RESOLUTION R-16-068

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, ADOPTING REVISED RULES OF PROCEDURE AND REPEALING THE PREVIOUSLY ADOPTED RULES OF PROCEDURE (RESOLUTION R-16-011), TO GOVERN MEETINGS OF THE BOARD OF COUNTY COMMISSIONERS; SETTING FORTH FINDINGS; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF DECLARED INVALID; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County, Florida is empowered under Section 125.01, Florida Statutes, to adopt its own Rules of Procedure; and

WHEREAS, it is the intent of the Board of County Commissioners to update its Rules of Procedure in accordance with applicable Florida law and current practices of the Board, and in furtherance of protecting the health, safety and welfare of the citizens of Manatee County; and

WHEREAS, the Board has prepared these rules in an attempt to encourage and accommodate public participation in its meetings, and so as to afford all participants due process, while recognizing the need for certain procedures to maintain orderly and efficient meetings.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida that:

Section 1. The findings set forth in the preamble above are hereby adopted as findings of the Board of County Commissioners and incorporated herein by reference.

Section 2. The Rules of Procedure entitled: "Procedures for the Manatee County Board of County Commissioners' Meetings," attached hereto as Exhibit "A" and incorporated herein by reference, are hereby adopted.

Section 3. By adoption of this Resolution, the Board of County Commissioners hereby repeals Resolution No. R-16-011.

Section 4. It is hereby declared to be the intention of the Board of County Commissioners that the phrases, clauses, sentences, paragraphs and sections of this Resolution, inclusive of Exhibit "A," be deemed severable, and if any phrase, clause, sentence, paragraph or section hereof is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Resolution.

Section 5. The effective date of this Resolution and the attached Procedures shall be the date of adoption of this Resolution.

DULY ADOPTED with a quorum present and voting this 26th day of April, 2016.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: _____
Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____
Deputy Clerk

EXHIBIT "A"

PROCEDURES FOR THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS' MEETINGS

ADOPTED APRIL 26, 2016, BY RESOLUTION R-16-068

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PROCEDURES FOR THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS' MEETINGS

PREAMBLE AND STATEMENT OF INTENT

Consistent with the requirements of Chapters 125, 163 and 286, Florida Statutes, and other applicable law, the Board of County Commissioners of Manatee County has adopted these rules (hereinafter, the Board Procedures) to govern its meetings, hearings, and workshops. While encouraging appropriate public participation and an informal and civil atmosphere, the Board intends to retain the structure and decorum required for the orderly, efficient and professional conduct of its business.

1. APPLICABILITY.

These Board Procedures shall govern the meetings, hearings, and workshops of the Board of County Commissioners of Manatee County and any subordinate boards, commissions or advisory committees, unless such subordinate bodies have adopted their own formal procedures. If subordinate bodies adopt their own procedures, such procedures shall not be materially inconsistent with these Board Procedures.

2. OFFICIAL BOARD ACTION.

2.1 APPLICABILITY; MATTERS FOR BOARD CONSIDERATION. Any matters that relate to the Board's duties, authority or powers under Chapter 125, Florida Statutes, or other applicable law or which relate to the County's property or legal or financial interests, or the public health, safety, welfare, or morals of Manatee County may be brought before the Board for appropriate consideration or action.

2.2 DELEGATION OF AUTHORITY. Manatee County acts through the Board of County Commissioners and the authorized actions of its employees, agents, and legal representatives. To the extent permitted by law, the Board may delegate its authority to perform action on behalf of the County. In delegating authority, the Board shall provide sufficient guidelines and expression of its objectives to enable efficient performance of the action for which the authority has been delegated.

2.3 DESIGNEES. Wherever the Board Procedures delegate authority or responsibility to the Clerk of the Circuit Court (the Clerk), the County Administrator, the County Attorney, or the Planning Official, such authority or responsibility is understood to extend to his or her respective designee.

3. BOARD OFFICERS.

3.1 ELECTION OF OFFICERS. The Board shall annually elect as its officers a Chair, a First Vice Chair, a Second Vice Chair and a Third Vice Chair. The election shall be conducted at the first regularly scheduled Board meeting of December, which has not been designated as a Land Use meeting, and the new officers' terms shall begin at 12:01 a.m. on January 1st of the ensuing calendar year. At the election the Board shall also appoint one of its members to sit on the Tourist Development Council (TDC) and shall specify whether that Commissioner shall serve as Chair of the TDC. If less than a full Board is available for such meeting, the election of officers and designation of the TDC appointee may be postponed until a full Board is present; provided, however, that if such postponed election occurs after January 1st, the new officers' terms shall begin immediately upon their election. For convenience and in order to conserve public resources, election for officers of the Manatee County Port Authority and other boards, authorities, or commissions whose memberships consist of the persons who comprise the Board of County Commissioners may be conducted at the same County Commission meeting (subject to ratification by the respective boards, authorities, or commissions at their meetings where such ratification is required or advisable). Board officers shall hold office until a successor is elected, unless removed from office by a majority vote of the Board prior thereto, or unless the officer resigns from the office or the officer's status as a County Commissioner ceases for any reason.

3.2 ASSIGNMENT OF DUTIES. The Chair shall have the authority to assign honorary and administrative duties to other members of the Board.

