Board of County Commissioners
Leon County, Florida

Policy No. _____

Title: Board-Appointed Advisory Committees: Establishment, Appointment, Function, Operation, and Dissolution

Date Adopted: September 23, 2003

Effective Date: September 23, 2003

Reference:
- Fla. Stat. Chap. 112, Part III, Code of Ethics for Public Officers and Employees
- Fla. Stat. Chap 119, Public Records
- Fla. Stat. §286.011, Government in the Sunshine Law
- Leon County Board of County Commissioners (LCBCC) Policy No. 03-05, Code of Ethics

Policy Superseded:
- No. 00-5, "Volunteer Boards and Committees"
- No. 97-9, "Voting Conflicts on Boards, Committees, Councils, and Authorities"

It shall be the policy of the Board of County Commissioners of Leon County, Florida, that a new policy entitled "Board-Appointed Advisory Committees: Establishment, Appointment, Function, Operation, and Dissolution" be hereby adopted, to wit:

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POLICY

1. Authority, Purpose, Intent, and Scope

a. Authority: to the extent the Policy delegates any authority, it is so delegated to the County Administrator.

b. Purpose: to establish a policy and procedure to govern the establishment, appointment, function, operation, and dissolution of all Advisory Committees appointed by the Board.

c. Intent:

i. to efficiently manage the resources available to Leon County by assuring that all Advisory Committees function in the most fiscally responsible manner and, when no longer needed, are dissolved as soon as practicable;

ii. to assure that all Advisory Committees appointed by the Board comply with all applicable Government in the Sunshine, Public Records and Code of Ethics Laws; and

iii. to assure that all citizens who volunteer their time to serve on an Advisory Committee are protected from unknowingly committing an unlawful act by appointing them only to appropriate committees and providing them with a thorough Orientation.

d. Scope: governs all Board-appointed Advisory Committees in existence on the Effective Date of the Policy and to any Board-appointed Advisory Committees thereafter established; and shall not apply to any committees or groups appointed by, or under the delegation of, the County Administrator under his/her executive powers, duties, or responsibilities as provided under the Administrative Code of Leon County, as may be amended from time to time, or any other executive power provided under any other statute, ordinance, or rule promulgated by federal, state, or local law.

2. Definitions

The following terms, when used in the Policy in their capitalized form, shall be defined as follows:

a. Advisory Committee: any board, committee, or group previously or hereafter established by the Board to provide input, advice, and/or recommendations regarding matters to be brought before the Board for approval, and which is identified in its Enabling Resolution as either a Decision Making Committee or a Focus Group.

b. Applicant: a person who is interested in serving on an Advisory Committee and who is required to submit an Application completed in accordance with the Policy.

c. Applicant Pool: the group of Applicants whose Applications have been reviewed by Staff for completeness, confirmation of residency, and confirmation of voter registration, and which, absent any conflict unable to be waived by the Board, are considered eligible for appointment to Advisory Committees.

d. Application: the form to be completed and submitted by those persons interested in serving on an Advisory Committee, other than those persons whose public positions are specifically identified by statute, code, rule, policy, or other state, federal, or local law as being a required member of the Advisory Committee as identified in such law, for example the Chairman of the Board of County Commissioners, the Secretary of the Department of Transportation, or the President of Florida State University, provided, however, that persons who are identified in such laws only through their occupation, for example a building contractor or a real estate broker, are not exempt from the application process.

e. Board: the Leon County Board of County Commissioners.

f. Committee Request Form: the form to be submitted by a member of the Board interested in establishing an Advisory Committee.

g. County: Leon County, Florida.

h. Decision Making Committee: an Advisory Committee intended to become part of the Board's decision-making process by virtue of direction in its Enabling Resolution to provide to the Board recommendations regarding matters to be considered for Board approval. A Decision Making Committee conducts its meetings under the direction of a Chairperson with Staff acting only in a role of facilitator, operates under Bylaws approved by the County Administrator and the County Attorney, considers alternatives and narrows or eliminates options for Board consideration, and conducts a vote to either make its final recommendations to the Board as directed in its Bylaws or make a final binding decision without returning to the Board based on authority delegated by statute, code, rule, policy, or other state, federal, or local law; and because of the voting requirement strongly discourages the appointment of Stakeholders as members.

i. Enabling Resolution: the Resolution adopted by the Board, pursuant to the procedures set forth herein, which authorizes the creation of an Advisory Committee and which establishes the Advisory Committee as either a Decision Making Committee or a Focus Group.

