

**CITY COMMISSION
CITY OF WILDWOOD, FLORIDA
WORKSHOP
February 6, 2023 9:00 AM
CITY HALL COMMISSION CHAMBER**

(meeting taped)

1. Call to Order

ATTENDANCE	TITLE	STATUS
Ed Wolf	Mayor	Present
Pamala Harrison-Bivins	Mayor Pro Tem	Present
Joe Elliott	Commissioner	Present
Marcos Flores	Commissioner	Present
Julian Green	Commissioner	Present
Ashley Hunt	City Attorney	Present
Jason McHugh	City Manager	Present
Cassandra Smith	Asst. City Manager/CFO	Present
Susan Patterson	City Clerk	Present
Randall Parmer	Police Chief	Present

Mayor Wolf brought the meeting to order.

Commissioner Green arrived at the meeting at 9:16 a.m.

2. Item(s) for Discussion

A. Presentation Regarding Commission Meeting Procedures

Attorney Joshua Bills began the presentation on commission meeting procedures. Attorney Bills stated that he would be going over rules for public participation in Quasi-Judicial, Legislative, and Public Forum proceedings. Attorney Bills stated that throughout commission meetings, the commissioners would be wearing different hats depending on the subject and nature of the discussion. Attorney Bills stated that Quasi-Judicial hearings are similar to civil trials applying law and policy to facts. Attorney Bills stated that examples of Quasi-Judicial hearings are rezoning, code enforcement, plats, and site plan approvals. Examples of legislative hearings are the adoption of a comprehensive plan, future land use maps, and the adoption of ordinances, budgets, and developer agreements. Attorney Bills stated that the process of a Quasi-Judicial hearing must ensure notice, a fair opportunity to be heard, and a right to an impartial decision-maker. General procedures for a Quasi-Judicial style hearing are a swearing-in of all individuals who wish to speak, staff report, applicants' case, interested parties, and general public participation, which could be in support or in opposition, optional comments by professional staff, rebuttal by the applicant at which time the applicant can address any comments by interested parties closing statements by applicant, deliberation, and questions by the commission, and final determination by the commission. City Manager McHugh asked if there could be a time limit on each speaker. Attorney Bills stated that there could be as long as everyone has had a fair opportunity to be heard. Mayor Wolf asked if it

could be stated if anyone has anything else new to be heard or new evidence or reports on the subjects. Attorney Bills stated that imposing a time limit on the general public without a direct interest could be appropriate. Mayor Wolf asked that once the audience has been sworn in and then, later in the meeting, someone wants to speak that has not been sworn in, could they be sworn in at that time? Attorney Bills stated that they should be allowed to be sworn in at that time. City Manager McHugh stated that he would like to have speaker cards made up and passed out to those that would like to speak at the meeting. City Attorney Hunt stated that every now and then, a court reporter could come to the meetings and type every word during the meeting for a party that may have an interest in a particular item on the agenda.

Attorney Bills continued on to speak about legal standards and substantial competent evidence. Attorney Bills stated that competent substantive evidence is evidence a reasonable mind would accept as adequate to support a conclusion. Attorney Bills stated that there are no formal rules of evidence that are strictly observed, but what they are looking for is fundamental fairness. Was the person able to submit the reports they had, and were they able to speak about more than just a general statement or conjecture? Statements by legal counsel are arguments, not testimony. Attorney Bills stated that Florida Statute 286.0115(2)b provides rules for access of the general public to Quasi-Judicial hearings. Evidentiary rules are loosened, but "the decision-making body shall assign weight and credibility to such testimony as it deems appropriate."

Attorney Bills continued on to cover the burden of proof. The landowner or applicant bears the initial burden to show that the application complies with procedural requirements. A decision by the commission is based upon competent substantive evidence, and it will more readily withstand judicial challenges. Attorney Bills stated additional notes for non-English speakers who are entitled to a translation of the proceedings and have a qualified interpreter who has taken an interpreter's oath. Mayor Wolf asked if we could add something to the agenda stating if anyone would be in need of a translator to let staff know prior to the meeting so we could have someone at the meeting to translate. Attorney Bills stated that yes, that could be done.

Attorney Bills stated that Legislative rules of order are the swearing-in of all individuals who wish to speak, staff report, open and close to public comment, motion by the commission, and any additional debate, deliberation, comments, or questions by the commission, and the final determination by the commission. City Manager McHugh stated that the city's agenda goes from Legislative to Quasi-Judicial items. Commissioner Elliott stated that maybe there could be a way to distinguish between the Legislative and Quasi-Judicial items on the agendas. City Manager McHugh stated that there could be something done to distinguish between the two. The Legal Standard requires a reasonable basis to support the action. Legislative findings may be based on rational speculation unsupported by evidence or empirical data. Commissioners have substantial discretion to act as lawmakers and can take a position ahead of the hearings, whereas, in Quasi-Judicial, they cannot take a position ahead of the hearings.

Attorney Bills continued on to cover public forum proceedings. Cities must balance the right of public participation while also allowing the business of the meeting to be accomplished. Florida Statutes 286.0114 requires that members of the public have a reasonable opportunity to be heard. The Commission is permitted to establish rules and procedures for governing things, such as time limits, designation of specific times in meetings for public comment, and procedures for informing the Commission of the desire to speak. This does not apply to Code Enforcement hearings. Florida Statute 871.01 states that whoever willfully interrupts or disturbs any assembly of people commits a misdemeanor of the second degree. Attorney Bills stated that the First Amendment is not an absolute right and that the government can regulate, to a certain extent, speech on premises that it owns or controls. Attorney Bills stated that the city commission meeting is a limited public forum. It is not the same as a park or town square and can impose policies and procedures as to how that limited public forum will be

handled. Attorney Bills stated that a city could limit speech at a meeting to the topics being discussed but cannot impose any restriction on the viewpoints that may be expressed about the allowed topics. City Commissions may also place content-based restrictions to prevent speech that is disruptive, abusive, obscene, etc. Content-Based restrictions are okay but must be viewpoint-neutral. Attorney Bills stated decorum of time, place, and manner, as well as the who, what, when, and why. The Commission must define who is responsible for enforcing the policy. Typically, cities designate the mayor. The Commission must identify what speech or conduct is prohibited. When different situations call for different approaches, typically, warnings should be given first before trespassing on an individual or suspending the individual. A policy of decorum must be a neutral viewpoint and reasonable in light of the mission of running an efficient meeting. The Commission must regulate the time given to speak, time allotment, set agenda, and set process for speaking. The policy must be uniformly applied. City Manager McHugh asked the commission to read the Meeting Rules and Orders of the City of West Melbourne, and at the beginning of the meetings, the mayor would read an opening statement about what a public forum is and how they are held. McHugh stated that he would like to see no more back and forth between the public and the commission. McHugh stated that he would like the public to be able to make their comments and then have the City Manager address them if necessary. City Manager McHugh would like to educate the public as to how city commission meetings are to be held. City Manager McHugh stated that there is an opportunity during the meetings for the commission to speak, and if they would like to speak to the audience, that would be the appropriate time to do so.

3. Adjournment

The meeting adjourned at 10:07 a.m.

RESULT:	Adjourned
MOVER:	Commissioner Green
SECONDER:	Commissioner Flores
AYES:	Mayor Wolf, Mayor Pro Tem/Commissioner Harrison-Bivins, Commissioner Elliott, Commissioner Flores, Commissioner Green

CITY COMMISSION
CITY OF WILDWOOD, FLORIDA

SEAL

ATTEST


Susan Patterson, City Clerk

BY:


Ed Wolf, Mayor