

CHAPTER 31-1

ORGANIZATION, POLICIES, AND PROCEDURES

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31-1.001 General

(1) The Loxahatchee River Environmental Control District (hereinafter called "District"), an independent special district, is a separate local agency of government created by the Florida Legislature in 1971 and is governed and operating under Chapter 2021-249, Laws of Florida, as may be amended ("Act"). The purpose of the District is to preserve public health, safety, and welfare within our service area and protect, preserve, and restore the Loxahatchee River watershed through the management of water supply, wastewater, and stormwater drainage. Section 2 of the Act states that "It is hereby declared to be the intent of the Legislature that the best interests of public health, safety and welfare of the area within the boundaries of the Loxahatchee River Environmental Control District, hereinafter created, necessitate the formation of a separate local agency of government with powers designed to meet the particular needs of said area. It is further the intent of the Legislature that such needs be met in such a way as to cause minimum damage to the area's resources and environment and prevent additional environmental problems from being created, as well as providing solutions to existing problems. Maximum use of existing systems shall be made whenever feasible and consistent with the purposes of this act. It is also the intent of the Legislature that current and long-range planning shall be carried out so that required services are made available at the lowest possible cost as the characteristics of the area change."

(2) The District is located in southeast Martin County and northeast Palm Beach County and includes the Town of Jupiter, Jupiter Inlet Colony, the Village of Tequesta, and a portion of the Town of Juno Beach.

(3) The affairs of the District are administered by a five (5) member Governing Board whose members are elected by the registered voters of the District in accordance with the Act.

(4) The existing internal organization consists of seven (7) divisions, as further described in Rule 31-1.003, in addition to the Governing Board (see Organizational Chart, which is maintained online at www.loxahatcheeriver.org). Collectively, the Governing Board serves as the Agency Head and exercises regulatory and executive powers. The Governing Board employs an Executive Director who is charged with overseeing the day-to-day activities of the District.

Specific Authority Chapter 2021-249, Laws of Florida. Law Implemented Chapter 2021-249, Laws of Florida. Preamble, Section 2, Section 3, Section 4, Section 6(1). History-New 11-12-75. Formerly 31-1.01, Amended 4-5-87, 5-15-92, 5-18-00, 9-19-2013, 5-21-2015, 7-21-2016, 10-21-21.

History Note: The District's Rules were published in the Florida Administrative Code from 1975 until 1999 under Title 31. However, since that time, the Florida Legislature has amended the APA in Chapter 99-379, Laws of Florida, effective upon becoming law, which was approved by the Governor and filed in the Office of Secretary of State on June 18, 1999. The APA section 120.52(1) added the following section under the definition of "Agency": "This definition does not include..., or any multi-county special district with a majority of its governing board comprised of elected persons;..." Thereafter, the District publishes its Rules and maintains the same Rule numbering system. See also letter from Kenneth J. Plante, Coordinator of the Joint Administrative Procedures Committee dated February 23, 2012 to the Loxahatchee River Environmental Control District, which confirmed the Loxahatchee River Environmental Control District does not fall within the definition of "agency" under section 120.52(1), Florida Statutes.

Chapter 1971-822, Laws of Florida, which created the District, was subsequently amended, and then superseded by Chapter 2002-358, Laws of Florida, which was subsequently superseded by Chapter 2021-249, Laws of Florida.

ANNOTATIONS

Jurisdiction

Public Service Commission did not have jurisdiction to grant private utility authority to operate within Loxahatchee River Environmental Control District without district's consent; district was intended by legislature to be agency responsible for deciding which private utilities could operate within its boundaries. *Loxahatchee River Environmental Control District v. Mann*, 403 So. 2d 363 (1981).

31-1.002 The Agency Head

(1) The Agency Head is collectively the five (5) member Governing Board. Among themselves, the Governing Board selects a Chair, Vice-Chair, Secretary, Treasurer, and Assistant Secretary/Treasurer annually.

(2) Section 4(1) of the Act requires the division of the District into five (5) separate areas that have approximately equal population according to the latest official decennial census. One (1) Board member shall be elected from each numbered area by the electors districtwide, and such Board member must be a resident of the area in which he or she is elected.

(3) The terms of office for Board members are as follows:

(a) Board members from areas one, two, and five are elected beginning with the 2000 General Election, in accordance with section 100.031, Florida Statutes, and shall serve four (4) year terms.

(b) Board members from areas three and four are elected beginning with the 2002 General Election, in accordance with section 100.031, Florida Statutes, and shall serve four (4) year terms.

(4) Members of the Governing Board serve with a compensation of \$100.00 per month, and they are entitled to per diem and travel expenses as provided by Section 112.061, Florida Statutes. The suite of insurance benefits available to regular, full-time employees are available to Board members. Board members must pay the same percent of premium for District-provided insurance as paid by regular, full-time employees.

