



**August 7, 2019, 8:30 a.m.**

**MINUTES**

**City Hall, Veterans Conference Room, 2<sup>nd</sup> Floor**

**Members Present:**

Richard Crabtree, Chair [6/0]  
Korey Engel [5/1]  
Julio Guerrero [2/0]  
Tom Keen [2/0]  
Don Mitchell [4/1]  
Linda Reaves [6/0]

**Members Absent:**

Caila Coleman, Vice Chair [4/2]  
Margaret Griswold [1/4]

**Staff Present:**

Kimberly Laskoff, Assistant City Attorney  
Sergeant Wesley Whited, OPD Internal Affairs Supervisor  
Andrea Morgan, Assistant City Attorney  
Candace Cardillo, Board Administrator

**Others Present:**

Lawanna Gelzer, Member of the Public

**1. Call to Order**

- a. Richard Crabtree, Chair, called the meeting to order at 8:30 a.m.

**2. Roll Call**

- a. Candace Cardillo, Board Administrator, took attendance and determined that a quorum was present.

**3. Consideration of Minutes**

- a. Approval of the Meeting Minutes from June 5, 2019  
Richard Crabtree moved to approve the meeting minutes from June 5, 2019. Don Mitchell seconded the motion. The Board voted 6-0 to approve the motion.

**4. Public Comment**

Lawanna Gelzer, member of the public, addressed concerns regarding public comment.

**5. Old Business**

None.

## 6. New Business

- a. Board Policy & City Code – Kimberly Laskoff, Assistant City Attorney  
Board Policy & City Code training was presented by Kimberly Laskoff, Assistant City Attorney.
- b. Orlando Police Department Policy & Internal Affairs – Sergeant Wesley Whited  
Orlando Police Department Policy & Internal Affairs training was presented by Sergeant Wesley Whited.
- c. Parliamentary Procedure – Roy Payne, Chief Assistant City Attorney  
Parliamentary Procedure training was presented by Roy Payne, Chief Assistant City Attorney.
- d. Sunshine Law, Public Records, Ethics Policy and Voting Conflict – Andrea Morgan, Assistant City Attorney  
Sunshine Law, Public Records, Ethics Policy and Voting Conflict training was presented by Andrea Morgan, Assistant City Attorney.

A copy of the presentation is attached as supplemental papers to these minutes.

## 7. Other Business

- a. Chairman's Report  
Richard Crabtree, Chairman, advised that the next regularly scheduled Citizens' Police Review Board meeting is on September 4, 2019.
- b. Board Attorney's Report  
None.
- c. Internal Affairs' Report  
Sergeant Wesley Whited, OPD Internal Affairs Supervisor, indicated that there are two cases to be heard by the Board at the next regularly scheduled meeting.
- d. Administrator's Report  
None.

## 8. Adjourn

- a. Richard Crabtree, Chair, adjourned the meeting at 10:11 a.m.



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Richard Crabtree  
Chair



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Candace Cardillo  
Board Administrator





## Appearance Request

(Anyone addressing a City Board must complete this form – Please see the back for more information.)

Please follow these procedures when addressing the Board: (City Code Sect. 2.44)

- At the microphone, give your name and address.
- Direct all remarks to the Board, not to any one member.
- All discussions and questions must be directed to the presiding officer or you must request permission from the presiding officer to address a member of the Board.
- Limit address to five (5) minutes, as outlined in City Policies & Procedures 121.5

### Please Print:

Board: Citizens' Police Review Board		
Company:		
Name: <i>Layanna Gelzer</i> <i>Layanna Gelzer</i>	Telephone:	
Address: <i>7674 St Stephen Ct</i>		
City: <i>Orlando</i>	Zip Code:	
Meeting Date: <i>8/7/2015</i>	Regarding Item:	
As a Proponent <input type="checkbox"/>	As an Opponent <input type="checkbox"/>	For Information <input type="checkbox"/>
Check One:  <input type="checkbox"/> I will be speaking on my behalf  <input type="checkbox"/> I will be speaking as a representative of another individual, firm, associate, or business. <i>Orlando City Code 2.191 requires full disclosure.</i>  Name of Person, business or association: _____ _____ Address: _____ City: _____ Zip: _____ Telephone: _____		
Signature: <i>[Signature]</i>		Date: <i>8/7/15</i>





