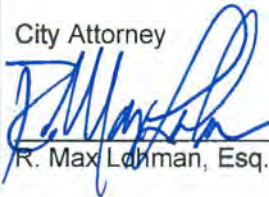


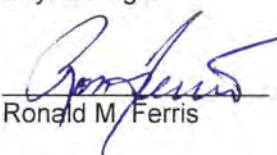


**CITY OF PALM BEACH GARDENS
CITY COUNCIL
Agenda Cover Memorandum**

**Meeting Date: May 7, 2020
Resolution 31, 2020**

Subject/Agenda Item: Amending the Procedures for Quasi-Judicial Hearings and Ex Parte Disclosures.

- Recommendation to APPROVE**
 Recommendation to DENY

<p>Reviewed by:</p> <p>City Attorney</p>  <p>R. Max Lohman, Esq.</p>	<p>Originating Dept.: Legal</p>  <p>R. Max Lohman, City Attorney</p>	<p>Costs: N/A</p>	<p>Council Action:</p> <p><input type="checkbox"/> Approved</p> <p><input type="checkbox"/> Approved w/ Conditions</p> <p><input type="checkbox"/> Denied</p> <p><input type="checkbox"/> Continued to:</p>
<p>Submitted by:</p> <p>Department Director</p>  <p>R. Max Lohman, Esq.</p>	<p>Advertised: N/A</p> <p>Date:</p> <p>Paper:</p> <p><input checked="" type="checkbox"/> Not Required</p>	<p>Funding Source:</p> <p><input type="checkbox"/> Operating</p> <p><input checked="" type="checkbox"/> Other</p>	<p>Attachments:</p> <ul style="list-style-type: none"> Resolution 31, 2020 - Exhibit "A": Quasi-Judicial Public Hearing Procedures
<p>Approved by:</p> <p>City Manager</p>  <p>Ronald M. Ferris</p>	<p>Affected parties</p> <p><input type="checkbox"/> Notified</p> <p><input checked="" type="checkbox"/> Not required</p>	<p>Contract/Agreement:</p> <p>Effective Date: N/A</p> <p>Expiration Date: N/A</p> <p>Budget Acct.#: N/A</p>	

BACKGROUND: The City Council is required by law to conduct certain development petition public hearings quasi-judicially. These hearings require the City Council to base its decision on the evidence contained in the record of the proceeding, which consists of the testimony adduced at the hearing and on the material contained in the official file of the City. Procedures have been developed to ensure that the City Council quasi-judicial hearings are conducted in accordance with the law. The City Council has determined that it is appropriate to incorporate additional disclosure requirements into the review process preceding a quasi-judicial public hearing.

STAFF RECOMMENDATION: Staff recommends approval of Resolution 31, 2020 as presented.

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2
3 **RESOLUTION 31, 2020**
4
5

6 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM**
7 **BEACH GARDENS, FLORIDA, AMENDING THE PROCEDURES**
8 **FOR QUASI-JUDICIAL HEARINGS AND EX PARTE**
9 **DISCLOSURES; PROVIDING AN EFFECTIVE DATE; AND FOR**
10 **OTHER PURPOSES.**
11

12
13 **WHEREAS**, the City Council is required by law to conduct certain development
14 petition public hearings quasi-judicially; and
15

16 **WHEREAS**, these hearings require the City Council to base its decision on the
17 evidence contained in the record of the proceeding, which consists of the testimony
18 adduced at the hearing and on the material contained in the official file of the City; and
19

20 **WHEREAS**, procedures have been developed to ensure that the City Council
21 quasi-judicial hearings are conducted in accordance with the law; and
22

23 **WHEREAS**, the City Council has determined that it is appropriate to incorporate
24 additional disclosure requirements into the review process preceding a quasi-judicial
25 public hearing; and
26

27 **WHEREAS**, the City Council deems approval of this Resolution to be in the best
28 interests of the health, safety, and welfare of the residents and citizens of the City of Palm
29 Beach Gardens and the public at large.
30

31
32 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**
33 **OF PALM BEACH GARDENS, FLORIDA, that:**
34

35 **SECTION 1.** The foregoing recitals are hereby affirmed and ratified.
36

37 **SECTION 2.** The City Council hereby adopts the amended Quasi-Judicial Public
38 Hearing Procedures, a copy of which is attached hereto as Exhibit "A."
39

40 **SECTION 3.** This Resolution shall become effective immediately upon adoption.
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43
44
45
46

PASSED AND ADOPTED this _____ day of _____, 2020.

