

RESOLUTION NO. 04-2018

A RESOLUTION OF THE CITY OF SEMINOLE, FLORIDA, REPEALING RESOLUTION NO. 2002-13 AND ESTABLISHING PROCEDURES GOVERNING QUASI-JUDICIAL HEARINGS BEFORE CITY COUNCIL AND CITY BOARDS; PROVIDING FOR THE ORDER OF HEARING AND TIME LIMITATIONS; PROVIDING FOR ITEMS TO BE INCLUDED IN THE RECORD; PROVIDING FOR EXHIBITS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Seminole (Council) in 2002 adopted Resolution No. 2002-13, which sought to establish procedures to ensure the efficient and effective presentation of evidence to the Council and City boards as well as the protection of the public's rights of due process in all public hearings; and

WHEREAS, Resolution No. 2002-13 drew no distinction between proceedings which are quasi-judicial in nature and those which are not;

WHEREAS, based on the present state of the law and on the advice of its City Attorney, the Council wishes to establish procedures to ensure the efficient and effective presentation of evidence to the Council and City boards, to protect the interests of due process in all quasi-judicial public hearings, to preserve order, and to fully conduct such hearings in a manner consistent with the requirements of law; and

WHEREAS, the Council determines that the repeal of Resolution No. 2002-13 and the adoption of this Resolution No. 04-2018 is necessary to accomplish this intent.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEMINOLE, FLORIDA, THAT:

SECTION 1: Resolution 2002-13 is hereby repealed in its entirety.

SECTION 2: The following procedures are adopted for all quasi-judicial hearings before the City Council and City Boards which conduct quasi-judicial hearings:

I. QUASI-JUDICIAL PUBLIC HEARING PROCEDURES:

A. Generally

Proceedings before the City Council or City Boards identified by the City's Code of Ordinances or designated by the City Attorney as quasi-judicial in nature shall be open to the public and duly noticed as provided by law. Before the first quasi-judicial matter on any agenda, the City's quasi-judicial procedures will be explained by the Mayor, Chairperson, or City Attorney, and the City Clerk will swear all witnesses intending to testify on any quasi-judicial matter on the agenda. All members of the public who address the Council or Board shall first identify themselves by name and address for the record and shall utilize the speaker's lectern to permit his or her testimony to be recorded.

B. Order of Hearing and Time Limitations:

The Order of Hearing and Time Limitations shall be as set forth below. When warranted by the complexity of the matter, the Mayor or Chairperson may extend any presentation time provided there is no objection by any Council or Board member. Should a Council or Board member object to granting additional time, the Council or Board shall discuss and vote on the additional time request. Equal time shall be allotted to the Community Development or other staff, persons with Party Status, and the Applicant.

1. Requests for Party Status

Party status may be granted by the City Council or Board to any person or entity appearing via a duly-authorized representative who demonstrates to the Council or Board that they may be "substantially affected" by the Council or Board's decision on the matter. Persons or entities are generally considered "substantially affected" when they will suffer to a greater degree than the general public an adverse effect to a legally recognized interest protected or furthered by the City's Code of Ordinances, its Comprehensive Plan, or general law. Persons granted party status shall have the right to testify in the hearing, present evidence and witnesses, conduct cross-examination of witnesses, present argument, and appeal any decision made in the same manner as the City or Applicant may.

2. Presentation by Community Development or other staff (10 minutes maximum)

Staff shall make the initial presentation to the Council or Board. During and after the staff's presentation, the Council or Board may comment or make inquiries and seek clarification from the staff.

3. Presentation by Applicant (10 minutes maximum)

After staff presentation, the Applicant shall present its case. During and after the Applicant's presentation, the Council or Board may comment or make inquiries and seek clarification from the Applicant.

4. Presentation by Persons with Party Status (5 minutes per party maximum)

During and after any presentation by Persons with Party Status, the Council or Board may comment or make inquiries and seek clarification from such Person.

5. Cross-examination of witnesses by Community Development or other staff (3 minutes maximum)

6. Cross-examination of witnesses by Applicant (3 minutes maximum)

7. Cross-examination of witnesses by Persons with Party Status (3 minutes maximum)

8. Comments by the Public (3 minutes maximum per person)

Each member of the public is limited to a presentation of three minutes. If an individual represents and will be speaking for a group, the Mayor or Chairperson may authorize a reasonable amount of time for presentation from three minutes to a maximum of ten minutes. Members of a group represented by such speaker shall forfeit their ability to address the Council or Board directly.

9. Closing remarks by Community Development or other staff (3 minutes maximum)

Closing remarks shall be limited to a presentation of issues previously discussed and the speaker shall not be permitted to present new information except to correct inaccuracies presented during the hearing.

10. Closing remarks by Persons with Party Status (3 minutes maximum)

Closing remarks shall be limited to a presentation of issues previously discussed and the speaker shall not be permitted to present new information except to correct inaccuracies presented during the hearing.

11. Closing remarks by Applicant (3 minutes maximum)

Closing remarks shall be limited to a presentation of issues previously discussed and the speaker shall not be permitted to present new information except to correct inaccuracies presented during the hearing.

12. Discussion and vote by Council/Board

After all presentations, testimony, and remarks have concluded, the Mayor or Chairperson shall inquire if any Council or Board member has questions of the City staff, Applicant or Person with Party Status. Once questions have been addressed, the Board Chairperson or Mayor shall close the hearing and entertain a motion and a second for discussion and action. Discussion should be only amongst Council or Board members. The evidence and comment portion of the hearing has been closed and there should be no more evidence received. After discussion by the Council or Board, a vote shall be taken and recorded by the Clerk.