# Citizens' Police Review Board Training

August 7, 2019



# City Code and Board Policy

Kimberly Laskoff, Assistant City Attorney

# City Code Chapter 48.17 – Powers and Duties

- Board reviews citizen complaints, and departmental investigations conducted thereof, in the following instances:
  1. Use of deadly force
  2. Alleged use of excessive force
  3. Any instance wherein police action results in death or serious bodily injury
  4. Any complaint referred to it by the Mayor, a City Commissioner, Chief Administrative Officer, Chief of Police or the Civil Service Board
  5. Any complaint selected by majority vote of the Board for review
- Board reviews policies, procedures, rules, regulations, general, or special orders pertaining to the use of force and police conduct toward the citizenry.

# City Code Chapter 48.17 – Powers and Duties

- Following the review process, the Board shall submit a written report to the Chief of Police. Said written report may contain any or all of the following:
  1. A recommendation for approval
  2. A recommendation for disapproval
  3. A recommendation for modification or amendment
  4. A recommendation for additional information, additional investigation, or re-investigation

# Recommendations for Modification/Amendment

- The CPRB is able to submit a recommendation to the Chief of Police recommending modification/amendment of an OPD policy and procedure.
- The recommendation must state with specificity grounds for recommendation and be reflective of the majority of the Board.
- The recommendation will be prepared by Staff, signed by the Chair or designee and forwarded to the Chief of Police by the Board Administrator.
- Written dissenting opinions will be signed by those dissenting and submitted to the Board Administrator to forward to the Chief of Police with the recommendation.



# Appearances

1. Complainants submit an oral or written request to appear before the Board at least one week prior to the meeting.
2. Complainant and/or police officer submits a list of witnesses at least one week prior to the meeting.
3. Complainants and their witnesses are scheduled to appear during Review of Investigation and Appearances.
4. Complainants and witnesses fill out an Appearance Request Form and provide it to the Board Administrator at the beginning of the meeting.
5. If an attorney is to appear on behalf of an individual, the attorney files a Notice of Appearance along with an Appearance Request Form.
6. Chair will request the complainants, police officers, and witnesses to come to the podium and identify themselves for the record.
7. Board Administrator will swear in the complainants, police officers and all witnesses.

# Witnesses

- Witnesses appearing on behalf of complainants and officers must have pertinent information to the case:
  - A civilian or law enforcement eyewitness to an incident
  - OPD Personnel from IA division designated to provide a case summary to the CPRB
  - The family or next of kin of any deceased person
  - An attorney representing:
    1. Complainant
    2. OPD personnel accused of excessive force or abuse of power
    3. Family of any deceased person in a case involving death allegedly as a result of OPD personnel
    4. OPD
  - Any individual who by education, training and skill may be recognized by the Chair as an expert in a particular field
  - Any person who has knowledge of the circumstances of the case, law enforcement procedures or other information pertinent to the inquiry as recognized by the Chair

# Testimony

1. IA representative presents case summary.
2. The following individuals will be given 5 minutes to present remarks:
  - The complainant
  - Each witness for the complainant
  - The police officer against whom the complaint is directed
  - Each witness for the police officer
3. IA representative will present closing remarks.
4. The Board may question the complainant, police officer, any witnesses and/or Internal Affairs at the conclusion of their respective remarks or at the discretion of the Chair.
5. Upon conclusion of testimony, Chair will lead the Board's discussion.
6. The Board shall use the greater weight of the evidence standard of review in making its findings.