3.3 QUORUM AND OFFICERS.

3.3.1 A quorum exists when a majority of the Commissioners are physically present. Unless otherwise provided by law, a majority vote, where a quorum is present, constitutes action of the Board. In the absence of the Chair, the highest ranking physically present Vice Chair shall have all the duties and authority of the Chair until the arrival of a higher ranking officer. In the absence of the Chair and all Vice Chairs at the time scheduled for the opening of a public meeting or workshop, the first Commissioner who notifies the Clerk of the Commissioner's intention to preside over the meeting shall have all of the duties and authority of the Chair until a Board officer is physically present. In the absence of a required quorum, those Commissioners assembled, including a single Commissioner, if only one is present, may take measures to obtain a quorum, fix the time to which to adjourn or take a recess, and open and continue a public hearing on any scheduled matter to a time and date certain, but shall take no testimony and conduct no other business. Nothing in this Section 3.3 shall limit any procedure, rules, statutes, or

other lawful authority governing the conduct of business in the event of a disaster or emergency.

3.3.2 A Commissioner seeking to attend all, or any portion of a meeting via electronic means shall submit his or her request to the Chair or ranking officer with as much advance notice as possible. The Chair or ranking officer is authorized to consult with the County Attorney and County Administrator as needed and to grant or deny the request to appear electronically. If the Chair or ranking officer grants the request, then the County Administrator shall ensure the chambers is appropriately equipped to permit any audio/video interaction needed.

3.3.3 The Chair or ranking officer shall permit electronic attendance where the requesting Commissioner is incapacitated due to illness or injury or hindered by circumstances from physically attending, but is otherwise able to concentrate and give his/her attention to the business of the Board. No more than two Commissioners may attend a meeting electronically at the same time.

3.3.4 For purposes of this section 3.3, the term "appropriately equipped" shall mean that level of equipment allowing Commissioners attending electronically to hear fellow Commissioners and any person presenting at the microphone; allowing all other Commissioners and all persons attending in the Chambers to hear Commissioners attending electronically; and for matters expected to include video or graphic presentations, the ability of Commissioners attending electronically to view via a video feed the same images seen by Commissioners physically attending.

3.4 VACANCY IN OFFICE.

3.4.1 Upon the occurrence of a permanent vacancy or inability to serve in the position of Chair, the following shall occur:

3.4.1.1 the First Vice Chair shall automatically succeed to the Chair for the remainder of the term of office thereof;

3.4.1.2 the Second Vice Chair shall automatically succeed to the First Vice Chair for the remainder of the term of office thereof;

3.4.1.3 the Third Vice Chair shall automatically succeed to the Second Vice Chair for the remainder of the term of office; and,

3.4.1.4 the Board shall elect a new Third Vice Chair, at the first regularly scheduled meeting at which the existence of the vacancy is known. However, if necessary, the election of a new Third Vice Chair may be deferred until a full Board is present.

3.4.2 Upon occurrence of a permanent vacancy or inability to serve in a position of any Vice Chair, the next highest ranking Vice Chair shall automatically succeed to fill the vacancy for the term of office thereof, and the applicable procedures set forth above for filling a vacancy in office shall be followed as to the remaining officer positions.

3.5 APPOINTMENT OF MEMBERS TO OTHER BOARDS.

The Board may appoint or allow the Chair to appoint Commissioners to sit on or serve as liaison to other regulatory or advisory committees or boards, as permitted by law. As soon as reasonably possible, such appointees shall report to the full Board items of interest to Manatee County in order that the Board may take action, comment, or make a recommendation regarding such matters. Any such action, comment, or recommendation (or the lack thereof) shall be conveyed by the appointee to the other board or committee prior to its action on such item. If the appointed member (and alternate if one has been designated) cannot attend a meeting of a regulatory or advisory committee or board, and there is no intervening meeting of the Board of County Commissioners at which a substitute could be appointed, the Chair shall have the authority to appoint another commissioner (or staff person, if allowed by law or controlling procedures) as a substitute appointee for the meeting of the regulatory or advisory committee or board. An appointee shall timely report to the Board on the relevant proceedings and actions of the regulatory or advisory committee or board to which he or she is appointed.

4. MEETINGS.

4.1 TYPES OF PUBLIC MEETINGS. The Board shall have the authority to hold the types of meetings set forth below:

4.1.1 **Regular Meetings.** The Board may establish and announce a regular meeting schedule. The schedule may include regular and special meetings, including meetings primarily focused on items considered under or specifically related to the County's Comprehensive Plan or Land Development Code which may also be designated Land Use Meetings. All regular meetings shall ordinarily commence at 9:00 a.m. in the County Commission Chambers. Any scheduled regular meeting may be commenced earlier or later, postponed or canceled, or held in a different location pursuant to a motion adopted at a regular meeting by a majority of the Commissioners present.

4.1.2 **Special Meetings.** A special meeting of the Board may be called by the Chair or by a majority of the Commissioners present at a meeting of the Board. Whenever a special meeting is called, written notice shall be given by the Administrator to Commissioners, the Clerk, the County Attorney, and any persons entitled, as a matter of law, to written notice, and the press, stating the date, hour and place of the meeting and the purpose(s) for which the meeting is called. At least twenty-four (24) hours must elapse between the time the meeting is noticed and the time the meeting is to be held.

4.1.3 **Emergency Meetings.** An emergency meeting may be called by the highest ranking officer of the Board available. An emergency meeting may be called only when the person calling the meeting believes that a situation exists that may involve serious consequences and that requires immediate consideration or action by the Board. Whenever such emergency meeting is called, the County Administrator or, if he or she is unavailable, the person calling the meeting, shall make a diligent and good faith attempt to notify each Commissioner, the Clerk, the County Attorney, any person entitled to notice as a matter of law, and the press stating the date, hour, and place of the meeting, the nature of the emergency, and the purpose(s) for which the meeting is being called. The notice shall be in writing if possible. No other business shall be transacted at the meeting, and the minutes of each emergency meeting shall include the nature of the emergency and the record of notice.