j. Focus Group: an Advisory Committee *not* intended to become part of the Board's decision-making process, but rather is intended, by virtue of its Enabling Resolution, to merely provide a fact-finding source of community input and technical resources for use by Staff in developing a Staff recommendation regarding a matter to be considered for Board

approval. A Focus Group conducts its meetings under the direction of Staff, provides collective input to Staff through individual comments of the Focus Group members, has no need for Bylaws, takes no vote as a group and, therefore, appointment of Stakeholders as members does not present a conflict of interest.

k. Lobbying: influencing or attempting to influence legislative or quasi-judicial action or non-action through oral or written communication, or an attempt to obtain the goodwill of a member of the Board, a member of a quasi-judicial board, a member of an Advisory Committee, a County Commission aide, the County Administrator, the County Attorney, the Assistant County Administrator, a Group Director, the Director of Purchasing, the Chief Building Inspector, or other employees who have binding administrative authority.

l. Lobbyist: any of the following persons:

i. any natural person who, for compensation, seeks, or sought during the preceding twelve months, to influence the governmental decision-making of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding twelve months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency;

ii. any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of Lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity for the purpose of Lobbying on behalf of that other person or governmental entity; or

iii. a person who registers with the Clerk to the Board as a Lobbyist pursuant to Section 8 of LCBCC Policy No. 03-05, Code of Ethics.

m. Model Bylaws: the Board-approved Bylaws template which includes the provisions applicable to every Decision Making Committee, and which are used as the basis for drafting the Bylaws to govern the function and operation of a Decision Making Committee.

n. Model Rules of Procedure: the Board-approved Rules of Procedure template which includes the provisions applicable to every Focus Group and which are used as the basis for drafting the Rules of Procedures to govern the function and operation of a Focus Group.

o. Orientation: the Board-approved program intended to educate Applicants, Board members, and Staff about the applicability of the Government-In-The-Sunshine Laws, Code of Ethics Laws, and Public Records Laws to Advisory Committees.

p. Staff: any individual(s) employed by the Leon County Board of County Commissioners.

q. Staff Support Person: the member of Staff assigned by the County Administrator to assist an Advisory Committee in carrying out the Board direction as set forth in the Enabling Resolution.

r. Stakeholder: an Applicant that would be potentially subject to an unusually high number of voting conflicts under Fla. Stat. §112.3143, including any of the following persons:

i. a person to whom would inure a special private gain or loss by virtue of Board action taken on a matter for which an Advisory Committee was established;

ii. a person with a relative to whom would inure a special private gain or loss by virtue of Board action taken on a matter for which an Advisory Committee was established; for purposes of this subsection, the term "relative" includes any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law;

iii. a person with a business associate to whom would inure a special private gain or loss by virtue of Board action taken on a matter for which an Advisory Committee was established;

iv. a person who is retained by any principal to whom he or she knows would inure a special private gain or loss by virtue of Board action taken on a matter for which an Advisory Committee was established; or

v. a person who is retained by any parent organization or subsidiary of a corporate principal, other than an agency as defined in Fla. Stat. §112.312(2), to which he or she knows would inure a special private gain or loss by virtue of Board action taken on a matter for which an Advisory Committee was established.

3. Responsible Departments

a. County Administrator: shall be responsible for the implementation and compliance of the Policy, and shall be charged with the following responsibilities to be carried out in accordance with the Policy:

i. developing and implementing the application process;

ii. developing and implementing a process for the selection and appointment of members to Advisory Committees;

iii. developing and implementing an Orientation program;

iv. assuring that all Advisory Committees are properly functioning and operating; and

v. developing and implementing a centralized custodial system for retaining minutes and bylaws of Advisory Committees.

b. County Attorney: shall be responsible for providing any legal guidance necessary for the County Administrator to carry out his/her responsibilities under the Policy.

4. Creation of Applicant Pool for Advisory Committees

a. Application Form

i. The County Administrator shall develop and maintain an Application in a form to be approved by the Board.

ii. The Application shall include, but not be limited to:

(1) an inquiry sufficient to establish the Applicant's experience, qualifications, and interests for the purpose of determining for which Advisory Committees the Applicant would be best suited;

(2) an inquiry sufficient to establish whether the Applicant would be a potential Stakeholder on any Advisory Committee or would otherwise be subject to an unusually high number of voting conflicts on any Advisory Committee;

(3) an inquiry sufficient to establish whether the Applicant, if appointed to an Advisory Committee, would be subject to the requirements of the Code of Ethics for "doing business with one's agency" under Fla. Stat. §112.313(3) and LCBCC Policy No. 03-05 §6(II) and/or having a "conflicting employment or contractual relationship" under Fla. Stat. §112.313(7) and LCBCC Policy No. 03-05 §6(VI);