CPRB does not  
have authority to:

Investigate	Independently investigate the cases brought before it
Discipline	Administer discipline to the officers
Require Testimony	Require the officers to attend or testify at the Board's monthly meetings

# Attendance Requirements

## City Code Section 2.121

- The Board shall meet at least quarterly
- Board members should attend all meetings
- Terminated if absences exceed 25% of scheduled board meetings
- Considered absent if not present for at least 75% of a scheduled meeting



# OPD Policy and Procedure

## – Complaint Initiation and Investigation

Dwain Rivers, Internal Affairs Manager  
Sergeant Wesley Whited, Internal Affairs Supervisor



# OPD Responsibilities

1. Protect life and property
2. Preserve the peace
3. Prevent crime
4. Detect and arrest violators of the law
5. Enforce all federal, state, and local laws and ordinances coming within jurisdiction

# Citizen Complaint Initiation

- If a citizen feels an officer has acted improperly, there are four ways to make a complaint:
  1. Complainant may contact an officer's supervisor directly
  2. If the complainant feels the complaint is too serious to be handled by the supervisor, they may contact the Internal Affairs Section
  3. Complainant can fill out a form online
  4. Complainant may request and obtain a Citizen Complaint Form during a CPRB from the Board Administrator
- All formal complaints must be accompanied by a NOTARIZED Citizen Complaint Form (available in English, French, Spanish, Creole and Vietnamese) which can be faxed, mailed, hand-delivered or e-mailed to OPD Internal Affairs. Investigators are able to notarize the form at OPD Headquarters at no cost.

# Responsibilities of Receiving Employee

- The IA employee who receives the Citizen's Complaint Form will:
  1. Document the complaint and complete an Initial Notice of Inquiry
  2. Record interview when complainant is a tourist or transient
  3. Take pertinent evidence and photographs
  4. Notify complainant that information gathered during investigation is considered confidential until the investigation becomes public record
  5. Upon conclusion of the investigation, the IA Professional Standards Specialist sends the complainant written notification of the final determination of the complaint, including the finding and discipline



# Initial Notice of Inquiry

- Any sworn officer or civilian employee may initiate an Initial Notice of Inquiry (INOI).
- Only the Chief of Police or the Chief's designee may authorize an investigation by Internal Affairs.
- INOIs will include the following:
  - Synopsis of the incident
  - Witness list
  - Alleged violation
  - INOI Routing List

# Routing of Citizen Complaint Form and INOI

- Original INOI, Citizen's Complaint Form, and the recorded interview (when applicable) is placed into a sealed envelope and forwarded to the Chief of Police.
- After the Chief's review, the INOI is forwarded to IA to be logged into a control system.
- A copy of the INOI and Citizen's Complaint Form is placed into a sealed envelope and forwarded to the affected employee's bureau commander.
- The bureau commander forwards this copy to the appropriate investigating entity (usually IA).
- An additional copy of the INOI and Citizen's Complaint Form is placed into a sealed envelope and forwarded to the affected employee's division commander via the chain of command for informational purposes.

# Supervisory Referrals

- Citizens may contact IA with questions or concerns that do not warrant being handled formally. Under these circumstances, the following will occur:
  1. IA will obtain all pertinent information from the citizen
  2. Information will be recorded, as provided, in the IA database
  3. Supervisory referral information and a Supervisory Response Form will be forwarded to the affected officer's supervisor via his/her chain of command
  4. Supervisor will normally have 14 days to contact the citizen and attempt to resolve the issue
  5. Supervisor will complete the Supervisory Response Form and return it to IA via chain of command
  6. IA will maintain and record all supervisory referrals and response forms
- No citizen inquiry will be handled by a supervisor without the knowledge of the inquiring citizen.
- The handling of a citizen concern by a supervisor does not prohibit the inquiring citizen from pursuing a formal investigation if there is a possible policy violation.

# Complaint Investigation Procedures

- If the case is assigned to a supervisor for investigation, the supervisor contacts the complainant in an attempt to resolve the situation.
- If handled formally, an Internal Affairs investigator completes a thorough report regarding the complaint.
- All formal investigative reports are reviewed by the employee's chain of command and complainant is informed of the case disposition by certified mail.
- CPRB reviews all formal case reports as required by City Code and notifies the Chief of Police of its recommendations. Complainants are invited to attend and address the CPRB concerning their complaint.

# Complaint Investigation Procedures

- Investigations conducted in compliance with Florida Statute 112.531.
- Interrogations shall be conducted at a reasonable hour, preferably when officer is on duty, unless seriousness of investigation is of such a degree that immediate action is required.
- Officer under investigation shall be informed of the rank, name and command of the officer in charge of the investigation, the interrogating officer and all persons present during the interrogation.



