



BOARD OF COUNTY COMMISSIONERS

County Attorney's Office
2725 Judge Fran Jamieson Way
Building C, Room 308
Viera, Florida 32940

Inter-Office Memo

TO: Frank B. Abbate, County Manager

THRU: Morris Richardson, County Attorney

FROM: Shannon L. Wilson, Assistant County Attorney

SUBJ: Citizen Efficiency and Effectiveness Recommendation #2024046

DATE: 04/01/2024

CEER # 2024046 was received by the County from Ms. Sandra Sullivan, affiliated with the group WAVESaction LLC.

Citizen Statement:

It is concerning that in 2022-23 there have been sneaky votes taken, of interest to large groups of Brevard, under board reports and even public comment. This has including postponing the budget workshop, feasibility study for Merritt Island, and upzoning South Beaches. Especially for the last 2, hundreds of people would have turned out had these been on an agenda item. The intent with a vote under board reports or public comment is to hide the item from the people. The postponing the budget workshop was also a misrepresentation as the intent was to cancel the workshop, as it was not rescheduled as presented. Transparency is important. It cost myself fees for records requests to obtain the budget documents.

Citizen Recommendation:

The request is to update BCC-97 policy to reflect that votes under board reports are not permissible unless an emergency vote. You know the controversy with board reports votes, the most notable was the Mims water vote to remove fluoride being the most controversial. Votes under Public Comment are already not allowed and the only vote should be to bring it to a future meeting agenda. Also request that County policy to reflect that the policy does not allow the Budget workshop to be cancelled, only postponed. Request that Board Reports be defined in BCC-97, that the commissioners give an update on the Boards that they are assigned to attend. i.e. IRL Council, ECRPC, TPO, CFX etc of any news of interest to Brevard residents. Curt Smith gave updates on the boards he sat on, but I have not seen the current commission do this.



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Staff Analysis:

Citizen Recommendation: Prohibit Non-Emergency Votes Under Board Reports

Meetings of the Board of County Commissioners are subject to Florida's Government in the Sunshine Law, section 286.011, Florida Statutes, commonly referred to as the Sunshine Law. The Sunshine Law does not mandate that an agency provide notice of each item to be discussed via a published agenda. The courts have rejected such a requirement because it could effectively preclude access to meetings by members of the public who wish to bring specific issues before a governmental body. *See Hough v. Stembridge*, 278 So. 2d 288 (Fla. 3d DCA 1973); *Yarbrough v. Young*, 462 So. 2d 515 (Fla. 1st DCA 1985). Accordingly, the Sunshine Law does not require the Board of County Commissioners to consider only those matters on a published agenda.

The Board of County Commissioners occasionally conducts business of a non-emergency nature during Board reports. Should a controversial matter arise during Board Reports, the Board of County Commissioners will exercise its good judgment and discretion in deciding whether to vote on the matter, or to postpone its consideration to a future meeting.

Pursuant to section 2.9.6 of the Brevard County Home Rule Charter, the Board of County Commissioners has adopted policy BCC-97, providing rules of parliamentary procedures for the orderly transaction of business. Significantly, any provision of such rules may be suspended by majority vote of, or waived by, the Board of County Commissioners to the extent such a suspension or waiver would not be inconsistent with applicable law. *See* sections III. K.1. and III.M, BCC-97. Thus, even if the Board amended BCC-97 as recommended by the citizen, the Board could suspend or waive such a prohibition against voting during Board reports.

Citizen Recommendation: Prohibit Cancellation of Budget Workshops

The Board of County Commissioners schedules its meetings to occur regularly throughout a given year, and the schedule of meetings is typically approved by the Board prior to the upcoming calendar year. Other than the hearings (not workshops) required by the Florida Truth in Millage process to adopt the County's budget for the upcoming fiscal year, there is no requirement to hold additional budget development meetings, including workshops. Whether to schedule a budget workshop, or to cancel or postpone a scheduled workshop, is a discretionary decision for the Board of County Commissioners.

Citizen Recommendation: Require Commissioners to Report on Assignments in Board Reports

There is no statutory, Charter, or Code of Ordinances requirement that commissioners provide updates on the various board and committee meetings they are assigned to attend during the



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Board Reports portion of meetings. The subject matter of each commissioner's Board report is left to the discretion of the individual commissioners.

Staff Recommended Action:

It is recommended that the Board of County Commissioners reject CEER # 2024046, and retain the discretion and flexibility provided in current policy.

Recommendation Details

Contact Information

Full Name:	Sandra I Sullivan	Email Address:	s2sully@gmail.com
Mailing Address:	165 Dorset Lane South Patrick Shores fl 32937	Alt Email Address:	sandra@sandrasullivan.com
		Phone Number	954-224-8624

Group/Organization

WAVESaction

Recommendation Information

Recommendation Title:

Commissioner Voting

Areas Affected:

Commission Meetings

Department:

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Problem Description:

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Recommendation Description

Attachments

There are no attachments for this recommendation.

Administrative Action

Evaluation

Recommendation Timeline

User	Status	Date	Remarks
CEER WebUser	Citizen Submitted	Dec 30, 2023	
Karen Conde	Department Assigned	Jan 3, 2024	COUNTY ATTORNEY Assigned

Awaiting action from department director