



# City of North Port

## Office of the City Attorney

### Memorandum

To: Christopher B. Hanks, Mayor  
Debbie McDowell, Vice-Mayor  
Vanessa Carusone, Commissioner  
Pete Emrich, Commissioner  
Jill Luke, Commissioner

Copy: Peter D. Lear, City Manager  
Kathryn Wong, City Clerk  
Heather Taylor, Deputy City Clerk  
Michael Golen, Assistant City Attorney

From: Amber L. Slayton, City Attorney

Date: June 17, 2019

Re: Procedures related to meeting agendas and backup material

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At its May 14, 2019 meeting, the City Commission discussed issues related to amending meeting agendas and backup material, directing the City Attorney's Office to conduct research.

This memorandum addresses procedures related to meeting agendas and backup. As always, if you have any questions or comments concerning this matter, please do not hesitate to contact me.

### I. RELEVANT CODE PROVISIONS

Local regulations govern the questions presented.<sup>1</sup> The City Code provides procedures for preparing, posting, and correcting agendas:

#### **Sec. 2-55. - Agenda.**

- (a) The city manager or designee shall review requests for inclusion on any agenda. The city clerk shall be responsible for the preparation of each agenda for all meetings held by the city commission [sic] the city manager shall advise the city clerk as to which items are to be included on an agenda.

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<sup>1</sup> "Although the drawing up of an agenda is a matter related to a noticed public meeting, it essentially is an integral part of the actual mechanics and procedures for conducting that meeting and, therefore, aptly relegated to local practice and procedure as prescribed by city charters and ordinances." *Hough v. Stembridge*, 278 So. 2d 288, 291 (Fla. 3d DCA 1973). See generally *Law and Information Servs., Inc. v. City of Riviera Beach*, 670 So. 2d 1014 (Fla. 4th DCA 1996); *Yarborough v. Young*, 462 So. 2d 515 (Fla. 1st DCA 1985).

- (b) Requests for inclusion on any agenda shall be signed and submitted, in writing, to the city clerk. Requests shall state the nature of the item to be included, together with a statement of requested action. Background documentation, including but not limited to PowerPoint presentations and applicable maps, shall be submitted along with the request. Any additional items or corrections submitted after the agenda has been posted must be submitted to the commission and city clerk for publication. Any additional backup information to be considered must be provided no less than 24 hours prior to the meeting. All items requiring a commission vote shall include suggested forms of appropriate motions.

All requests for inclusion on any agenda, with the exception of bona fide emergency items and time sensitive items, shall be received by the city clerk no later than the close of business on Monday of the week prior to the week of the targeted commission meeting. Absent a showing of a bona fide emergency and or [sic] time sensitivity, no item requiring a commission vote shall be considered by the city commission unless it has been included on the agenda pursuant to the procedure adopted herein. ...

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**Sec. 2-56. - Notice of meetings.**

- (a) The city clerk shall provide notice of meetings by posting the agenda at least 48 hours prior to regular and/or special meetings of the city commission.
- (b) Such notice shall be accomplished by posting on the public bulletin board of the municipal building.

**II. PROCEDURES RELATED TO MEETING AGENDA**

*Requests for Inclusion on the Agenda*

The City Manager is responsible for reviewing all requests for inclusion on an agenda and advising the City Clerk as to which items are to be included.<sup>2</sup> The Clerk must receive all requests for inclusion by the close of business on the Monday of the week prior to the relevant meeting.<sup>3</sup> The Commission cannot consider any item submitted after this deadline, unless there is “a showing of a bona fide emergency and/or time sensitivity.”<sup>4</sup>

*Posting the Agenda*

The Sunshine Law requires that “reasonable notice” of a public meeting be provided.<sup>5</sup> While the statutes do not define a set time for what meets this standard, the Attorney General’s Office has opined that

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<sup>2</sup> See Code of the City of North Port § 2-55(a).

<sup>3</sup> See Code of the City of North Port § 2-55(b).

<sup>4</sup> See Code of the City of North Port § 2-55(b).

<sup>5</sup> See Fla. Stat. § 286.011(1). Whether “reasonable” notice has been provided is a fact-specific inquiry, but the public must have the right to participate. See Att’y Gen. Op. 73-170 (1973).

regular meetings should be noticed at least 7 days prior to the meeting,<sup>6</sup> special meetings should be noticed no less than 24 and preferably at least 72 hours prior to the meeting,<sup>7</sup> and emergency meetings should be afforded the most appropriate and effective notice under the circumstances.<sup>8</sup> The City Code provides that the City Clerk must provide notice regular or special Commission meetings by posting the agenda at least 48 hours in advance.<sup>9</sup>

#### Agenda Backup Material

While not addressing backup amendments directly, the City Code requires that any additional agenda backup material to be considered must be provided no less than 24 hours prior to the Commission meeting.<sup>10</sup> As such, any amendments to the backup material should be made no less than 24 hours prior to the meeting.

#### Agenda Corrections

“Any additional items or corrections submitted after the agenda has been posted must be submitted to the commission and the city clerk for publication.”<sup>11</sup> The Code does not provide a specific deadline by which such additional items or corrections must be made. Because Section 2-55(b) of the Code requires all agenda backup materials to be posted no less than 24 hours prior to the meeting, it would logically follow that the same time limitation apply to changes to the agenda itself. As such, all amendments to the agenda should be provided by the City Manager to the City Clerk for publication no less than 24 hours prior to the meeting.

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<sup>6</sup> *But see News and Sun-Sentinel Co. v. Cox*, 702 F. Supp. 891 (S.D. Fla. 1988) (no violation occurred when notice of April 5 meeting was posted on March 31).

<sup>7</sup> *See Yarbrough v. Young*, 462 So. 2d 515 (Fla. 1st DCA 1985) (three days’ notice of special meeting deemed adequate).

<sup>8</sup> GOVERNMENT-IN-THE-SUNSHINE MANUAL, Volume 41 (2019 ed.) p. 42.

<sup>9</sup> *See* Code of the City of North Port § 2-56.

<sup>10</sup> This requirement is stricter than state law, which does not require the inclusion of agenda backup material.

<sup>11</sup> *See* Code of the City of North Port § 2-55(b).