(5) A quorum of not less than three (3) Board members physically present, as specified below

in (a), is required to hold a meeting and conduct business. An affirmative vote by at least three (3) Board members, in attendance as specified below in (a)-(c), is required for action of the Governing Board to be official. In the event that a Board member is required to depart a meeting prior to adjournment, and the departure causes a loss of quorum, no further official action other than adjournment may be taken unless and until a quorum is restored. Should no quorum attend within thirty (30) minutes after the hour appointed for the meeting, or upon a meeting having commenced with a quorum, which quorum shall have been lost, the Chair, then Vice Chair, then Secretary shall adjourn the meeting.

(a) **Physical Attendance.** Attendance in person is the norm.

(b) **Electronic Attendance.**

(i) Board members may attend and participate in meetings through the use of suitable technology as long as their participation is perceived as a public engagement. Any Board member attending a public meeting electronically shall be entitled to vote on any matter before the Governing Board, provided that the Board member's speech is generally audible to Board members and the public who are physically present at the meeting, and the remote Board member can hear input from Board members and public present at the meeting.

(ii) The Governing Board has decided, in good judgment, that electronic attendance serves the public interest in all cases where a Board member is unavailable to attend in person.

(iii) A Board member must notify the Executive Director in writing (e.g., email) of their desire to attend a meeting electronically. The notice shall identify the meeting the Board member cannot attend, and his or her desire to attend and participate electronically.

(c) **Communications Media Technology.** Notwithstanding above, if the Governor of Florida, by virtue of Article IV, Section 1(a) of the Florida Constitution, Chapter 252, Florida Statutes, and any other applicable laws, issues an executive order that suspends any Florida Statute or law that requires a quorum to be present in person or requires a local government body to meet at a specific public place, the District may conduct a meeting by means of communications media technology ("CMT") or to provide public access to a meeting by the use of CMT as provided below.

(i) **Definitions.**

a. "Access point" means a designated place where a person interested in attending a meeting may go for the purpose of attending the meeting.

b. "Attend" means having access to the CMT network being used to conduct a meeting, or being used to take evidence, testimony, or argument relative to issues being considered at a meeting.

c. "Communications media technology" or "CMT" means the electronic transmission of printed matter, audio, full-motion video, freeze frame video, compressed video, and digital video by any method available.

(ii) The District may conduct a meeting using CMT and may provide CMT access to a meeting for purposes of taking evidence, testimony, or argument. A meeting is not a CMT meeting merely because it is broadcast over a communications network.

(iii) Nothing in this Rule shall be construed to permit the District to conduct any

meeting otherwise subject to the provisions of Section 286.011, Florida Statutes, exclusively by means of CMT without making provision for the attendance of any member of the public who desires to attend. No meeting otherwise subject to Section 286.011, Florida Statutes, shall be conducted exclusively by means of CMT if the available technology is insufficient to permit all interested persons to attend. If during the course of a CMT meeting technical problems develop with the communications network that prevent interested persons from attending, the District shall terminate the meeting until the problems have been corrected.

(iv) When the District chooses to conduct a meeting by CMT it shall provide notice in the same manner as required for a non-CMT meeting, and shall plainly state that such meeting is to be conducted utilizing CMT and identify the specific type of CMT to be used. The notice shall describe how interested persons may attend and shall include:

- a. The address or addresses of all access points, specifically designating those which are in locations normally open to the public.
- b. The address of each access point where an interested person may go for the purpose of attending the meeting.
- c. An address, e-mail address, and telephone number where an interested person may write or call for additional information.
- d. An address, e-mail address, and designated person to whom a person may submit written or other physical evidence that he or she intends to offer into evidence during the meeting.

(v) Any evidence, testimony, and argument that is offered utilizing CMT shall be afforded equal consideration as if it were offered in person and shall be subject to the same objections. In situations where sworn testimony is required by the District, persons offering such testimony shall be responsible for making appropriate arrangements for offering sworn testimony.

(6) The Governing Board is required to cause true and accurate minutes and records to be kept of all business transacted by them and must keep full, true, and complete books of account. Said minutes, records, and books of account are at all reasonable times open and subject to the inspection of the public and any person desiring so may make or procure copies of such minutes, records, and books or of such portions thereof as may be desired. The minutes of each public meeting shall identify which of the Board members were physically present and, if applicable, which members of the Board attended electronically.

(7) In accordance with Florida Statutes, the Governing Board must adopt a budget by resolution each fiscal year (F.S. 189.016), and, at least once each year, the Governing Board must cause the books and accounts of the District to be thoroughly audited by an independent, licensed certified public accountant (F.S. 218.39).