4.1.4 **Workshops.** The Board may hold workshops from time to time for consideration of matters that are not ready for Board action or for mere informational gathering purposes. No formal action may be taken at workshops.

4.1.5 **Public Notice.** The Administrator shall provide public notice of all meetings and workshops in accordance with law. The minutes of all meetings shall include mention of the means of notice and distribution of notice.

4.2 PRIVATE SESSIONS.

4.2.1 **Litigation Meetings.** The County Attorney and other attorneys representing the County may meet in private session with the Board and the County Administrator to discuss pending litigation to which the County is a party before a court or administrative agency so long as such meetings are noticed, held and reported, and the records thereof preserved and made available to the public upon conclusion of the litigation in compliance with Florida Statutes § 286.011(8) and any amendments thereto.

4.2.2 **Risk Management Meetings.** Portions of the Board's meetings and proceedings that are conducted pursuant to the County's Risk Management Program and that relate solely to the evaluation of claims filed with the Risk Management Program, or that relate solely to offers of compromise of such claims, may be held in private session, so long as such meetings or portions of meetings are held and a record thereof is preserved in compliance with Florida Statutes § 768.28(16) and any amendments thereto. In accordance with Florida Statutes § 768.28(16)(d) and any amendments thereto or successor or supplemental statutes and other applicable laws, the minutes of Risk Management meetings and other records thereof are exempt from public disclosure under Florida Statutes § 119.07(1) until termination of all litigation and settlement of all claims arising out of the same incident.

4.2.3 **Collective Bargaining Meetings.** All discussions between the County Administrator, the County Attorney, and the Board relative to collective bargaining shall be closed and exempt from the provisions of Florida Statutes § 286.011, as provided in Florida Statutes § 447.605.

4.3 PREPARATION OF AGENDA.

4.3.1 **County Administrator.** The County Administrator shall prepare the agendas and assemble the accompanying backup or background information for the Board meetings. All agenda items shall state whether the item has been reviewed by the County Attorney and, if not, shall state why such review was not needed. No item may be added to the agenda without the approval of the County Administrator, except as stated in sections 4.3.2 and 4.3.3

4.3.2 **County Attorney.** The County Attorney's Office will establish its portion of the agenda for Board meetings and may add supplemental items to the agenda whenever, in the discretion of the County Attorney, such items require Board attention at that meeting.

4.3.3 **County Commissioner.** Any County Commissioner may have an item placed on an agenda at any time consistent with all applicable notice requirements.

4.3.4 **Items Not on Agenda.** Matters that do not require separate public notice may, with the consent of the majority of the Commissioners present, be considered and acted upon at any regular or special Board meeting.

4.4 CONTINUANCE OF MEETINGS DUE TO EMERGENCY.

Where necessary to continue a public meeting due to an emergency, the Clerk, the County Administrator, the County Attorney or, in the case of Land Use meetings, the Planning Official are hereby delegated authority to continue the meeting to a date certain or indefinitely. The continuance shall be announced at the time and place where the meeting was scheduled to begin and, where possible, shall be publicly announced prior thereto so as to provide reasonable public notice thereof.

For purposes of this rule, an "emergency" means an emergency as defined in Florida Statutes § 252.34(3), as amended, or as declared by the Governor of Florida, or by the Board of County Commissioners, or a natural or manmade disaster or threat thereof that in the reasonable judgment of the Chair, the County Administrator or law enforcement renders the Board's meeting environment unduly dangerous to the Board, staff or the public.

5. CONDUCT OF MEETINGS.

5.1 GENERALLY. At the hour set for each meeting, members of the Board, the County Attorney, the County Administrator, and the Clerk shall be seated and the business of the Commission shall be taken up in accordance with the agenda prepared for the meeting. The Chair may take business out of order if he or she determines that such a change will expedite the business of the Commission or will otherwise be in the County's best interest.

5.2 RULES OF DEBATE.

5.2.1 **Questions Under Consideration.** When a motion is presented and seconded, it is under consideration and no other motion shall be received thereafter, except to amend, to adjourn, to lay on the table (i.e., to postpone indefinitely), to continue or defer to a date uncertain (i.e., to postpone until the occurrence of an independent event which will definitely occur at an unknown time), or to continue or defer to a date certain until the question is decided. These types of motions shall have preference in the order in which they are mentioned and motions to adjourn or to lay on the table shall be decided without debate. Upon the request of the County Attorney, made prior to final action on any matter, that the matter be deferred or continued to a future Board agenda, the Board shall vote on whether to defer or continue the matter as requested.

5.2.2 **Motions by the Chair.** The Chair may second any motion, or after relinquishing the Chair, may make any motion. The Chair shall not resume the Chair until the Board has acted upon his or her motion.

5.2.3 **Discussion.** Every Commissioner desiring to speak shall notify the presiding officer and, upon recognition, shall confine himself or herself to the question under debate. However, the Chair may allow Commissioners to dialogue with each other to obtain information or clarification on an issue under discussion.

5.2.4 **Interruption.** A Commissioner, once recognized, shall not be interrupted when speaking, unless it is to call that Commissioner to order or as herein otherwise provided. If a Commissioner, while speaking, is called to order, or if a question of personal privilege is raised, the Commissioner who had the floor shall cease speaking until the question of order or privilege is determined by the Chair and, if in order, that Commissioner shall thereafter be permitted to proceed. A ruling of the Chair on a point of order can be overturned by a majority vote of the Commissioners present. A question of privilege is defined as a pressing situation affecting a right or privilege of the Board or an individual Commissioner that warrants interruption of pending business. Examples are the need to deal with disruptive noise, inadequate ventilation, or introduction of a legally confidential subject in the presence of those not entitled to knowledge thereof.