# Complaint Investigation Procedures

- All questions shall be asked by or through one interrogator.
- Officer must be informed of the nature of the investigation before interrogation begins.
- Officer shall be informed of the names of all complainants.
- Whenever possible, all identifiable witnesses shall be interviewed prior to the beginning of the investigative interview of the accused officer.

# Complaint Investigation Procedures

- The following must be provided to the accused officer prior to the beginning of the investigative interview of the accused officer:
  - The complaint
  - All witness statements (including all other existing subject officer statements)
  - All existing evidence including but not limited to:
    - Incident reports
    - GPS locator information
    - Audio or video recordings relating to the incident under investigation



# OPD Policy and Procedure

## – Response to Resistance

Dwain Rivers, Internal Affairs Manager  
Sergeant Wesley Whited, Internal Affairs Supervisor

# Alleged Use of Excessive Force Terms

**Force:** tactics and/or techniques utilized by an employee to control or regain control of a subject, in self-defense, in the defense of others, to counter resistance by a subject, or when objectively reasonable.

**Objective Reasonableness:** constitutional standard for using any force based upon the totality of circumstances from the perspective of a reasonable officer on the scene.

**Totality of Circumstances:** the various factors known to or considered by an employee at the time law enforcement action was taken.

## **RESPONSE TO RESISTANCE CONTINUUM GUIDELINE**

*(TRAINING AND TECHNIQUE GUIDELINE ONLY; SHALL NOT LIMIT THE EMPLOYEE'S RESPONSE OR PERMIT GREATER RESPONSE THAN OBJECTIVELY REASONABLE UNDER THE TOTALITY OF CIRCUMSTANCES.)*

<b>EMPLOYEE/SUBJECT FACTORS TO BE CONSIDERED</b>	<b>ADDITIONAL FACTORS/SPECIAL CIRCUMSTANCES</b>
<ul style="list-style-type: none"><li>➤ Severity of Crime</li><li>➤ Threat to the employee or any individual</li><li>➤ How subject is resisting arrest</li><li>➤ How subject was attempting to evade arrest by flight</li><li>➤ Age</li><li>➤ Sex</li><li>➤ Size</li><li>➤ Skill Level</li><li>➤ Multiple subjects or members</li></ul>	<ul style="list-style-type: none"><li>➤ Known or perceived physical abilities</li><li>➤ Known violent or mental history</li><li>➤ Known or perceived mental incapacity</li><li>➤ Close proximity/availability to firearms or weapons</li><li>➤ Special knowledge</li><li>➤ Injury or exhaustion (employee or subject)</li><li>➤ Known or perceived disability or special needs</li><li>➤ Imminent danger to employee or any individual</li><li>➤ Characteristics of being armed</li><li>➤ Subject's level of agitation</li><li>➤ Alcohol/drug influence</li><li>➤ Subject handcuffed</li><li>➤ Environmental factors</li></ul>