(4) an inquiry sufficient to establish whether the Applicant is a Lobbyist;

(5) an inquiry sufficient to confirm that the Applicant has completed Orientation;

(6) an inquiry sufficient to confirm that the Applicant is a resident of Leon County;

(7) a notice to the Applicant, set off in bold typeface in a font size slightly larger that the surrounding text, which will inform the Applicant of his/her obligation, if appointed to an Advisory Committee, to follow the applicable Sunshine Laws, Code of Ethics, and Public Records Laws, and of the consequences of violating the applicable law including criminal penalties, civil fines, and the voiding of any subsequent Board action; and

(8) a space designated for written comments by Staff sufficient in size to make notations in accordance with Sections 4.b and 6.b herein.

b. Preliminary Application Review:

i. the County Administrator, or his/her designee, shall review all Applications and note in the designated space on the Application the following:

(1) the printed name and signature of the Staff person reviewing the Application;

(2) confirmation that the Applicant has completed all applicable sections of the Application;

(3) confirmation that the Applicant is a resident of Leon County; and

ii. in the event that any Application is found to be incomplete, or that any Applicant is found to not be a resident of Leon County, the Application shall be returned to the Applicant notifying him/her of such deficiency in the Application.

iii. upon confirmation that the Application is complete and that the Applicant is a resident of Leon County, the Application shall be legibly stamped "Preliminary Review Approved".

iv. upon being stamped "Preliminary Review Approved", a copy of the Application may be forwarded to other departments for further review if the information on the Application indicates that the Applicant would be a candidate for a specific Advisory Committee requiring more information than that provided on the Application.

c. Applicant Pool: Applications shall be included in the Applicant Pool only upon being stamped "Preliminary Review Approved" in accordance with Section 4.b.iii herein.

5. Establishment of Advisory Committees

Any and all Advisory Committees to be formed on or after the Effective Date of the Policy shall be established only as follows:

a. Who May Request: an Advisory Committee may be established only upon the request of any member of the Board, the County Administrator, or the County Attorney.

b. How Request Is Made: a request to establish an Advisory Committee shall be made only as follows:

i. the requesting Board member shall, when time permits, complete a Committee Request Form and submit it to the Chairperson of the Board in time for the request to be placed on the agenda for the next regularly scheduled meeting of the Board; or

ii. when time does not permit, the requesting Board member shall, no later than two days after the Board approves the establishment of the requested Advisory Committee, complete a Committee Request Form and deliver it to the County Administrator.

c. How Request Is Approved: upon review and consideration by the Board of the request to establish an Advisory Committee, such request may be approved only by a majority vote of the Board;

d. When Appointments Are Made: upon Board approval for the establishment of the requested Advisory Committee, the County Administrator shall, as soon as reasonably possible, coordinate a Board agenda item for the appointment of the selected Applicants to the approved Advisory Committee in accordance with Section 6 herein; such Board appointments shall be selected only from the Applicants included in the Applicant Pool.

e. Enabling Resolution: upon Board approval for the establishment of the requested Advisory Committee, the County Administrator shall, as soon as reasonably possible, coordinate an agenda item for the Board's adoption of the Enabling Resolution establishing the approved Advisory Committee; the Enabling Resolution shall, to the extent possible, be based on the information provided in the Committee Request Form and shall include, but not be limited to, the following:

i. identification of the Advisory Committee as either a Decision Making Committee or a Focus Group;

ii. a statement of the purpose, function, goals, and responsibilities of the Advisory Committee;

iii. the configuration of the membership of the Advisory Committee which, unless precluded by state, federal, or local law, shall be determined by the Board at its discretion;

iv. a statement indicating whether the members of the Advisory Committee shall be subject to full and public disclosure of financial interests;

v. identification of the Staff assigned to assist the Advisory Committee, as needed; and

vi. identification of a date, or an occurrence of an event, after which the Advisory Committee will dissolve unless otherwise continued with Board approval prior to the date of dissolution.