II. THE RECORD:

A. Items Automatically Included in the Record:

The following documents shall automatically be included in the record of the hearing before Council or Board:

1. Pre-hearing Submittals:

(a) Application:

The application submitted by the applicant shall automatically be made a part of the record.

(b) Staff Report:

The staff report and recommendation of staff shall automatically be made a part of the record.

(c) Written or Electronic Presentations:

Any written or electronic presentations or e-mails related to comments on the Application submitted to the City staff or City Clerk prior to the scheduled hearing date shall be made a part of the record.

B. Other Items Placed in the Record:

The following shall also become a part of the record.

1. All evidence submitted to the City Clerk at the hearing.
2. The record of the hearing prepared by the City Clerk or the verbatim transcript of the hearing prepared by a court reporter.

C. Miscellaneous:

1. Custodian:

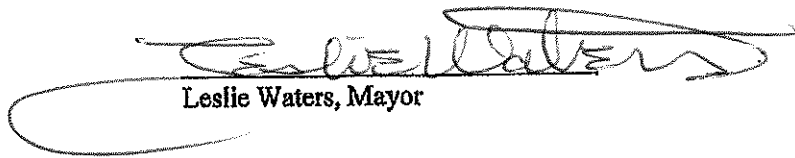
The City Clerk shall be the official custodian of the record.

2. Exhibits:

Unless absolutely essential, no exhibits shall exceed 24 inches by 36 inches and if mounted on a backboard, shall be removable. All documentary evidence shall be capable of being folded and filed.

SECTION 3: This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SEMINOLE,
FLORIDA, THIS 13 DAY OF MARCH, 2018.**



Leslie Waters, Mayor

ATTEST:


Patricia Beliveau, City Clerk

Approved as to form:



Jay Daigneault, Town Attorney

QUASI-JUDICIAL PROCEEDINGS – MAYOR/CHAIR/ATTY SCRIPT

READ ORDINANCE/RESOLUTION/AGENDA ITEM AS APPLICABLE

In quasi-judicial proceedings, it is not the City Council's function to make law, but rather to apply law that has previously been established. The Council may only consider evidence in such proceedings that the law considers competent, substantial, and relevant to the issues. If the evidence adduced at the hearing demonstrates that the Applicant has met the established criteria, then the Council is required by law to find in favor of the Applicant subject to any conditions of approval. Conversely, if the evidence demonstrates that the Applicant has failed to meet the established criteria, then Council is required by law to find against the Applicant.

All witnesses testifying must give their testimony under oath and must give their name and address for the record. All testimony and questioning must address matters that are relevant and material to the issues under consideration.

There is an established procedure which will be followed at this hearing:

- Requests for Party Status
- Presentation by the Community Development staff (10 minutes maximum)
- Presentation by Applicant (10 minutes maximum)
- Presentation by persons with Party Status (5 minutes per party maximum)
- Cross-examination of witnesses by Community Development staff (3 minutes maximum)
- Cross-examination of witnesses by Applicant (3 minutes maximum)
- Cross-examination of witnesses by Persons with Party Status (3 minutes maximum)
- Comments by the Public (3 minutes maximum per person)
- Closing remarks by Community Development staff (3 minutes maximum)
- Closing remarks by Persons with Party Status (3 minutes maximum)
- Closing remarks by Applicant (3 minutes maximum)
- Discussion and vote by Council

At this time, I would ask members of the City Council to disclose any *ex parte* communications concerning this application.

- If disclosed: Considering that communication, are you able to render a fair and impartial decision on this application?

All those who plan to testify in this hearing, please rise to be sworn by the clerk:

- “Do you swear or affirm that your testimony in this proceeding is the truth, the whole truth, and nothing but the truth?”

SAMPLE MOTIONS

[Motion for Approval/Denial if Motion is consistent with Staff's Recommendation]

[Approval] I move to approve [Application or Ordinance] Number _____ based on the evidence and testimony presented in the application, the Staff Report, and at today's hearing, and hereby adopt the Findings of Fact and Conclusions of Law stated in the Staff Report with conditions of approval as stated [or additional conditions as prompted by hearing].

[Denial] I move to deny [Application or Ordinance] Number _____ based on the evidence and testimony presented in application, the Staff Report and at today's hearing, and hereby adopt the Findings of Fact and Conclusions of Law stated in the Staff Report.

[Motion for Approval/Denial if Motion is inconsistent with Staff's Recommendation]

[Approval] I move to approve [Application or Ordinance] Number _____ based on the evidence and testimony presented in the application, the Staff Report, and at today's hearing, and hereby make the following Findings of Fact based on said evidence:

[Identify factual evidence and testimony relied upon]

And hereby issue the Conclusions of Law that the application complies with the City Code Section(s) _____, and request that Staff develop a list of Conditions of Approval, including _____ and that Staff present the list of Conditions for final approval at our next business meeting.

[Denial] I move to deny [Application or Ordinance] Number _____ based on the evidence and testimony presented in the application, the Staff Report, and at today's hearing, and hereby make the following Findings of Fact based on said evidence:

[Identify factual evidence and testimony relied upon]

And hereby issue the Conclusion of Law that the application does not comply with the City Code Section(s) [or Comprehensive Plan Section(s)] _____.