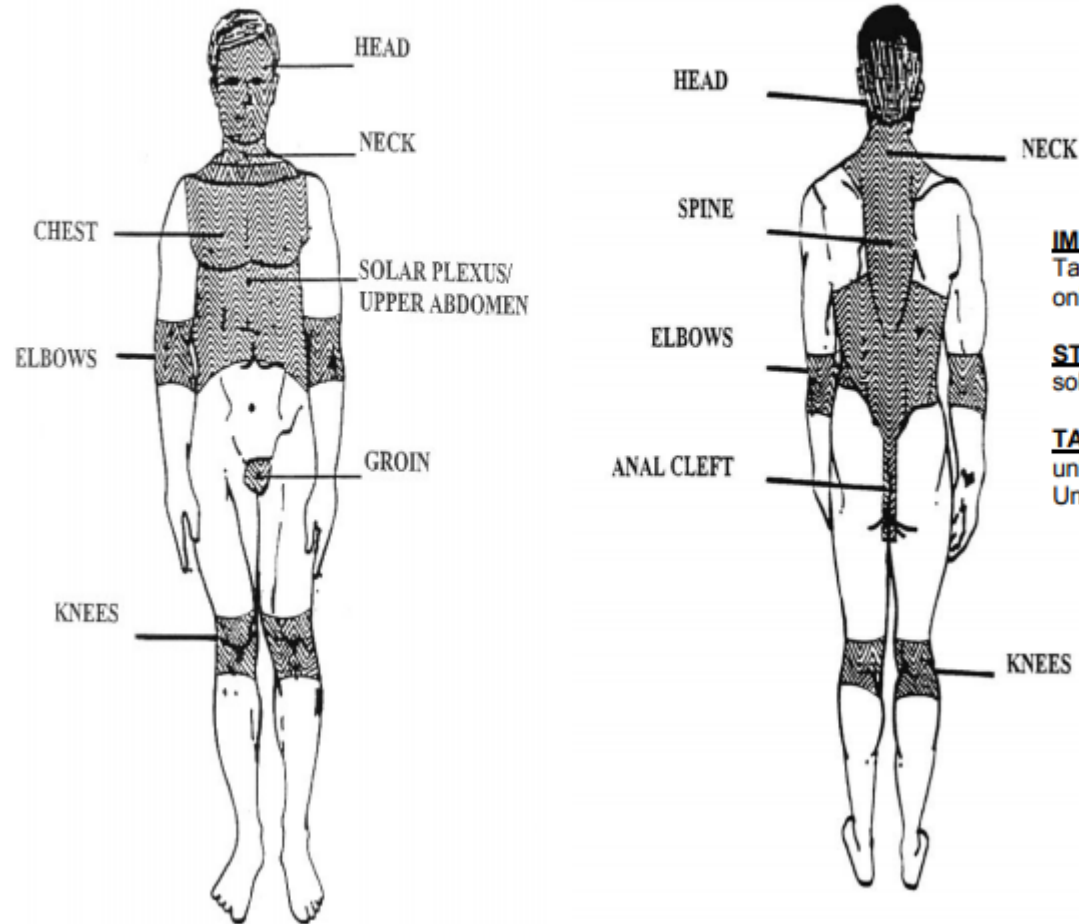


SUBJECT'S RESISTANCE	EMPLOYEE'S RESPONSE In every response, the employee should call for additional members	TECHNIQUES
<b>PASSIVE RESISTANCE</b> The subject fails to obey verbal direction preventing the employee from taking lawful action	<b>SOFT CONTROL</b> The employee applies techniques that have a minimal potential for injury to the subject, if the subject resists the technique.	<ul style="list-style-type: none"> <li>• Pressure Points</li> <li>• Wrist Locks</li> <li>• Arm Bars</li> <li>• Compression Techniques</li> <li>• Chemical Agents</li> <li>• Diversionary Device</li> </ul>
<b>ACTIVE RESISTANCE</b> The subject's actions are intended to facilitate an escape or prevent an arrest. The action is <u>not</u> likely to cause injury.	<b>HARD CONTROL</b> The employee applies techniques that could result in greater injury to the subject, if the subject resists their application by the employee.	<ul style="list-style-type: none"> <li>• Forearm and knee strikes</li> <li>• Open and closed hand strikes</li> <li>• Baton strikes</li> <li>• Kicks</li> <li>• Takedowns</li> <li>• Impact Weapons</li> <li>• Tire Deflation Devices</li> <li>• Electronic Control Devices (TASER)</li> <li>• K-9 Apprehension</li> </ul> *See Appendix B for Hard Control Techniques target areas.
<b>AGGRESSIVE RESISTANCE</b> The subject has battered, or is about to batter a person/employee and the subject's action is likely to cause injury.	<b>INTENSIFIED TECHNIQUES</b> Those techniques necessary to overcome the actions of the subject, short of deadly force. If the subject resists or continues to resist these techniques there is a strong probability of injury being incurred by the subject.	<ul style="list-style-type: none"> <li>• Techniques necessary to overcome actions of a subject short of deadly force.</li> </ul> * Intensified techniques may target shaded areas indicated in Appendix B.
<b>DEADLY FORCE RESISTANCE</b> The subject's actions are likely to cause imminent danger of death or great bodily harm to the employee or another person	<b>DEADLY FORCE</b> Employee's actions may result in death or great bodily harm to the subject.	<ul style="list-style-type: none"> <li>• The application of deadly force is not limited to the use of a firearm and may include application of other techniques and/or weapons</li> </ul>