6. Appointment of Members to Advisory Committees

a. Assignment of Staff Support Person: each Advisory Committee shall have a Staff Support Person assigned by the County Administrator;

b. Review of Applicant Pool: In the event of a need for appointments of members to an Advisory Committee, the County Administrator and the County Attorney shall each designate a member of their Staff to work with the Staff Support Person to collectively review the Applications in the Applicant Pool and make notations on the Applications of the following information for the Board's consideration in making selections for appointments:

i. any indications of experience or qualifications that would be well-suited for this particular Advisory Committee or of any specific desire to serve on this particular, or similar type, Advisory Committee;

ii. any indications that would preclude the Applicant from serving on this particular Advisory Committee under any statute, code, rule, policy, or other state, federal, or local law;

iii. any indications that the Applicant would be considered a Stakeholder with regard to the matter for which this particular Advisory Committee was established, or any other indications that would potentially result in the Applicant having an unusually high number of voting conflicts under Fla. Stat. §112.3143;

iv. any indications under which the Applicant would be considered as "doing business with one's agency" under Fla. Stat. §112.313(3) and LCBCC Policy No. 03-05 §6(II) and/or having a "conflicting employment or contractual relationship" under Fla. Stat. §112.313(7) and LCBCC Policy No. 03-05 §6(VI); in the event either of these circumstances are found, it shall be noted that these conflicts may be waived by a two-thirds vote of the Board pursuant to Fla. Stat. §112.313(12);

v. any indications that the Applicant would be considered a Lobbyist with regard to the matter for which this particular Advisory Committee was established; and

vi. any other comments deemed appropriate to bring to the Board's attention.

c. Selection of Applicants by Each Board Member: upon review of the Applicant Pool in accordance with Section 6.b herein, the County Administrator shall coordinate the selection of Applicants as follows:

i. the list of names in the Applicant Pool available for selection shall be provided to each Board member along with a deadline for the selection; the list of names shall contain the information compiled in accordance with Section 6.b herein;

ii. upon receipt of each of the Board members' selections, the matter shall be placed, as soon as reasonably possible, on the Board's agenda for appointment of each selection to the Advisory Committee; and

iii. no selection shall be made other than from the list of names provided by the County Administrator in accordance with the Policy.

d. Appointment of Members by Full Board: the selection of Applicants by each Board member, in accordance with Section 6.c herein, shall be approved by a majority vote of the Board.

7. Orientation

a. Preliminary Matters: the Staff Support Person shall be responsible to assure that, prior to any participation by a newly appointed Advisory Committee member, the member has completed Orientation.

b. Availability to Applicants: the County Administrator shall assure that the Orientation program is made available to all Applicants in an easily accessible manner; formats of the Orientation may include a live presentation format, an internet format, a hard copy booklet format, an audio or video format, or any other means deemed appropriate by the County Administrator.

c. Substance of Orientation: the County Administrator, in conjunction with the County Attorney, or their designees, shall develop, implement, and maintain an orientation program which shall include, but not be limited to, the following subject matter:

i. basic introduction to the following applicable laws:

(1) Government-In-The-Sunshine Law; Fla. Stat. §286.011

(2) Code of Ethics for Public Officers and Employees; Fla. Stat. Chapter 112, Part III

(3) Public Records Law; Fla. Stat. Chapter 119

ii. an explanation of how the applicable laws will generally affect the members of an Advisory Committee;

iii. an explanation distinguishing the responsibilities and legal obligations of a member of a Decision Making Committee as opposed to a member of a Focus Group;

iv. an explanation of the consequences of violating the applicable laws including, but not limited to, the following:

(1) criminal penalties, including imprisonment and fines, for knowingly violating the Government-In-The-Sunshine Laws;

(2) civil fines and removal from the Advisory Committee for violating the Code of Ethics Laws; and

(3) nullification of work of an Advisory Committee resulting from potential voiding of Board action after violations of either the Government-In-The-Sunshine Laws or Code of Ethics Laws.

v. a brief question and answer portion intended only to give typical examples of various violations of the applicable laws; although the question and answer portion shall be completed, it shall not be intended as a pass or fail mechanism.

d. Persons Required To Complete Orientation: within a reasonably possible time after the Effective Date of the Policy, the following persons shall have completed Orientation:

i. all Applicants and/or any newly appointed Advisory Committee member who has not completed Orientation within the past year;

ii. all members of Advisory Committees in existence on the Effective Date of the Policy;

iii. all Board members;

iv. the County Administrator and all Senior Management Staff;

v. the County Attorney and all Assistant County Attorneys;

vi. all members of Staff appointed as a Staff Support Person.

e. Updates and Revisions to Orientation: the County Administrator, in conjunction with the County Attorney, or their designees, shall be responsible for updating and revising the Orientation, as necessary, to reflect any changes in the applicable laws.

