

TAB 11

POINT PAPER

POLICY 09-04 ESTABLISHING A POLICY OF THE CITY COMMISSION REGARDING TELEPHONIC PARTICIPATION BY BOARD MEMBERS

02/11/09

ISSUE: The City Commission has expressed a desire to adopt a policy to provide clarity as to when members of the Board who are not able to be physically present for a meeting may participate in that meeting by telephone.

BACKGROUND: Under Section 286.011, Florida Statutes, meetings of a public board must be held in a public place with a quorum of board members physically present. Thus, under AGO 2003-41, participation of a board member in a public meeting by telephone conference should only be permitted in “extraordinary circumstances.” (It is unclear legally where in the statute the Attorney General is basing the requirement for a need for “extraordinary circumstances” for telephonic participation.) Further, such participation is allowed only when the technological facilities of the City allow for the Board member to be heard by the Board members and members of public in attendance at the meeting. It should also be noted that any board members participating by phone do not count towards the board’s quorum requirements.

The determination of when an absence is due to “extraordinary circumstances” is generally left to the discretion of the Board, but this gives little guidance to Board members who are ill or may be scheduled to be out of town during a Board meeting. Adoption of a policy in this regard would provide some clarity as to what circumstances the Board would deem to be extraordinary so as to qualify for telephonic participation.

The Policy, as drafted, would allow Board members who must be absent due to prolonged illness or an extended out-of-town trip to participate by telephone. The policy would also give the Board the flexibility to allow Board members to participate by phone in other circumstances which are determined by the Board to be extraordinary, on a case-by-case basis. Staff members may participate by phone, as requested by the Board, without the need for a finding of “extraordinary circumstances,” as staff members do not fall within the requirements of Section 286.011, Florida Statutes.

RECOMMENDATION: Adopt Policy 09-04.

BUDGET IMPACT: None

CITY COMMISSION POLICY #09-04

City Commissioners Participating in Board Meetings by Telephone

Members of the City Commission who are unable to be physically present for a Board meeting due to extraordinary circumstances may participate in Board meetings by telephone, provided there is equipment available which allows the members of the Board, as well as the public in attendance at the meeting, to hear the comments of the Board member. "Extraordinary circumstances" shall include prolonged illness, out-of-town trips exceeding one night and two days in duration, and other circumstances as deemed appropriate by the Board on a case-by-case basis. Board members participating by phone shall be entitled to participate fully in the Board meeting, including the ability to vote on all matters coming before the Board. However, Board members participating by telephone shall not count towards the Board's quorum requirement. Staff members may participate by phone as requested by the City Commission without the need for a finding of "extraordinary circumstances."

Adopted by City Commission, with a quorum present and voting, February 23, 2009.

**James R. Freeman
City Clerk**