

ENVIRONMENT AND NATURAL RESOURCES ADVISORY COMMITTEE



October 2022

- I. MEETING CALLED TO ORDER**
- II. ROLL CALL/INTRODUCTION OF MEMBERS**
- III. INTRODUCTION OF STAFF**
- IV. PRESENTATIONS**
 - A. Sunshine Laws and Public Records**
 - B. Committee Purpose**
 - Review Resolution 2022- 096, establishing the committee
 - Direction from County Council and review process
 - Role of county staff
- V. SELECTION OF CHAIR AND VICE CHAIR**
- VI. SELECTION OF MEETING DAYS AND TIMES**
- VII. ADJOURNMENT**

III. INTRODUCTION TO STAFF

- County Attorney's Office
 - ▣ Chris Ryan, Assistant County Attorney
- Growth and Resource Management
 - ▣ Clay Ervin, Director
 - ▣ Ginger Adair, Environmental Management Director
 - ▣ Keith Abrahamson, County Forester, Environmental Permitting Manager
 - ▣ Briana Peterson, Special Projects Coordinator

Florida's Government in the Sunshine And Public Records Law

2022





Open Meetings

Article I, § 24(b), Florida Constitution

- “All meetings of . . . any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public . . . , except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution.”

Florida Statutes § 286.011

- “All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.”

3 Basic Requirements of §286.011

- 1) Meetings of public boards or commissions must be open to the public;
- 2) Reasonable notice of such meetings must be given; and
- 3) Minutes of the meetings must be taken and promptly recorded.

Meetings

- A “meeting” occurs when there is ANY gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter **on which foreseeable action will be taken by the board or commission.**
- A “gathering” may include meetings of board or commission members via telephone or other electronic means.

What's Not a "Meeting"?

- As long as there is no interaction, discussion, debate, or response between the parties about the issues outside of public meetings, it is not a violation of the Government in the Sunshine Law for:
 - (1) town commissioners to attend the public meetings of other city boards or committees and comment on agenda items that may come before the town commission for official action;
 - (2) county commissioners who are also board members of a regional planning council to take part in council meetings and express their opinions;
 - (3) city council members to prepare and circulate individual position statements on the same subject to other council members; or for
 - (4) a city commissioner to send informational material to other commissioners.

What Kinds of Discussions Are Covered?

- Email discussions between any two or more board members.
- Telephone conversations / video chats between any two or more board members.
- Internet discussions between any two or more board members (e.g., blogs, Facebook comments, etc.).
- Text messages
- Inaudible discussions (discussions that occur between board members in an open meeting that cannot be heard by others violate the Sunshine Law).
- Discussions during recess or after adjournment (when the public meeting is not in session, board members must refrain from discussing board matters until the next meeting or until the current meeting is recommenced).

Liaison Rule

- Board members may call upon staff members for factual information and advice without being subject to the Sunshine Law.
 - Staff members are not members of a collegial board.
- BUT Sunshine Law applies if board members use staff as intermediary or “go between”

Notice for Meetings

- Notice must be “reasonable,” but is not otherwise defined (though your agency may have adopted specific notice requirements).

Minutes

- All meetings require recorded minutes, including workshops.
- Minutes are intended as a brief summary of notes or memoranda reflecting the events of the meeting; a verbatim transcript is not required.
- Minutes must be in written format (audio recordings are optional).
 - Note: Ch. 934, Fla. Stat., implicitly recognizes the public's right to silently record public meetings.

Public Participation

- 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).

Fla. Stat., § 286.0114

Penalties and Sanctions

- Fines
- Suspension or removal from office
- Attorneys fees and court costs



Public Records

A Constitutional Right to Inspect: Article I, § 24(a), Fla. Const.

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

§119.01(1), Fla. Stat.

- It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.”

What is a “Public Record”?

- All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission;
- Made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.
- The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business, which materials are used to perpetuate, communicate, or formalize knowledge

Exemptions

- Some items clearly qualify as public records but do not have to be produced, because the legislature has deemed them to be exempt or confidential from disclosure.
- Statutory exemptions are narrowly interpreted and construed in the manner most favorable to the requestor.

Requests for Public Records

- Requests can be verbal or written
- Made by any person (the person need not identify him/herself if she does not wish to do so).
- **Prompt Response.**
 - § 119.07(1)(c), Florida Statutes, states that records requests must be acknowledged promptly and responded to in good faith. The Florida Supreme Court has stated that the only delay allowed in responding to a records request is the reasonable time it takes for staff to retrieve the record and redact or otherwise remove those portions of the record the custodian asserts are exempt.

Redaction

- Redaction.
 - If portions of the records requested contain confidential or exempt information, the custodian should redact that information from the record prior to producing the record to the requestor. The requestor is entitled to review and copy the remainder of the record.
- Basis for Redaction.
 - If staff believes that all or a portion of a record is subject to a valid exemption or is confidential, staff must state the basis for the redaction, including the statutory citation supporting such basis

Penalties and Sanctions

- Fines
- Suspension or removal from office
- Attorneys fees and court costs

Conclusions

- Remember Board members should NOT talk to, email, text, or correspond with fellow board or commission members about any matters that may foreseeably come before the board for discussion or decision outside the confines of a duly noticed and open public meeting.
- Promptly respond in good faith to all requests for public records and ensure that confidential and exempt records are not produced in a manner contrary to statutory requirements.
- When in doubt, please contact County legal at (386) 736-5950

IV. B – Committee Purpose

Resolution 2022-096

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Purpose

- Work with the professional staff of Volusia County in **recommending minimum standards for the protection of the environment under applicable provisions of the Volusia County Charter, and for making recommendations on the corresponding implementing ordinance**
- Submit recommendations to the County Council

IV. B – Committee Purpose

Resolution 2022-096

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Membership and meetings

- ❑ Two-year terms
- ❑ No member shall serve more than three consecutive two-year terms
- ❑ Conduct an annual goal setting workshop to outline its work program for the year, and make an annual report to the county council
- ❑ At least quarterly meetings
- ❑ Committee shall annually select a chair and vice chair.

