

TAB 9

POINT PAPER

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

02/25/09

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. The Policy, as drafted, would allow the Board to determine on a case-by-case basis when such “extraordinary circumstances” existed.

A Board member wishing to participate by telephone would be required to submit a written request describing the circumstances which necessitate the Board member’s physical absence. The request would be added as the first agenda item, and the Board members who are physically present at the meeting would make a determination based upon the circumstances as described in the written request. If the Board makes a finding of “extraordinary circumstances”, then the Board member participating by telephone would be permitted to fully participate in the Board meeting, including the ability to vote on all matters coming before the Board.

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. However, Board members participating by telephone shall not count towards the Board's quorum requirement. The existence of such "extraordinary circumstances" shall be determined by the Board on a case-by-case basis, as provided herein.

Any Board member who wishes to participate in a Board meeting by telephone shall, prior to the meeting, make a written request to the Board setting forth the circumstances justifying the need for participation by telephone. Any such request shall be placed as the first item on the agenda of the subject meeting, and the Board members who are physically present at the meeting shall make a formal determination as to whether such extraordinary circumstances exist. If the Board determines that the circumstances justify participation by telephone, the Board member 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.

Staff members may participate by phone as requested by the City Commission without the need for a finding of "extraordinary circumstances."

Passed and duly adopted, with a quorum present and voting, this 9th day of March, 2009.

**James R. Freeman
City Clerk**