8. Focus Groups - Function and Operation

a. Model Rules of Procedure: the County Administrator, in conjunction with the County Attorney, or their designees, shall develop and maintain a Model Rules of Procedure which shall govern the function and operation of a Focus Group.

b. Staff Responsibility: upon the adoption of an Enabling Resolution identifying the Advisory Committee as a Focus Group, the Staff Support Person shall be responsible for the following:

i. drafting Rules of Procedure for the Focus Group, using the Model Rules of Procedure as a basis, and assuring that the Rules of Procedure are approved by the County Administrator and County Attorney for procedural consistency before the first meeting of the Focus Group; the Rules of Procedure for the Focus Group shall not deviate from the provisions of the Model Rules of Procedure unless such deviations are approved by the County Administrator and the County Attorney;

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ii. at or before the first meeting, providing a copy of the Rules of Procedure to all members of the Focus Group;

iii. coordinating and providing Staff assistance, as necessary, for the meetings of the Focus Group;

iv. conducting, on behalf of the Board, each meeting of the Focus Group;

v. assuring that all members of the Focus Group have completed Orientation before being allowed to participate in any meeting of the Focus Group;

vi. assuring that the Focus Group functions and operates in accordance with the Rules of Procedure for the Focus Group and the Enabling Resolution;

vii. notifying the County Administrator and the County Attorney as soon as reasonably possible of any violations of any law applicable to the Focus Group;

viii. notifying the County Administrator of any other problems encountered with the function and operation of the Focus Group;

ix. preparing an agenda item, as necessary, to advise the Board of the collective input from the individual members of the Focus Group with regard to the matter for which the Focus Group was established; and

x. assuring that the Focus Group is dissolved in accordance with Section 10 herein.

9. Decision Making Committees - Function and Operation.

a. Model Bylaws: the County Administrator, in conjunction with the County Attorney, or their designees, shall develop and maintain a Model Bylaws which shall govern the function and operation of a Decision Making Committee to include, but not be limited to, attendance requirements and procedures for replacement of members when appropriate.

b. Staff Responsibility: upon the adoption of an Enabling Resolution identifying the Advisory Committee as a Decision Making Committee, the Staff Support Person shall be responsible for the following:

i. drafting Bylaws for the Decision Making Committee, using the Model Bylaws as a basis, and assuring that the Bylaws are approved by the County Administrator and County Attorney for procedural consistency before the first meeting of the Decision Making Committee; the Bylaws for the Decision Making Committee shall not deviate from the provisions of the Model Bylaws unless such deviations are approved by the County Administrator and the County Attorney;

ii. at or before the first meeting, providing a copy of the Bylaws to all members of the Decision Making Committee;

iii. coordinating and providing Staff assistance, as necessary, for the meetings of the Decision Making Committee;

iv. assuring that all members of the Decision Making Committee have completed Orientation before being allowed to participate in any meeting of the Decision Making Committee;

v. assuring that reasonable notice to the public is given for each meeting of the Decision Making Committee;

vi. assuring that, at the first meeting of the Decision Making Committee, a Chairperson is elected and that the Bylaws are adopted by the Decision Making Committee;

vii. assuring that a copy of the adopted Bylaws is provided to the Bylaws custodian as designated by the County Administrator;

viii. assuring that minutes of each meeting of the Decision Making Committee are prepared as soon as reasonably possible after each meeting, and that copies of such minutes are provided to the minutes custodian as designated by the County Administrator;

ix. assuring that the Decision Making Committee functions and operates in accordance with the Bylaws for the Decision Making Committee and the Enabling Resolution;

x. notifying the County Administrator and the County Attorney as soon as reasonably possible of any violations of any law applicable to the Decision Making Committee;

xi. notifying the County Administrator of any other problems encountered with the function and operation of the Decision Making Committee;

xii. preparing an agenda item, as necessary, to advise the Board of the recommendations of the Decision Making Committee with regard to the matter for which the Decision Making Committee was established; and

xiii. assuring that the Decision Making Committee is dissolved in accordance with Section 10 herein.

10. <u>Dissolution of Advisory Committees</u>

No later than thirty (30) days prior to the date, or the occurrence of the event, after which the Advisory Committee is directed to be dissolved as directed in the Enabling Resolution, the Staff Support Person shall inform the County Administrator, by e-mail or written memorandum, as to whether the Advisory Committee will require additional time in which to accomplish the goals and directives set forth in the Enabling Resolution. In the event additional time is required, the Staff Support Person will be responsible for seeking the

Board's approval for additional time. If additional time is not required, the Staff Support Person shall, upon the completion of the goals and directives in the Enabling Resolution, notify the County Administrator, by e-mail or written memorandum, of such completion and the Advisory Committee shall thereupon be dissolved.

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