Direction from County Council

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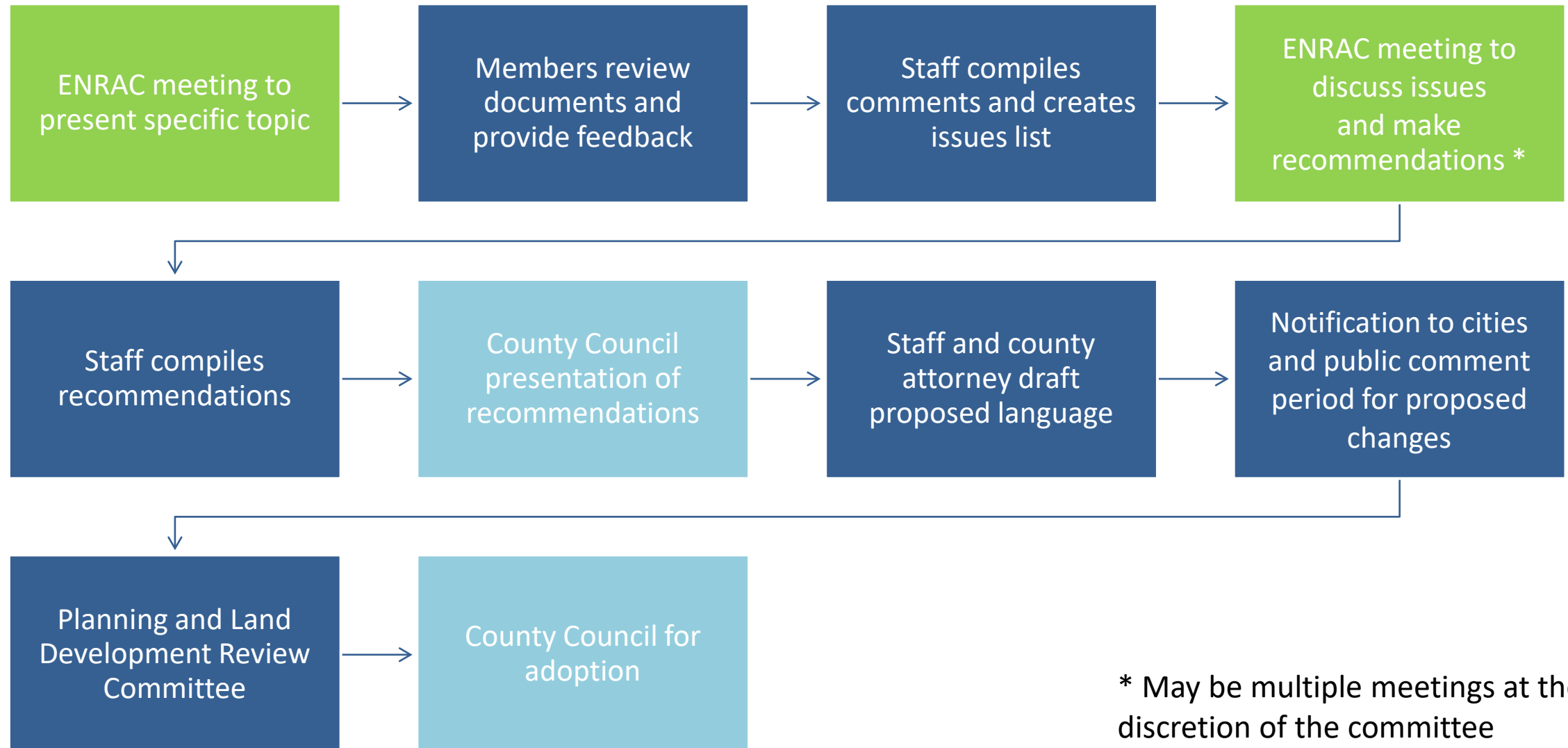
On April 12, 2022 and June 14, 2022 the County Council conducted workshops and public meetings regarding Growth Management policies and approved a workplan for ENRAC.

Designated topics by County Council include:

- Updates and revisions to the Tree Preservation standards
- Creation of Low Impact Development standards
- Updates and revisions to the Wetland Protection standards
- Creation of Habitat Protection standards
- Updates and revisions to the Indian River Lagoon Overlay standards
- Creation of standards to adapt to sea level rise and promote resilience

ENRAC Review Process

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* May be multiple meetings at the discretion of the committee



ROLE OF COUNTY STAFF

- ❑ Provide initial orientation and continuing education
- ❑ Create the meeting agenda with the help of committee chair
- ❑ Attend committee meetings in a nonvoting capacity, record attendance, take and distribute meeting minutes
- ❑ Present current ordinances and council identified issues
- ❑ Provide technical and administrative assistance
- ❑ Present committee recommendations to County Council, and inform members of County Council actions

VI. Selection of Chair and Vice-chair

VII. Selection of meeting dates and times

Questions and Discussion

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VIII. Adjournment