5.3 ADDRESSING THE BOARD. A member of County staff who addresses the Board shall first be identified for the record and shall utilize the speaker's lectern or microphones made available for staff so as to allow his or her comments to be recorded. Each other person who addresses the Board shall speak from the speaker's lectern, or when appropriate, use a portable microphone. Time restrictions on members of the public addressing the Board shall be as set forth below or as otherwise established by the Chair or the Board and shall be kept by the Clerk.

5.3.1 **Public Comments at Regular Meetings, Special Meetings and Workshops.** Subject to sections 5.4.2 and 5.4.3, near the beginning of regular and special meetings, the Board shall allow individual members of the public to address the Board as to any consent agenda items on the instant agenda. As to consent agenda items, each person shall be limited to speaking for three (3) minutes per item; provided, however, that each person shall be limited to speaking for a total of ten (10) minutes regardless of the number of individual items being discussed. Subject to sections 5.4.2 and 5.4.3, near the beginning of regular and special meetings, the Board shall allot a period of thirty (30) minutes to allow individual members of the public to address the Board as to matters that may be appropriate for the Board's future consideration under section 2.1. As to matters for future consideration, each person shall be limited to speaking for three (3) minutes regardless of the number of individual matters being addressed. As to matters for future consideration, if the thirty (30) minute time allotment has

been exhausted and there remain any members of the public desiring to address the Board, then the Board shall entertain those comments near the end of the meeting with the same three (3) minute per person time limitation. At any time during workshop meetings, the Board shall allow individual members of the public to address the Board, but only as to items on the instant agenda. In such workshop meetings, each person shall be limited to speaking for three (3) minutes per item; provided, however, that each person shall be limited to speaking for a total of ten (10) minutes regardless of the number of individual items being discussed. A person who desires to address the Board at Public Comments shall sign up to do so with the designated County staff, using designated County forms, prior to the meeting, stating his or her name and address, whether he or she speaks for others and the names of the persons or entities for whom he or she speaks, and the topic(s) about which he or she desires to address the Board. The Chair, without objection, may also allow persons who have not signed up to nevertheless address the Board, provided that each person supplies the information required above before addressing the Board. Extensions of time may be granted by the Chair, without objection, or by the Board. Comments at regular and special meetings on non-consent, non-public hearing agenda items shall be allowed as set forth in section 5.3.2. Comments in public hearings shall be allowed as set forth in section 5.5. As to matters not on the agenda, the Board shall not ordinarily take action at the same meeting wherein a matter is first raised, but may direct that the item be placed on a future agenda. This section 5.3.1 is not intended to create a general public forum for the discussion of any topic.

5.3.2 **Public Comments at Regular and Special Meetings on Non-Consent, Non-Public Hearing Agenda Items.** Subject to sections 5.4.2 and 5.4.3, in regular and special meetings, the Board shall allow for public comments before taking action on agenda items that are (a) not on the consent agenda and (b) not the subject of a public hearing. Each person addressing the Board shall initially state his or her name and whether he or she speaks for others and, if so, the names of the persons or entities for whom he or she speaks. Each person shall be limited to a maximum of three (3) minutes to comment on the instant agenda item only. Extensions of time may be granted by the Chair, without objection, or by the Board. Comments in public hearings shall be allowed as set forth in section 5.5.

5.4 ORDERLY MEETINGS.

5.4.1 The Chair or the highest ranking Vice Chair present shall preside at the meetings and shall initially decide all procedural questions. The ruling of the Chair on a procedural issue can only be overturned by a majority vote of the Commissioners present.

5.4.2 All persons in attendance at a Board meeting, hearing, or workshop shall conduct themselves in a civil manner and refrain from action that disrupts the meeting or hinders the Board in performing its duties. To these ends, such persons are prohibited from:

5.4.2.1 committing acts of violence toward any person;

5.4.2.2 making threats of violence or speaking "fighting words" that are likely to provoke violence;

5.4.2.3 disrupting the proceedings with excessive commotion or excessively loud shouting or other noise or use of obscene or crude language;

5.4.2.4 interfering with the rights of others to speak, hear, see, or attend the proceedings;

5.4.2.5 being unduly repetitious or presenting matters not relevant to the agenda item under consideration;

5.4.2.6 making personal attacks or insults against any person;

5.4.2.7 speaking on a subject about which the Board has already taken a position or about which the Board has voted not to receive further comment;

5.4.2.8 continuing to speak after the allotted time has expired or after having been ruled out of order; or

5.4.2.9 speaking on a subject that is clearly outside the purview of section 2.1.

5.4.3 The Chair shall rule out of order any person(s) violating these provisions for orderly meetings. In appropriate situations (e.g., if such person(s) refuse to cease such violations), the Chair may have such person(s) removed from the meeting, hearing, or workshop by law enforcement personnel or take such other actions as may be reasonably necessary to enforce these requirements.

5.5 PUBLIC HEARINGS.

5.5.1 **Explanation of Terms.** For purposes of the Board Procedures, unless the context requires otherwise, the following terms have the definitions set forth or the usages explained below:

5.5.1.1 "Public Hearing" - refers to a hearing where the public is both invited and entitled to be heard on a matter pending before the Board, typically requiring an advertisement in a local newspaper of the matter to be considered. Some examples are hearings to consider adoption, repeal, or amendment of ordinances, or in some cases, resolutions.