CITY OF PALM BEACH GARDENS, FLORIDA

BY: _____
Carl W. Woods, Mayor

ATTEST:

BY: _____
Patricia Snider, CMC, City Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: _____
R. Max Lohman, City Attorney

VOTE:

AYE NAY ABSENT

MAYOR WOODS	_____	_____	_____
VICE MAYOR MARINO	_____	_____	_____
VICE MAYOR PRO TEM LITT	_____	_____	_____
COUNCILMEMBER MARCIANO	_____	_____	_____
COUNCILMEMBER REED	_____	_____	_____

EXHIBIT "A"

QUASI-JUDICIAL PUBLIC HEARING PROCEDURES

A. Pre-Hearing Procedures

1. All discussions between a Councilmember and an applicant or applicant's representative about development proposals shall be held in the presence of the City's professional staff.
2. Information about any private written, telephonic, or electronic communication received by a Councilmember about a development proposal shall be forwarded to the City Manager for inclusion in the official file in the Planning and Zoning Department.

B. Hearing Procedures

1. Any hearing listed on the agenda as a quasi-judicial public hearing shall be conducted pursuant to these rules.
2. The City Clerk shall read the title of the Ordinance or Resolution. The Mayor shall then declare the public hearing open.
3. At the beginning of the hearing, the members of the City Council will ~~announce for the record~~ declare any "ex parte" ~~contacts~~ communications¹ not previously disclosed ~~in writing~~ and/or included in the official City file. The name of the person with whom the contact occurred and the subject matter of the discussion ~~will~~ must be disclosed.
4. The City Clerk shall administer an oath to all persons who ~~intend to testify at this~~ wish to offer testimony or submit evidence at the hearing. **Any person who intends to testify at this the hearing is asked required to fill out and sign a comment card, which can be found at the entrance of the Council Chambers.** The purpose of this card is to provide an accurate record of an appearance at this hearing. The card must be submitted to the City Clerk before the item is heard. ~~Please hand the card to one of the clerks in the front of the Chambers. Failure to fill out and sign a comment card shall constitute prima facie evidence that the subject person lacks standing to challenge any decision rendered pursuant to the subject hearing.~~

¹ "Communications" includes verbal and written transmissions, regardless of medium, and any gathering of information related to or regarding the subject matter of the quasi-judicial proceeding (including site visits, investigations, and expert opinions).

5. The petitioner shall make an initial presentation. The City staff will then make a presentation. During the staff's and petitioner's presentations, only the members of the City Council are permitted to ask questions.
6. After the City staff presentation, ~~all other parties~~ any member of the public who are is present to testify and/or provide written or other evidence for inclusion in the record will be permitted to do so. During this time, only the members of Upon conclusion of each person's testimony, the City Council may examine and the petitioner shall be are permitted to ask questions may cross-examine the persons regarding his/her testimony.
7. ~~After the petitioner, the staff, and other interested parties have made their presentations, persons will be permitted to cross-examine participants in the hearing, including the staff and the petitioner, in order of their appearance at the hearing.~~ Anyone who testifies at the hearing should must remain until the conclusion of the hearing in order to be able to respond to any questions from the City Council and/or the petitioner. A witness's failure to remain until the conclusion of the hearing, which prevents complete and full examination and/or cross-examination of his/her testimony, may result in such testimony being stricken from the record.
8. ~~After the questions have been asked and answered, Upon conclusion of witness examination/cross-examination,~~ the petitioner shall be provided with an opportunity for a brief rebuttal and summary.
9. The Mayor shall then ~~declare close~~ close the public portion of the hearing closed, and a motion will be made regarding the matter. The Council will then proceed to discuss the matter and may ask additional questions of the petitioner and/or staff prior to voting vote on the matter.