the Town Hall Commission Chambers at 409 Fennell Blvd., Lady Lake, Florida. The meeting convened at 4:30 p.m.

**CALL TO ORDER:** Chairperson/Member Gauder

**ROLL CALL:** Peter Chiasson, Member  
William Sigurdson, Vice Chair/Member  
Robert Conlin, Member  
John Gauder, Chairperson

**STAFF MEMBERS PRESENT:** Thad Carroll, Growth Management Director; and Carol Osborne, Staff Assistant to Town Clerk.

**Also Present:** Attorney Sasha Garcia, BRS Legal, Commissioner Paul Hannon.

**NEW BUSINESS:**

**1. Discussion and Review of the Planning and Zoning Board's Duties and Role in the Town's Land Development Processes; Meeting Protocol and Sunshine Law (Attorney Sasha Garcia)**

Attorney Sasha Garcia stated the Planning and Zoning Board has certain duties and plays an important role in the Town's land development. The Town of Lady Lake Land Development Code created this Board and it is codified in Sections 1-82.

Ms. Garcia stated the Board's duties are to review and amend the comprehensive planning policies, specific development applications, and provide recommendations to the Town Commission on planning and land development related matters. She stated the Planning and Zoning Board is an advisory board; the Town Commission has the ultimate decision on any recommendation that is made by this Board. The Board shall obtain and review information necessary to prepare and amend the comprehensive plan, development code of the Town, and the official zoning map of the Town and recommend amendments to the Town Commission.

Ms. Garcia outlined meeting protocol:

- The Board shall conduct public hearings and perform other duties as required by the Land Development Code. She stated even though this Board does not have a specific procedure in place for meetings, it is advised to follow a procedure similar to Robert's Rules of Order. This helps to keep order.
- The Board members should review the meeting's agenda in advance of the meeting to be prepared for potential questions and to bring up their concerns for discussion. This also aids in avoiding voting conflicts.
- The Chairperson is in charge of running the meetings and keeping order.

- The Open Forum portion of the meeting is an opportunity for the public to speak to the Board on matters that are not being considered as an agenda item for that particular day.
- Approval of the minutes may be done through “Aye” or “Nay” voting. Specific agenda items such as ordinances must be voted on by a roll call vote.
- When an item is under consideration, it is sufficient for the chairperson to call the item on the agenda by the agenda number item number and ordinance number.
- Staff will conduct the presentation on an agenda item and board members should allow staff to complete the entire presentation prior to asking questions. Ms. Garcia suggested writing down questions during the presentations, stating there are times the presentation will answer the question at a later point. After the presentation, the Board may ask questions of staff or anyone present associated with the agenda item. It is very important to speak clearly into the microphone. At no time during the meeting can Board members discuss the agenda items amongst each other. Because discussions are on the record, this could give the appearance of impropriety.
- It is required to allow public input on ordinances; if there are no comments from the public, it must be stated for the record by the chairperson. Public comments should be limited to three minutes per person and only to raise new issues, concerns, or comments. If there are multiple community members repeating the same concerns, there is no reason to allow repeat commentary on the same issues. It is important for the Board to hear new issues. Annexation ordinances have related subsequent ordinances and, when those ordinances are before the Board, the public can bring up the same concerns previously stated at that time. The difference is the comment is not being repeated during one specific agenda item. Separate items can have the same concerns.

Chairperson Gauder stated many times the public does not understand what is being discussed and they will repeat themselves or someone else will make the same comment; he asked Ms. Garcia for clarification.

Ms. Garcia stated the person should be allowed to finish the comment as a courtesy. If the comment is the same as a previous comment, advise that person his comment has already been heard from another person and discussed. She stated the chairperson could then ask if there is something new that they would like to discuss.

Chairperson Gauder stated the public can be upset over a certain agenda item and he allows them to vent. He stated this eliminates a lot of their frustration and, should they attend the Commission meeting regarding this same agenda item, they are not as frustrated.

Mr. Carroll stated when a meeting has been well-attended in the past, the Board chairperson has asked those in attendance, by a show of hands, if their question or comment is similar to what has already been heard. He stated this gives them an opportunity to express by a show of hands that they are attending the meeting for that reason.

Chairman Gauder stated this may be true; however, he feels it should be the decision of the Board chairperson regarding how much time is allotted for public comment, unless the other Board members have objections. He stated he has been involved in business of this sort for over 50 years and believes it is better to allow the public to vent at this meeting than at the Commission meeting.