5.5.1.2 "Quasi-Judicial Hearing" - refers to a type of public hearing in which the Board is required to assume a more adjudicatory role, as distinguished from a legislative role. In quasi-judicial hearings, certain procedural requirements are imposed by law. The following types of public hearings shall be conducted as quasi-judicial hearings: individual parcel zoning atlas amendments; development agreements if accompanied by a quasi-judicial development application; developments of regional impacts ("DRI"); vested rights determinations; consideration of a general development plan or site plan application; an appeal to the Board of an administrative determination; and such other hearings as may be required by law to be treated as quasi-judicial.

5.5.1.3 "Applicant(s)" - means person(s) who has/have duly made formal application for Board action or approval in a quasi-judicial context of an item affecting their legal or property rights.

5.5.1.4 "Proponent(s)" - in a quasi-judicial setting, means person(s) other than an applicant, who support an applicant's position; or, in other settings, means person(s) who favor adoption of an ordinance or resolution or an affirmative decision on a matter under consideration by the Board.

5.5.1.5 "Opponent(s)" - in a quasi-judicial setting, means person(s) who oppose an applicant's position; or, in other settings means persons who oppose adoption of an ordinance or resolution or an affirmative decision on a matter under consideration by the Board.

5.5.1.6 "Affected Persons" - means an applicant in a quasi-judicial hearing or an opponent or proponent whose interest and involvement in a public hearing matter is such that he or she would have legal standing under Florida law as a party in court or administrative litigation challenging Board action in the matter.

5.5.2 **Conduct of Public Hearings (Non-Quasi-Judicial).** Public hearings involving (a) non-quasi-judicial matter(s) shall ordinarily proceed in the following manner:

5.5.2.1 Initial Presentation by Staff. County staff shall make the initial presentation to the Board regarding any item under consideration.

5.5.2.2 Public Comment. After presentation by staff, the Chair shall open the public comment portion of the public hearing for the purpose of hearing persons who want to be heard on the item under consideration.

5.5.2.3 Closing of Public Comment. The Chair shall close the public comment portion of the public hearing upon the conclusion of the comments of the last appropriate speaker or the expiration of the speaking times allowed under the procedures. Thereafter, unless time for public comment is extended or public comment is re-opened in accordance with these procedures, no additional public comments shall be allowed except in specific response to questions by staff or Commissioners.

5.5.2.4 Staff Response and Summary. After public comment is closed, staff shall be allowed an opportunity to respond, to summarize, or to further explain staff's position and to advise of changes in staff's position, if any.

5.5.2.5 Inquiry, Clarification and Comments During Presentations. It is the intent of the Board that its public hearings be orderly and to that end interruption of presentations is ordinarily to be avoided. It is also the intent of the Board that a complete record of relevant facts be established and a complete understanding of the matters under consideration be obtained. Accordingly, the Chair, at any time during a public hearing, may allow Commissioners to comment or make inquiry of persons addressing the Board, or of staff or other persons in attendance, or may allow staff, the County Administrator or the County Attorney to comment or make such inquiries.

5.5.3 **Conduct of Quasi-Judicial Public Hearings.**

5.5.3.1 Oath or Affirmation. Prior to addressing the Board at a quasi-judicial public hearing, each person who intends to address the Board shall declare, pursuant to oath or affirmation administered by the Clerk, or other duly authorized person, that the factual statements or representations that he or she will present shall be truthful and accurate. The form of oath or affirmation shall be substantially similar to that provided in "Attachment 1" hereto. Any person who knowingly makes a false statement or representation under oath or affirmation shall be subject to criminal and other sanctions as provided by law, in addition to any consequences provided for under the Board Procedures or any Manatee County ordinance.

5.5.3.2 Introduction by Staff. County staff shall introduce the quasi-judicial matter to the Board so as to provide an overview of the proposed matter, and identify issues for the Board's consideration

5.5.3.3 Ex Parte Communications. Board members may enter into the record factual matters which are not already contained in the record, when such Board members have personal knowledge pertaining to the physical characteristics of a site, its surroundings, or other communications relevant to the matter being heard (see Resolution No. 05-179 for a description of the types of ex parte communications that are required to be entered into the record).

5.5.3.4 Applicant's Presentation. After staff presentation, the applicant(s) shall be allowed to make a presentation to the Board. The applicant has the burden of proving that the proposal is consistent with the comprehensive plan and complies with the standards for approval in the Land Development Code.

5.5.3.5 Staff's Presentation. After the applicant's(s') presentation, staff shall present the staff's report and recommendation.

5.5.3.6 Public Comment. After presentation by the applicant(s) and staff, the Chair shall open the public comment portion of the quasi-judicial hearing for the purpose of hearing persons who want to be heard on the item under consideration.

5.5.3.7 Closing of Public Comment. The Chair shall close the public comment portion of the public hearing upon the conclusion of the comments of the last appropriate speaker or the expiration of the speaking times allowed under these procedures. Thereafter, unless time for public comment is extended or public comment is re-opened in accordance with these procedures, no additional public comments shall be allowed except in specific response to questions by staff or Commissioners.

5.5.3.8 Staff Response and Summary. After public comment is closed, staff shall be allowed an opportunity to respond, to summarize, or further explain staff's position and to advise of changes in staff's position, if any.

5.5.3.9 Applicant's(s') Rebuttal Presentation. After staff response, Applicant's(s') rebuttal shall be allowed in quasi-judicial matters. Rebuttal shall only address comments made in the previous presentations.