## APPENDIX B

### ANATOMICAL ILLUSTRATION

(FOR USE OF HARD CONTROL TECHNIQUES, INTENSIFIED TECHNIQUES, AND DEADLY FORCE)



**IMPACT WEAPONS:** Avoid indicated shaded areas unless intensified techniques or deadly force is warranted. Targeting the head or neck with the baton or SAGE SL6 projectiles is acceptable in deadly force situations only.

**STRIKES** (forearm, knee, hands/fist, or kicks) shall not be targeted above the shoulders, to the spine, groin or solar plexus unless intensified techniques or deadly force is warranted.

**TASERS:** A person's head, neck, chest (above nipples), or groin areas shall not be targeted with probes unless intensified techniques or deadly force is warranted.

Under hard control, TASER Drive Stun techniques are approved in all areas except the head, neck, and groin.

# Use of Deadly Force

- Justified when necessary to prevent imminent danger of death or great bodily harm to the employee or any individual.
- Probable cause to believe a subject is committing or has committed a forcible felony.
- Subject's actions, including escape, pose imminent danger to any individual if apprehension is delayed.

# Use of Deadly Force

- Employee shall not use deadly force when a likelihood of serious injury being inflicted upon persons other than the individual against whom the member is authorized to use deadly force is present.
- Safeguarding of other human lives outweighs all other considerations.
- Exhaust every other reasonable means of apprehension before resorting to the use of deadly force.
- Use of deadly force shall be in accordance with current Department directives.

# Conduct Toward Citizenry

- **Courtesy**
  - Courteous and orderly in their dealings with the public
  - Perform duties quietly, avoiding harsh, violent, profane or insolent language
  - Remain calm regardless of provocation
- **Identification**
  - Supply business card when asked for name, I.D., badge number, or any other type of identification information
  - If business card is not available, provide name and employee number legibly on a piece of paper in a courteous manner and as soon as reasonably possible
- **Requests**
  - Attend to requests quickly and accurately
  - Avoid unnecessary referrals to other parts of the Department





# Possible Internal Affairs Investigation Findings

Dwain Rivers, Internal Affairs Manager  
Sergeant Wesley Whited, Internal Affairs Supervisor

# IA Investigation Findings

1. Exonerated – act was legal and proper (did not violate Policy & Procedure)
2. Sustained – violated Policy & Procedure
3. Not Sustained – insufficient evidence to prove or disprove allegation
4. Unfounded – incident did not occur, or employees accused were not involved

# Exonerated Example

- Complainant alleges that the officer used excessive force when arresting him for armed robbery.
- A review of source documents associated with this case, including body-worn camera footage and witness interviews, shows the officer struck the complainant in the forearm while he actively resisted arrest and tried to escape.
- A strike to the forearm is a hard control technique that, per policy, may be used during active resistance.
- Officer is EXONERATED for violation of RM 200-8, Obedience to Laws and Department Procedures (B) Obedience to Policies and Procedures and Other Written Directives as it relates to P&P 1128.16, Response to Resistance and Apprehension Techniques.

# Sustained Example

- Complainant alleges that the officer used excessive force when arresting him for theft.
- A review of source documents associated with this case, including body-worn camera footage and witness interviews, shows the officer kicking him in the chest while he was on his knees with his hands up (a position of submission).
- A kick to the chest is a hard control technique that, per policy, should be used during active resistance.
- Officer is SUSTAINED for violation of RM 200-8, Obedience to Laws and Department Procedures (B) Obedience to Policies and Procedures and Other Written Directives as it relates to P&P 1128.16, Response to Resistance and Apprehension Techniques.

# Not Sustained Example

- Complainant alleges that \$500 cash was removed from his vehicle after he was arrested and was not returned to him upon release.
- The complainant never provides any documentation or evidence that there was \$500 cash located in his vehicle.
- A review of source documents associated with this case, coupled with all witness interviews, fails to support the complainant's allegation that \$500 cash was ever located in his vehicle, and/or was removed from his vehicle after he was arrested.
- Officer is NOT SUSTAINED for violation of RM 800-8, Handling Money, Property, and Evidence as it relates to complainant's alleged missing \$500 cash.



