

PLANNING COMMISSION TRAINING

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DISCUSSION TOPICS

- Duties and Responsibilities
 - Planning Commission
 - Board of Adjustment
- Sunshine Law
- Public Records Law
- Code of Ethics
- Voting Requirements
- Quasi Judicial vs. Quasi Legislative
- Example: What Planning Commission decisions must be based upon

THE PLANNING COMMISSION

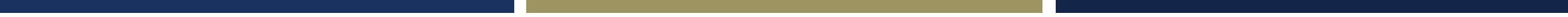
- Planning Commission is created in Division 2, Art. X, Chapter 20 of the County Land Development Regulations (LDRs)
- Pursuant to Section 163.3174, Fla. Stat. the county planning commission is designated and established as the local planning agency (LPA) for the unincorporated territory of DeSoto County, Florida.
- Moreover, Division 3, Art. X, Chapter 20, LDRs creates the Board of Adjustment (BOA), and provides that the Planning Commission serves as the BOA

DUTIES AND RESPONSIBILITIES OF PLANNING COMMISSION (LDR 20-1252)

- All functions, powers and duties required of a local planning agency pursuant to F.S. § 163.3174.
- Recommend amendments and revisions to a Comprehensive Plan to the BOCC.
- To determine whether specific proposed developments conform to the requirements of the Comprehensive Plan.
- To recommend principles, policies, and regulations for guiding action affecting development in the County.
- To hold public hearings on applications for rezoning, LDR amendments and special exceptions and to report findings and recommendations to the BOCC.
- To recommend to the BOCC, any necessary special studies on the location, adequacy, and conditions of specific facilities in the County.
- To hear appeals from decisions of the Development Review Committee regarding determinations of vested rights.

DUTIES AND RESPONSIBILITIES OF BOARD OF ADJUSTMENT (LDR 20-1280)

- (1) *Administrative review.* To hear and decide appeals of the Development Director's decisions/determinations
- (2) *Variances.* To authorize variances from the terms of the LDRs, where, owing to special conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the provisions of the LDR would result in unnecessary and undue hardship on the land.
 - Examples of variances the BOA may grant include, but are not limited to, building setbacks, fence height and parking requirements.
 - The BOA has no authority to grant variances from permitted uses of land, to grant variances from the requirements of State or Federal law, or to grant variances to concurrency requirements.
- (3) *Nonconforming uses.* Provided no structural changes are proposed, the BOA can authorize that a nonconforming use be changed to another nonconforming use upon a finding that the proposed use is equally or more appropriate to the zoning district and will not result in greater adverse impacts on surrounding properties than the existing use.
- (4) *Variances to flood damage prevention regulations* pursuant to the provisions set forth in Section 20-1100.



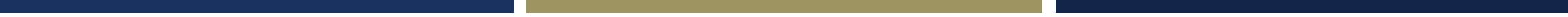
SUNSHINE LAW SECTION 286.011, F.S.

Requires that meetings of state or local boards/commissions be:

- (1) Publicly noticed
- (2) Open to the public, with reasonable opportunity to be heard
 - Meetings cannot be held at exclusive or inaccessible facilities.
- (3) Minutes taken

SUNSHINE LAW APPLICATION

- Applies to formal or casual discussions between two or more members about a matter on which the governing body may take action.
- Also may apply to telephone, e-mail, text communications, exchanges during social events, **or exchanges via social media.**



SUNSHINE LAW DOES NOT APPLY TO

- Discussions with staff or attorney(s). However, you CANNOT use them as conduits.

PUBLIC RECORDS LAW

CHAPTER 119, F.S.

- Provides that any records made or received by any public agency in the course of its official business are available for inspection
 - Includes: all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or means of transmission made or received pursuant to law in connection with transaction of official business by the agency.
 - Includes Facebook Posts, Tweets, Texts, E-mails, Blog Posts, YouTube, Snaps...
- Key is whether it concerns official business and communicates/disseminates information

PENALTIES

Public Record Violation (Sec. 119.10, FS)

- First degree misdemeanor
 - 1 year in jail;
 - \$1,000 fine.