5.5.3.10 Factual Errors. Any person(s) who believe that the rebuttal presentation includes an error of fact may be allowed an opportunity to point out such error of fact. This relates to a demonstrable falsehood or misstatement of objective fact. It is not an opportunity to argue the merits of a proposal.

5.5.3.11 Board and Staff Inquiry. After staff and applicant(s) have made presentations as outlined above and the public comments portion of the hearing is closed, the Board shall have a final opportunity to comment or ask questions of any applicant(s), staff member or other persons who provided testimony. The Chair may allow staff to respond to comments of an applicant(s) or Citizen at this time.

5.5.3.12 Inquiry, Clarification and Comments During Quasi-Judicial Presentations. It is the intent of the Board that its quasi-judicial public hearings be orderly and to that end interruption of presentations is ordinarily to be avoided. It is also the intent of the Board that a complete record of relevant facts be established and a complete understanding of the matters under consideration be obtained. Accordingly, the Chair, at any time during a public hearing, may allow Commissioners to comment or make inquiry of persons addressing the Board, or of staff or other persons in attendance or may allow staff, the County Administrator or the County Attorney to comment or make such inquiries. In quasi-

judicial hearings, affected parties may ask questions, through the Chair, of the person(s) who make a presentation to the Board. The Chair may allow the affected parties' question(s) to be posed during the presentation or may require the question(s) to await the conclusion of the presentation, in accordance with the above stated intent of the Board.

5.5.4 **Time Periods for Public Hearing Matters.** The following time limits shall apply to presentations in public hearings:

5.5.4.1 an applicant in a quasi-judicial matter shall be entitled to a total of fifteen (15) minutes without interruption;

5.5.4.2 persons who have been authorized to represent an organization with five (5) or more members or a group of five (5) or more persons shall be entitled to speak ten (10) minutes without interruption;

5.5.4.3 all other persons shall be entitled to speak three (3) minutes each without interruption;

5.5.4.4 an applicant's rebuttal shall be limited to five (5) minutes, unless otherwise set by the Chair; and

5.5.4.5 pointing out factual errors shall be limited to one (1) minute, unless otherwise set by the Chair.

5.5.5 **Other Procedural Guidelines.**

5.5.5.1 Registration of Speakers. Persons who desire to make presentations at a public hearing shall, prior to the time at which the item is to be heard, register with the designated staff on the forms provided, and shall provide such information as required to organize the agenda and order of presentation. Five (5) or more persons associated together as Proponents or Opponents of an item may be required to select a spokesperson.

5.5.5.2 Limit On Presentations. No person who has made a presentation for or against an item at a given meeting shall be allowed to make additional comments as of right except where due process requires it.

5.5.5.3 Authorization of Group Representatives. Before a person representing an organization or group speaks, that person shall state whom he or she represents and establish how he or she received authorization to speak on behalf of such organization or group of persons, which shall include written authorization, unless the Chair waives this requirement. In quasi-judicial hearing matters, anyone representing an organization must present written evidence of their authority to speak on behalf of the organization in regard to the matter under consideration, unless the Chair waives this requirement, in accordance with Sec. 312.8.A.3., Land Development Code. The Board may make further inquiry into the representative authority of such person. Only one ten minute time allotment per hearing is allowed for each organization or group of persons represented at the hearing.

5.5.5.4 Interruption of Presentations. Notwithstanding any provisions herein, the Chair of the Board, the County Administrator, the Planning Official as to Land Use items, or the County Attorney may interrupt and request termination or other appropriate limitation of any presentation or discussion of matters that should not appropriately or legally be considered by the Board under applicable Florida Statutes, decisions of Florida or federal courts, County ordinances or County code provisions in deciding the item then under consideration.

5.5.5.5 Experts. In quasi-judicial proceedings, persons purporting to offer expert testimony shall identify any educational, occupational, and other expertise that they possess that is relevant to their qualifications to speak regarding the matter under consideration. Persons purporting to offer expert testimony in other contexts, such as legislative proceedings, may likewise be required to identify their expertise. Any Commissioner, the County Administrator, or the County Attorney may inquire further as to such expertise.

5.5.5.6 Additional Time for Presentations. The Board or the Chair, without objection, may allow more than the allotted time for presentations by an Applicant, Proponent, or an Opponent, or other speaker regarding an item, if the additional time is requested. In order to conserve time and facilitate an orderly meeting, preference shall be given to such requests when they are made in advance of the meeting to the County Administrator, or in the case of land use items, to the Planning Official. If more

than a total of one-half (½) hour is requested by an applicant, proponent, or opponent, the request must be submitted in writing not later than the day before the meeting at which the item is to be heard; provided, however, that even in the absence of a timely request for additional time to make a presentation, the Chair, without objection, or the Board may grant such extension where, in its discretion, it is necessary to do so because of the considerations of law, equity, or fairness.

5.5.5.7 Continued Public Hearings.

5.5.5.7.1 GENERALLY. In any matter where it is known that a scheduled public hearing will be continued to a future date certain, the staff report may be postponed or abbreviated and public comment may be limited to those persons who state that they believe they cannot be available to speak on the date to which the public hearing is being continued. Such persons shall be allowed to make their comments at the then current meeting if there is a quorum; provided, however, that upon making their comments, such persons shall waive the right to repeat or make substantially the same presentation at any subsequent meeting on the same subject. This waiver shall not preclude such persons from making different presentations based on new information or from offering response to other persons' presentations, if otherwise allowable, at any subsequent meeting.