# Unfounded Example

- Complainant alleges that he was stopped by officer John Smith on July 1, 2018 because one of the tail lights on his vehicle was out. During the stop, the complainant alleges that officer John Smith yelled at him and used profane language.
- After a review of source documents associated with this case, it was determined that Joe Smith responded to the call on July 1, 2018 and John Smith was on vacation that week.
- Officer John Smith is UNFOUNDED for violation of RM 900-7, Conduct Toward the Public, (a) Courtesy.



# Parliamentary Procedure

Roy Payne, Chief Assistant City Attorney

# Purpose of Parliamentary Procedure

- Shorten meetings
- Get more accomplished
- Protect minority voices
- Avoid litigation
- Avoid confusion
- Maintain order and dignity

# Important Terms

- Deliberative assembly – a group of folks meeting together to discuss issues and make decisions.
- Presiding officer – the chairperson; the person governing the meeting.
- Parliamentarian – one who advises the presiding officer on the appropriate rules of procedure.
- Quorum – minimum number of members needed in attendance in order to conduct business.

# Fundamental Principles

- Formality may vary
- Only one subject at a time
- Only one speaker at a time
- Each idea is entitled to debate
- Personality is set aside
- Silence = consent
- Record of proceedings
- Notice of meetings
- Fixed agenda provided before meeting
- Quorum required to conduct business
- Every member is equal, but presiding officer manages meeting
- Majority rules
- Protection of minority rights

# Step #1

## Member makes the motion

- Be precise – “I move that we recommend approval...”
- Only make a motion you agree with
- Avoid “So Moved!”
- Motion belongs to the maker
- Chair may make motions

## Step #2

### Another member seconds the motion

- No second? No debate. Move on.
- Seconding doesn't require approval or support
- Chair should repeat the name of the "seconder"
- Chair may second
- Motion still belongs to the maker
- Can still be withdrawn by the maker
- Can still be changed by the maker



# Step #3

## Chair states the motion

- This formally places the motion before the board
- Example: Chair states – “The motion is that we recommend approval of...”
- Transfers “ownership” of the motion to the board
- Withdrawal only by unanimous consent
- Amendment only by motion

# Step #4

## Debate time

- Motion maker speaks first
- New speakers have precedence
- Alternate between viewpoints
- Look to motion maker to promote the motion
- Debate is for changing minds
- Normally the time consuming part of the meeting
- Time limits?
- Chair may debate

# Step #5

## Putting the motion

- Chair restates the motion – precisely
- Example: Chair states – We’re voting on the motion to recommend approval of IR 18-32 as presented...”
- “All those in favor of the motion, say ‘aye.’”
- “All those opposed to the motion, say ‘no.’” (Show hands)
- The Chair must vote under Florida law

# Step #6

## Announce the results

- Chair must declare the outcome of the vote
- Example: Chair states – “The ayes have it, the motion is approved.”
- Don’t be afraid to vote again if necessary
- Make sure the recording secretary can identify each member’s vote
- Silence = consent (affirmative vote)
- Tie vote = motion fails (the “no’s have it”)

# Public Comment

- 5 minute time limit for each person addressing the Board
- The Board Administrator will time the comments and notify the speaker when the 5 minutes have expired
- The Board should not engage in a discussion with citizens speaking during Public Comment
- Citizens who express a complaint during Public Comment will be directed by the Chair to fill out a Citizen Complaint Form with the Board Administrator and their case may be heard by the Board at a later date

# 10 Tips for the Presiding Officer

1. Be a facilitator, not a dictator
2. Members wishing to speak should be recognized by the Chair before speaking (one speaker at a time)
3. Keep members on topic and focused on the issue at hand
4. Avoid using members' first names
5. Keep comments and testimony directed to the Chair
6. Speak up, and make sure others speak up as well
7. Only allow testimony from the lectern
8. Narrate (or "own") the meeting (avoid prolonged silence)
9. Be fair and evenhanded; maintain some neutrality
10. Explain what is happening to the public

