



# MEMORANDUM

AGENDA ITEM IV.C.1

---

DATE: SEPTEMBER 9, 2013

TO: COUNCIL MEMBERS

FROM: STAFF

SUBJECT: RESOLUTION TO AMEND SECTION 8 OF THE COUNCIL'S STATEMENT OF ORGANIZATION

---

See attached Memorandum from Legal Counsel.

## MEMORANDUM

**TO:** Paul Wallace, Chair  
Members of the South Florida Regional Planning Council

**CC:** James F. Murley, Executive Director  
Rhonda Noah, Director of Operations  
Bob Cambric, Director of Policy and Planning

**FROM:** Samuel S. Goren, General Counsel  
Stacey R. Weinger, Assistant General Counsel

**RE:** South Florida Regional Planning Council ("SFRPC") / Amendment to Chapter 8.0 of the SFRPC's Statement of Organization / Establishing Policies Pertaining to the Public's Right to Speak at Public Meetings

**DATE:** August 28, 2013

---

### Current Situation

Senate Bill 50 was signed into law by the Governor as Chapter 2013-227 Laws of Florida, on July 1, 2013 (hereinafter the "Act"). The Act created Section 286.0114, Fla. Stat., and requires that effective October 1, 2013, members of the public be given a reasonable opportunity to be heard by the SFRPC before it takes official action on a proposition. The SFRPC is not required to provide the public with an opportunity to speak at the same meeting where official action is taken, so long as, the "right to speak" occurs at a meeting during the decision making process and is within a reasonable period time before the SFRPC takes official action on an item.

The Act authorizes the SFRPC to adopt certain rules and policies governing the public's right to speak at meetings. If the SFRPC adopts such rules or policies in accordance with the Act; and thereafter complies with them, it is deemed to be acting in compliance with the law.

Chapter 8.0 of the SFRPC's Statement of Organization contains policies governing the SFRPC's meetings. Our office has reviewed the Statement of Organization, which expressly requires compliance with Chapter 286, Florida Statutes; however, the SFRPC does not currently have specific written guidelines related to the public's right to speak at its meetings.

Legal counsel has prepared Resolution No. 2013-02 which will amend the SFRPC's Statement of Organization to provide for formal policies in compliance with the Act.

### Recommendation

Adopt Resolution 2013-02, which will establish policies governing the opportunity for the public to be heard at public meetings in accordance with Section 286.0114, Fla. Stat.

**RESOLUTION NO. 2013-02**

**A RESOLUTION OF THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL AMENDING SECTION 8.0 OF THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL'S STATEMENT OF ORGANIZATION IN ORDER TO PROVIDE FOR POLICIES GOVERNING THE PUBLIC'S RIGHT TO SPEAK AT PUBLIC MEETINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the South Florida Regional Planning Council ("SFRPC") is a state agency subject to Chapter 286, Florida Statutes; and

**WHEREAS**, the SFRPC is further governed by Chapter 186, Florida Statutes, Rules 9-J and 29-J of the Florida Administrative Code, and the SFRPC's Statement of Organization, as amended; and

**WHEREAS**, in 2013, the Florida Legislature enacted 2013-227, Laws of Florida, which created Section 286.0114, Fla. Stat., which requires that members of the public be given a reasonable opportunity to be heard by the SFRPC before it takes official action on a proposition; and

**WHEREAS**, the SFRPC currently permits the public an opportunity to speak at its public meetings; and

**WHEREAS**, Section 8 of the SFRPC's Statement of Organization governs meeting conduct; and

**WHEREAS**, SFRPC finds that it would be prudent to adopt rules and policies in accordance with Section 286.0114, Fla. Stat.

**NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL THAT:**

**SECTION 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and incorporated herein by this reference.

**SECTION 2.** The South Florida Regional Planning Council ("SFRPC") hereby creates Section 8.0(10) of its Statement of Organization to read as follows:

8.0 Meetings

...

(10) Members of the public shall be given a reasonable opportunity to be heard by the Council before it takes official action on a proposition. Public participation at the meetings shall be in the following manner:

- (a) Members of the public may speak only at times designated by the Chair.
- (b) If a member of the public is designated to speak on an item by the Chair, the member of the public shall step to the floor microphone and state her/his name and address in an audible tone for the record.
- (d) During public participation any member of the public may speak to any issue under consideration by the Council prior to its adoption.
- (e) Remarks shall be limited to the question(s) under discussion. Speakers will be limited to three minutes during this time. The Chair may further reasonably limit the time period provided for public comment, as necessary, in order to ensure that all members of the public seeking to speak are afforded an opportunity to do so in a timely manner. Additional time may be added by the Chair.
- (e) Any person making disruptive, impertinent or slanderous remarks, or who shall become boisterous while addressing the Council and refuses to stop may be requested to leave the meeting by the Chair.
- (f) Persons whose allotted time to speak has expired shall be so advised by the Chair to conclude. Cumulative and repetitive testimony should be avoided on any matter. Persons of the same position as the previous speaker may simply state their names, address and the positions with which they agree. Members of the public are permitted and encouraged to submit written testimony to the Recording Secretary in advance of a Council Meeting, which shall become part of the official public record.
- (g) Any person who, at a Council or board meeting, willfully interrupts or disturbs the meeting in violation of Section 871.01, Fla. Stat., entitled "Disturbing Schools and Religious and Other Assemblies," is subject to arrest by those law enforcement officers present.
- (h) The public's right to speak prior to official action being taken by the Council does not apply in the following circumstances:
  - (1) If the Council must take official action to deal with an emergency situation affecting the public health, welfare, or safety, when compliance with the requirements would cause an unreasonable delay in the ability of the Council to act;
  - (2) Official action by the Council involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
  - (3) A meeting that is exempt from the open meeting requirements of Section 286.011, Fla. Stat.; or

(4) Meetings in which the Council is acting in a quasi-judicial capacity. However, this exclusion does not affect the right of a person to be heard as otherwise provided by law.

**SECTION 3.** All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 4.** If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

**SECTION 5.** This Resolution shall become effective immediately upon its passage and adoption.

**PASSED AND ADOPTED BY THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

\_\_\_\_\_  
PAUL WALLACE, CHAIR

SSG:DNT:SRW

\\gcsbs\company\Library\Library\\_GOV CLIENTS\SFRPC 2383\\_820098 GMMISC\RESO 2013 - (Amend SOO - Public Comment at Meetings).doc