5.5.5.7.2 REQUEST FOR A FULL BOARD. Not more than one continuance of a public hearing shall be granted on the grounds of a desire to obtain attendance by the entire membership of the Board. Once a request to continue has been granted on those grounds, further continuances may be granted only for other grounds and where good cause is shown.

5.5.5.8 Termination of Presentations. At any Board proceeding, the Chair, unless overruled by a majority of the Commissioners present, may restrict or terminate presentations which in the Chair's judgment are irrelevant, frivolous, unduly repetitive, out of order, or in violation of the Board Procedures.

5.5.5.9 Written Comments. Applicant(s), Proponent(s), and Opponent(s) of any matter under consideration by the Board shall be entitled to submit timely written comments for consideration by the Board. Relevant and admissible written comments submitted shall be considered and entered into the record of the meeting as provided elsewhere in the Board Procedures. Written comments received by Commissioners regarding a matter that is the subject of a quasi-judicial public hearing shall be distributed to all Commissioners, the Planning Department and the County Attorney and shall be made available for review by the applicant and the public in a project reading file maintained by the Planning Director (for land use matters) and by the County Administrator (for all other matters).

5.5.5.10 Officials and Dignitaries. Notwithstanding other provisions hereof, the Chair may allow any elected or appointed public official, or representative thereof, or other dignitary to appear and make presentations at any time with regard to matters under consideration.

5.5.6 **Voting, Motions, and Reconsideration.**

5.5.6.1 Voting. Unless otherwise provided by law, when the Board has finished discussion and is ready to vote on a question, the Chair shall call for the vote. Upon request, the Clerk shall read back or restate a motion before a vote is taken. Each Commissioner shall vote "aye" or "nay" or abstain from voting when legally required or allowed to do so. Immediately prior to, or after the vote, the Chair may allow any Commissioner to give a brief statement to explain his or her vote, which shall not be used to further argue in favor of or against the motion. A Commissioner shall have the privilege of filing with the Clerk a written explanation of his or her vote which shall become part of the record of the proceeding. The vote upon any question shall be by voice vote unless any Commissioner requests that a roll call vote or show of hands be taken. However, when necessary for the purpose of accurately ascertaining the outcome of a vote or for compliance with legal requirements, the Clerk may require a roll call vote or show of hands.

5.5.6.2 Preparation or Modification of Motions. Prior to a vote on any matter, a Commissioner may request that staff prepare or modify the motion during a recess called for that purpose. Alternatively, if advisable in the Board's discretion, staff may be instructed to

prepare wording to be brought back to the Board later for motion and vote at that meeting or a subsequent meeting of the Board. The County Attorney, the County Administrator, or the Planning Official may request that a motion and vote be delayed to allow preparation or revision of a motion, as provided hereunder.

5.5.6.3 Tie Votes. When the vote of the Board is equally divided, the status quo ante shall be maintained. In such an event, a person who sought a change in status quo shall be considered to have had the request denied and shall have available the same remedies or rights of review that one would have had if the request had been denied by a majority vote of the Board, unless, at the same meeting, the Board votes to approve it with conditions or stipulations attached, or to table, defer, or continue the matter in an attempt to obtain action by a majority vote.

5.5.6.4 Routine Reconsideration. When a question has been decided by the Board, a Commissioner voting on the prevailing side may move for reconsideration of the question at the same meeting or the next regular meeting of the Board. If the question was decided by a tie vote, any Commissioner may move for reconsideration of the question at the same meeting or at the next regular meeting of the Board or at the next meeting of the Board where a full Board is present. In no event shall the motion to reconsider be made later than (30) days after a vote on a quasi-judicial matter.

5.5.6.5 Reconsideration Due to Vote Based on Mistake. Upon a finding by a majority of the Board at any time that there is reason to believe that a vote of the Board within the previous one year was based upon material mistake of fact or erroneous information, the matter may be brought up for reconsideration. Upon a finding by a majority of the Board at any time that the material mistake of fact or erroneous information was intentionally caused or allowed by the person or entity in whose favor the previous vote was cast, the vote may be rescinded and all rights, duties, or liabilities thereunder modified or rendered null and void ab initio. Prior to rescinding such a vote, the Board shall, where necessary to insure due process of law, grant notice and opportunity to be heard to all persons who would be affected by such action.

5.5.6.6 Corrections of Clerical Errors. Any Commissioner may move at any time for correction of clerical or typographical errors inadvertently included in any matter previously passed by the Board.

5.5.6.7 Effect of Approvals and Denials of Motions. When a matter is brought forward to a vote based on a motion to approve it or approve it with modifications, and such motion fails, the status quo ante shall be maintained and the matter shall be considered to have been denied. A denial shall not preclude a subsequent motion to approve with different modifications at the same meeting. When a matter is brought to a vote based upon a motion to deny it, and said motion fails, the matter shall not be considered granted and shall be treated as if no action has been taken on the matter. Such a vote shall not preclude a subsequent motion at the same meeting to approve or approve with modifications.

5.5.6.8 Reconsideration of Item(s) on Consent Agenda or Presentations Upon Request Agenda. Where the Board votes to reconsider one or more items that were previously approved on the consent agenda or presentations upon request agenda, the Board may specify which item(s) shall be reconsidered and reconsider same without affecting the previous approval of the remaining items on the consent agenda or presentations upon request agenda.

5.5.6.9 Reconsideration to Resolve a Legal Dispute. The Board may reconsider a prior decision, regardless of the time elapsed, when advised to do so by the County Attorney for the purpose of resolving a legal dispute arising from the decision.

5.5.7 **Board Election of Members of Advisory Committees and the Like.**

5.5.7.1 When the Board is electing members of advisory committees and the like, each Commissioner shall have the same number of votes as there are positions to be filled, though each Commissioner may only cast one vote per position.

