



Legislation Text

File #: 18-337, **Version:** 1

TO: Honorable Mayor & Members of the North Port Commission

FROM: Peter D. Lear, CPA, CGMA, City Manager

TITLE: Ordinance No. 2018-12, Second Reading, Amending the Code of the City of North Port, Florida, Chapter 2 - Administration, Article III. - Quasi-Judicial Proceedings, Sections 2-80 through 2-84

Recommended Action

Adopt Ordinance No. 2018-12

Background Information

During its February 5, 2018 special meeting, the City Commission discussed the City Code provisions relating to quasi-judicial proceedings and directed the City Attorney to draft an ordinance accordingly.

On April 24, 2018, the City Commission considered Ordinance No. 2018-12 and continued it to second reading on June 12, 2018, with the following changes:

- (1) Section 2-83(b)(1) - remove "at least five calendar days" and "statements or arguments of the attorney are not considered evidence"; and
- (2) Section 2-83(b)(2) - remove "at least five days."

The Commission also directed the City Attorney to research two issues:

Inquiry 1: Do comprehensive plan amendments necessitate quasi-judicial hearings?

No. The Florida Supreme Court has ruled that all comprehensive plan amendments are legislative in nature, not quasi-judicial. *Martin County v. Yusem*, 680 So.2d 1288, 1295 (Fla. 1997). The court further clarified its decision, confirming that it also applies to small-scale comprehensive plan amendments. *Coastal Dev. of N. Fla., Inc. v. City of Jacksonville Beach*, 788 So.2d 204, 210 (Fla. 2001).

Inquiry 2: Do ex parte communication disclosures need to be made at a second hearing, if the first hearing employed the full quasi-judicial procedure and the second hearing does not?

Yes. Florida Statutes Section 286.0115 governs the disclosure of ex parte communication disclosures. Subsection (c) 1 provides that the disclosure must be made regarding a pending quasi-judicial action before "final action on the matter." An item is still a quasi-judicial action even if the applicant has already been afforded the due process of the quasi-judicial procedure. Thus, all disclosures must be made before final action; if any Commissioner had additional ex parte communications after the first hearing or had not yet disclosed all ex parte communications, he or she must disclose those before the board takes final action.

Strategic Plan

n/a

Financial Impact

n/a

Procurement

n/a

Attachments:

1. Ordinance No. 2018-12
2. Proposed Code Revisions - Clean Version
3. Existing Code Language
4. Quasi-Judicial Flow Chart (based on the existing code language)

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