Member Chiasson stated he was on this Board a couple of times; the first time about five or six years ago, and has not seen more than one or two people repeat themselves. He stated the meetings

are not very long the majority of the time, and he agrees with Chairperson Gauder that the public should be allowed to voice their concerns, and that he supports Chairperson Gauder in how he runs the meeting.

Ms. Garcia stated what has been done in the past is not incorrect; this presentation is to show how the meeting could be or, in some cases, should be conducted.

Chairperson Gauder commented that until each person has had an opportunity to speak, it is unknown if their comment is the same as one previously stated.

Ms. Garcia stated the goal of this meeting is to establish a procedure to ensure everyone is heard and that there is not a lot of interruption. Another point of order is once public input has been closed and there is a motion on the table, no one from the public is permitted to speak. She advised there needs to be a strict process as to when public input is closed so the Board can have a meaningful discussion based on all of the commentary prior to voting.

Ms. Garcia stated anyone who wishes to speak must come to the podium and state their name and address for the record. She stated no one should be allowed to comment from their seat as it does not allow the record to be clear regarding their concern; it also does not help the meeting to remain orderly.

Ms. Garcia stated once public comment has been closed, the Board may consider additional discussion on that item, ask questions of staff or the applicant if needed, prior to voting on that item.

Member Conlin asked if the additional discussion is among the Board members, or among the Board members and the public.

Ms. Garcia stated the additional discussion is between the Board members only and it is on the record.

Member Chiasson asked for clarification on the proper time to ask questions during public comment.

Ms. Garcia stated when a member of the public states something that raises a question, that is the proper time for the Board member to ask his question.

Member Chiasson stated he does not like to interrupt staff during their presentation. However, if he is having difficulty understanding the context of what is being said by staff, it is ineffective to place protocol above accurately understanding the issue.

Ms. Garcia stated if there is difficulty understanding what is being stated, it would not be beneficial for the presentation to continue and it is appropriate to address it immediately. She stressed it is imperative to ask Board counsel for direction to ensure the voting takes place correctly if there are questions relating to the voting process.

Member Sigurdson asked for clarification on the proper procedure for making a motion.

Mr. Carroll stated staff provides the Board with options, and the correct language for the motion selected is provided and can be read verbatim to avoid any confusion on how it is put into the record.

Ms. Garcia presented a brief overview of Florida's Sunshine Law:

- Florida's Sunshine Law is governed by Florida Statutes Section 286 and Florida Constitution Article I, Section 24.
- "All meetings of any board or commission...at which official acts are to be taken are declared to public meetings open to the public at all times, and no...formal action shall be considered binding except as taken or made at such meeting."
- The purpose of the Sunshine Law is to provide the public a right of access to governmental proceedings at the state and local levels, and to protect the public from "closed door" decision-making.
- Those persons and entities that are covered by the Sunshine Law include any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation or political subdivision, any elected or appointed boards or commissions, advisory boards, individual and elected board members, and voting and non-voting members of a board or committee.
- Meetings of boards or commissions must be open to the public, reasonable notice of meetings must be given, and minutes of the meetings must be taken and promptly transcribed.
- Two or more members of the same board or committee may not privately discuss issues with one another that is relative to or that may come before their board or committee. This includes discussions via telephone, email, social media or in person.
- Reasonable notice of any meeting is required.
- The public must be permitted to attend meetings and be given a reasonable opportunity to be heard. Meetings cannot be held at exclusive or inaccessible facilities.
- Minutes of all meetings must be written and made available promptly. Sound recordings cannot substitute written minutes. The minutes may be a brief summary of the meeting events, not verbatim, and they must record the votes.

Member Chiasson asked if he could have a discussion with the Mayor and then ask the Mayor to talk to another board member.

Ms. Garcia stated that would be a violation of the Sunshine Law as each board member's vote must be independent and without any influence from other board members.

Member Chiasson clarified that he, as a board member, can discuss an issue with the Mayor, and another board member can discuss an issue with the Mayor.

Ms. Garcia replied that is correct. The Mayor can have individual conversations with board members, however the Mayor cannot discuss those individual conversations with other board members as it could influence their vote.

Mr. Chiasson asked for clarification.

Mr. Carroll replied that one board member cannot use the Mayor as a conduit of information.