5.5.7.2 The vote will proceed on nominees in the order they are nominated.

5.5.7.3 If fewer than all positions are elected after the first vote, or if there is a tie vote, there shall be a runoff between the persons

tied for the highest number of votes. If one candidate has a plurality and others are tied with a lesser number of votes, there shall be a runoff between the candidates who are tied to determine which of them shall be in a subsequent runoff with the plurality candidate.

5.5.7.4 Multiple ballots may be taken, if necessary, to attempt to break a deadlock. If the Board is unable to break a deadlock, the advisory committee position will remain unfilled until such time as there is a vote by a full Board or the deadlock is otherwise broken.

5.6 ADJOURNMENT. At the conclusion of business, the Chair shall call for a motion to adjourn the meeting. Alternatively, the Chair may inquire whether there is any further business to come before the Board and if no one speaks, may adjourn the meeting.

6. THE RECORD.

6.1 AUTOMATICALLY INCLUDED IN THE RECORD OF DECISION OF THE COUNTY. The following documents shall automatically be included in the record of the decision of the County:

6.1.1 the records of the Board maintained by the Clerk of the Circuit Court, which include agenda packet, staff reports and all items placed in the record under section 6.2; and

6.1.2 the development approval application, site plan, if any, and all accompanying documents submitted by the applicant; and

6.1.3 all documents in the reviewing departments' files for the development approval application; and

6.1.4 the most recent copies of résumés previously filed with the Clerk of the Circuit Court of County staff and agents speaking on the matter that had been considered; and

6.1.5 comments, documents and exhibits previously entered into the record at a prior Board meeting or Planning Commission on the particular matter or on file with the Clerk of the Circuit Court, County Administrator or Planning Department prior to the public hearing including written communications to members of the Board and staff, if any; and

6.1.6 the following codes, ordinances and plans of Manatee County: Comprehensive Plan of Manatee County as initially adopted in Ordinance 89-01, (a/k/a the 2020 Comprehensive Plan); Manatee County Land Development Code (a/k/a the Land Development Code or "LDC"); Manatee County Code of Ordinances; and the Manatee County Code of Resolutions, all as may be amended; and

6.1.7 memoranda from the County Attorney directed to the Board of County Commissioners or other County staff on that item.

6.2 ITEMS WHICH SHALL BE PLACED IN THE RECORD. Any photographs, tapes, discs, or other recordings, documents, exhibits, diagrams, petitions, letters, or other materials presented to the Board in support of, or in opposition to, an item to be considered by it shall be entered into the record. Where such items are in the form of handouts to be viewed by Commissioners at a Board meeting, the presenter shall provide at least 12 copies. Additional copies may be required where necessary to meet public requests. The Board may accept legally inadmissible items into the record for the purposes of preserving the record for appellate review, provided that Commissioners shall not consider those items, or parts thereof, which are inadmissible in reaching their decision. In the event the Board has any questions as to the admissibility of any item presented for placement into the record, the Board may defer admission of the item pending an opinion from the County Attorney's Office.

6.3 CUSTODIAN. The Clerk of the Circuit Court shall be custodian of all of the documents entered into the record at any public hearing. The Planning Department and the reviewing departments for a specific development approval application (i.e. those departments who have submitted review comments to the Planning Department) shall be responsible for maintaining the documents pertinent to their respective review of the development approval application.

6.4 CORRECTION OF ERRORS IN THE RECORD. In the event the Board determines that there was an error, either of commission or omission regarding the placement of an item into the record, any member of the Board may move to correct such error and such act of correction shall be done upon a majority vote of the members of the Board.

6.5 EXHIBITS. Unless an oversized exhibit is absolutely essential, documentary paper or photographic exhibits shall not exceed 11 inches by 17 inches and, if mounted on a backboard, shall be removable therefrom.

6.6 SUBSTITUTION OF COPIES OF EXHIBITS. When a person submits an original document as an exhibit for the Board's consideration, the Board or the Clerk, unless the Board holds otherwise, may approve substitution of a copy or duplicate thereof after viewing the original and the copy or duplicate. The Clerk may then return the original to said person. Alternatively, the Clerk may, in the Clerk's discretion, and at the expense of the person requesting the return of the original, make or arrange for the making of a copy of the exhibit after which the original may be returned to the person requesting it.

7. CONFLICTS; USE OF OTHER RULES.

7.1 CONFLICT WITH LAWS. In any instance where a procedure established by this resolution violates or is in conflict with federal or state law, county ordinance, or final and binding order of a court or administrative agency, or rights thereunder, the procedures established hereunder shall be inoperative to the extent of such conflict. If any portion hereof is finally held by a court of competent jurisdiction to be invalid, such portion shall be deemed severable from the remainder and, to the extent possible, the remainder shall be operative without the invalid portion.

7.2 ROBERT'S RULES OF ORDER. In all cases not covered by these Board Procedures, Robert's Rules of Order, eleventh edition, shall be used as a general guide and may be followed by the Chair, unless the Board overrules the Chair.

8. PUBLICATION.

Upon adoption of these Board Procedures and any amendments to same, the County Administrator shall cause same to be published in a form suitable for distribution to the public. Copies shall be provided by the County Administrator and the Planning Official to all persons who request them. Copies shall be available for review by the public at all meetings of the Board of County Commissioners.

ATTACHMENT 1

Do you swear, or affirm, that the factual statements and factual representations which you are about to give or present before or to this Board during this public hearing will be truthful and accurate?