MARTIN COUNTY

Martin County commissioner, former commissioner arrested on public records violation charges

[Emily Bohatch](#) Treasure Coast Newspapers

Updated Jan. 4, 2018, 10:07 p.m. ET



Sunshine Law Violation (Sec. 286.011, FS)

- Second degree misdemeanor
 - 60 days in jail;
 - \$500 fine
- Attorneys fees

HOLMES COUNTY

Holmes County Development Board members charged with Sunshine Law violations

by: [Heather Bazley](#)
Posted: Jun 24, 2025 / 08:46 PM CDT
Updated: Oct 22, 2025 / 10:44 PM CDT



CODE OF ETHICS

- Cannot solicit or accept gifts (anything of value) intended to influence the vote/judgment.
- Cannot accept any compensation/payment given to influence a vote.
- Cannot do business with one's agency.
- Misuse of Public Position. Cannot use your title or position wrongfully.

VOTING

- If you in attendance at a meeting unless you have a conflict of interest or perceived conflict of interest in accordance with Florida Statutes chapter 112, you may not abstain from voting in regards to any decision before you. Florida Statutes 286.012, Fla. Stat.
- Conflicts of Interest:
 - Inure to your special gain or loss; your families gain or loss; your business associates gain or loss.

WHAT TO DO WHEN YOU HAVE A CONFLICT OF INTEREST

- Must disclose the nature of the conflict;
- Must complete a Form 8b, Fla. Commission on Ethics, and submit to the recording secretary of the Board within 15 days after the vote occurs, a copy of the form will then be provided to the other members of the Board and attached to the minutes.

QUASI-JUDICIAL AND QUASI-LEGISLATIVE

- There are two types of proceedings before the Planning Commission: quasi-judicial and quasi-legislative.
- Both have separate requirements in the decision making and legally are held to different standards of review by courts.

QUASI-LEGISLATIVE

- Those decisions which the local government is tasked with formulating policy rather than applying specific rules to a particular situation.
 - Comp. Plan Text Amendments;
 - Land Development Regulation Adoption.
- Standard of review generally: fairly debatable standard of review – the government action must be upheld if reasonable minds could differ as to the propriety of the decision reached.
 - Rationally related to a legitimate public purpose, such as health, safety and welfare of the public.

QUASI-JUDICIAL

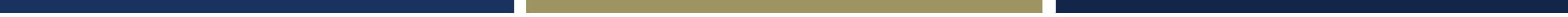
- Decisions involve the application of policy to a specific development application.
- With quasi-judicial, the Commission is dealing with an individual's property rights— and Commission Members are acting like a judge would act in court.
 - Unbiased objective review of the application, and determining whether an application meets the County's regulations

QUASI-JUDICIAL

- Standard of review on appeal:
 - 1) complied with due process;
 - 2) observed “the essential requirements of the law”; and
 - 3) based its ruling on competent, substantial evidence.
- Due Process includes: Notice in accordance with the law of the meeting; Opportunity of formal parties to be heard; oath taking of witnesses; disclosure of any ex parte communications...
- The essential requirements of the law: did you follow the statute, comp plan requirements and LDC requirements;
- Competent, Substantial Evidence is evidence which will establish a substantial basis of fact from which the finding can be inferred – such relevant evidence as a reasonable mind would accept as adequate to support the findings (evidence include documents in the record as well as testimony).

THINGS TO REMEMBER IN QUASI-JUDICIAL

- Must allow the Applicant and any other formal parties reasonable time to present their position
- Public will be given an opportunity to speak but will be limited.
- Must disclose any ex parte communications to eliminate a presumption of bias
- Must allow for witnesses to be placed under oath and cross examined by the other formal parties
- Must ensure notices are properly given
- Must allow Applicant a rebuttal
- Recommend that the record be made clear and findings of a decision be placed on the record.



QUESTIONS?

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