Ms. Garcia stated board members cannot discuss Board business amongst each other nor can they use another person, including friends, family members, and business associates, to relay a message to another board member. The public meetings are provided to have conversations on the record and for the benefit of the public as well as for public commentary.

Ms. Garcia advised when replying to a group email, do not use the “reply all” button as this could create a potential Sunshine Law violation. She stated it is best to direct all questions or comments via telephone or an email directly to the person who sent the original email.

Member Sigurdson asked how he would reply to a group email regarding the draft minutes of the Planning and Zoning meeting.

Ms. Garcia advised to reply only to the person who sent the email. She recommended avoiding the use of social media to comment on any Town issues that may come before the Board as it would be a violation of the Sunshine Law if another Board member saw it and responded.

Member Chiasson asked, if there is material that he feels is important and will offer some insight into a particular agenda item, should he to forward it to staff requesting that it be placed on the agenda to be discussed at the Board meeting.

Ms. Garcia replied that is the appropriate procedure as it allows the Board members to discuss the issue on the record with the public present to comment.

Ms. Garcia stressed it is incumbent on Board members to avoid any action that could be construed as a Sunshine Law violation. This applies to comments on websites, social media, blogs, telephone conversations or personal conversations. This process needs to be respected as there are serious penalties for violations.

Member Chiasson asked if the Town holds them harmless because they are an unpaid, volunteer board member. He stated no one wants to get into a situation that in the event a violation occurs, especially if it is unintentional, the member could personally encounter serious fines.

Mr. Carroll stated the purpose of the Sunshine Law workshop is to inform the Board members of their responsibilities. He stated fines and/or imprisonment are imposed if you knowingly violate the Sunshine Law.

Ms. Garcia stated it has to be an intentional act to warrant penalties; she asked that the members contact her for clarification if an issue is questionable.

Member Chiasson stated he understands if he intentionally colludes with another Board member, it could result in assessed fines or imprisonment. He stated he wants to be certain that he is not putting himself in a position to assume a legal or financial risk if he unintentionally violates the Sunshine Law.

Ms. Garcia emphasized that personal liability is focused on intentional violations. It is a limited scope of something that could be brought before the Board or is to be considered by the Board on an upcoming agenda. If you “reply all” with a full explanation as to why you are for or against an agenda item, that could be considered a violation because everyone has seen your position and it could influence their decision. However, if it is a general question such as the meeting time, that

is not a Sunshine Law violation. She stated the best way to avoid a potential violation is to telephone staff directly as email correspondence is a public record.

Ms. Garcia stated a public record encompasses materials and media made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. She stated corresponding to staff or another board member via your personal email address could also be considered a public record. Also, any posts on social media regarding an agenda item is subject to a public records request.

Chairperson Gauder asked if it is appropriate to discuss agenda items with the public after the meeting adjourns.

Ms. Garcia stated once voting has taken place, the board is permitted to discuss the agenda items. Board members cannot discuss agenda items prior to a meeting. She advised that if a board member receives any public record from a source other than staff, they should send a copy or the original document to staff to be kept in accordance with public record law.

Ms. Garcia advised there is an ethical component for Board members as well. She stated it is very important to avoid the appearance of impropriety to ensure each board member has voted independently and none of the action taken by the board is for private gain. It is best to avoid accepting gifts, which is anything of value. Should this happen, the Board member can pay fair market value of the item within 90 days. Ms. Garcia also advised against conducting business with one's own board or agency for such as renting, leasing, selling real property, goods or services. A board member's family member is prohibited from accepting anything of value, monetary or material, that could influence a vote or other action.

Ms. Garcia stated that the law prohibits use or disclosure of information that a Board member may have in advance that is not available to the public to gain personal benefit. She asked that Board members contact her for the correct process regarding voting and disclosure to the Board if there is something that comes up in the community that they feel could result in a conflict.

Commissioner Hannan reported that it is not a violation if a board member sends an email to another board member; it is only a violation if the other board member replies to the email. He stated that has been cleared with the Town Attorney many times in the past.

Member Chiasson commented that this seems to be foreign to what he has just heard.

Mr. Carroll clarified that a board member cannot send an email stating their position on an item or issue that will come before the Board as it *would* be a violation, and although you could send an email to another board member stating a personal opinion such as "you're crazy", it is best not engage in a conversation such as this through email.

**ADJOURN: *With nothing further to discuss, the meeting was adjourned at 5:24 p.m.***

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Carol Osborne, Staff Assistant to the Town Clerk      John Gauder, Chairperson