# Responsibilities of the Board Administrator

1. Provide “reasonable notice” of meetings as required by Florida law
2. Provide a fixed agenda to members of the board
3. Receive Appearance Request forms from the Public and time Public Comment
4. Swear in complainant(s), police officer(s) and all witnesses
5. Accept and make record of complaints and inquires during meeting
6. Record votes (must record a vote for each member)
7. Promptly record minutes
8. Receive written recommendations and dissenting opinions from the Board to be forwarded to the Chief of Police





# Sunshine Law, Public Records & Ethics

Andrea Morgan, Assistant City Attorney

# Sunshine Law

## Sec. 286.01, Florida Statute

“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.”

# Sunshine Law – Purpose

- Purpose of Open Government law is to give all citizens an opportunity to participate in the government process.
- By hearing the discussions and comments of board members, everyone is aware of the factors considered in making decisions.

# Sunshine Law – Meetings

- Any PLACE 2 or more board members are present (telephone, cell phone, e-mail, text, written letter) AND
- Discussion ensues on a matter which foreseeable action will occur.

# Sunshine Law – Requirements

- Location – public access to all
- Notice – posted 48 hours in advance of meeting
- Written minutes

# Sunshine Law – Scope

- Applies to members of the same Board
- Votes must occur in public
- Avoid appearance of secret, side, or prior conversations
- Generally, written communications between Board members is prohibited

# Sunshine Law

- Board members may not engage in private discussions with each other about board business, either in person or by telephone, email, text, or any other type of electronic communication (Facebook, blogs)
  - Criminal and civil sanctions apply for violations of the Sunshine Law
  - Board actions may be voided and new actions required
  - Board members may socialize together, but cannot discuss matters that may come before the Board



# Public Records

## Sec. 119.011, Florida Statute

- Any record made or received in the course of business that communicates knowledge or information
- Includes:
  - Documents, books, tapes, e-mails, instant messages, drafts, phone messages, notes, notebooks, photographs, papers, letters, maps, logs, films, sound recordings, data processing software, social media accounts, or any other material regardless of physical form

# Public Records – Exemptions

- Active police reports
- Medical records
- Security documents
- Juvenile arrest records (including body-worn camera footage)
- Emergency response records
- Victim information
- Some home addresses and phone numbers of certain officials (police officers and code enforcement officers)
- Many more

# Public Records

- An agency may charge up to 15 cents per copy
- If the request requires extensive clerical or supervisory assistance or both, the agency may charge a reasonable service charge based on the actual cost
- Must maintain and retain public records for a definite period of time
  - Generally, a minimum of 1 year
  - The State of Florida Bureau of Archives provides a schedule for the required retention periods and the process of destruction

# Public Records – Violations

- Willful and knowing violations of Chapter 119 constitute:
  - second-degree misdemeanor
  - possible fine of up to \$500
  - potential period of imprisonment for up to 60 days

# Ethics Policy – Gifts

- City Employees, elected officials and those who serve on City boards must report all gifts over \$25
  - Exceptions: holiday, birthday, personal friend, occasional professional meal, official capacity or gift to the City
- State law prohibits gifts over \$100

# Ethics Policy

- City Employees, elected officials and those who serve on City boards must not:
  - Use City facilities, equipment, vehicles, supplies, goods, or services for personal use
  - Take an outside position that conflicts with a City position
  - Use City position to get benefit not available to the public
  - Select or refer to City business to companies that also employ you
  - Personally or through a business provide goods or services to City for compensation
  - Give yourself or member of your household a financial benefit

# Ethics Policy

- Never take anything that would affect your impartiality
- Never ask for any gift (except relatives or friends with no business connection to the City)
- Never take any gift worth more than \$100 from persons you deal with in your City capacity



# Voting Conflict

- Board members must abstain from voting on a measure which would inure to private gain or loss to:
  - Himself/herself
  - A principle (other than a government agency) by whom he/she is retained
  - A relative
  - A business associate
- You are not prohibited from otherwise participating in these matters, however, you must disclose the nature of the conflict before making any attempt to influence the decision.
- Must complete a Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers



Questions?