(8) The Governing Board is required to meet at least quarterly, in a public meeting, at the call of the Chair or by written call of a quorum of three (3) Board members.

(9) In order to effectuate the purposes of the Act, the Governing Board has the power to make and enforce such rules, regulations, and policies as may be advisable as necessary.

(10) Meetings of the Governing Board shall be administered in accordance with Florida Statutes, these rules, and Robert's Rules of Order. When Robert's Rules of Order conflict with

Florida Statutes or these rules, Florida Statutes and these rules supersede Robert's Rules of Order in all cases. The Governing Board may elect to deviate from Robert's Rules of Order. Members of the public are not considered as part of the deliberate body and may not raise questions concerning the application of such rules.

(11) Section 286.0114, Florida Statutes, states the Governing Board must provide members of the public with a reasonable opportunity to be heard on a proposition before the Board; however, this does not prohibit the Governing Board from maintaining orderly conduct or proper decorum in a public meeting. The opportunity does not have to occur at the same meeting where the Governing Board takes official action on an item, whether by formal vote or other final action. The opportunity must occur at a meeting that is during the decision-making process, and the opportunity must be within a reasonable proximity in time in relation to the meeting at which the Governing Board takes official action. The Governing Board shall maintain orderly conduct and proper decorum in a public meeting, and hereby establishes these rules on the public providing testimony:

- (a) an individual has three (3) minutes to address the Governing Board, or if a person completes a "Public Comment Card" and wishes to allocate his or her time to another speaker that person may only designate one (1) minute of his or her time to the speaker's designee and as further provided in (b) below.
- (b) a designated representative of a group or faction may address the Governing Board, rather than all of the members of the group or faction, and has six (6) minutes to address the Board.
- (c) a "Public Comment Card" shall be made available for members of the public desiring to give public comment, indicating the speaker's legal name, residence address, position on a proposition, and to indicate if member of the public is making a designation of a representative speaker.

The requirement to provide a reasonable opportunity to be heard does not apply under the following circumstances:

- (a) when an official act must be taken to deal with an emergency situation affecting public health, safety or welfare, if compliance with the public comments requirement would cause an unreasonable delay in the ability of the Governing Board to act;
- (b) for an official act involving no more than a ministerial act, including but not limited to approval of minutes and ceremonial proclamations;
- (c) at a meeting during which the Governing Board is acting in a quasi-judicial capacity with respect to the rights or interests of a person; and
- (d) at a meeting that is exempt from the Sunshine or Open Meetings Law (Section 286.011, Florida Statutes).
- (e) By the Governing Board adopting these rules for public comment, the Governing Board is deemed to be acting in compliance with Section 286.0114, Florida Statutes. Any action taken by the Governing Board that is found to be in violation of the opportunity to be heard is not void as a result of the violation.
- (f) If written materials are submitted to the Governing Board, the speaker must provide at least one (1) copy to the Executive Director, who shall make copies available to the Governing Board members after the meeting.

Specific Authority Chapter 2021-249, Laws of Florida, Florida Attorney General Advisory Legal Opinion - AGO 2003-41. Law Implemented Chapter 2021-249, Section 4(1), (5), (6), (7), (8), (9), (10), Section 6(19), Section 11, Florida Statutes 286.0114 as to Public comments effective October 1, 2013. History-New 11-12-75, Formerly 31-1.02, Amended 4-5-87, 5-15-92, 5-18-00, 9-19-2013, 10-21-21, 8-20-2026.

31-1.003 General Description of Agency Organization and Operations

- (1) The Executive Director administers the affairs of the District and serves as the chief officer of all divisions. The Executive Director has authority to approve procedures to implement the Act, Rules, and policies.
- (2) Existing Staff Units of the District are as follows:
 - (a) Executive Division
 - (b) Finance & Administration Division
 - (c) Operations Division
 - (d) Information Services Division
 - (e) Engineering Division
 - (f) Legal Division
 - (g) Auditing Division
- (3) The functions, duties and responsibilities of each division are as follows:
 - (a) **Executive Division.** – This Division is managed by the Executive Director and is responsible for the daily management of the entire organization including application of the District’s Rules, policies and procedures, and management of all personnel matters. This Division is responsible for strategic and long-range facilities planning, administration of neighborhood sewerage projects, capital projects and grants, administration and coordination with legal and engineering consultants, and origination of Developer Agreements for Sewer Service and I.Q. Water Service. The Executive Division also oversees the District’s human resources, safety, and environmental education efforts.
 - (b) **Finance & Administration Division.** This Division is managed by the Director of Finance & Administration and is responsible for financial and fiscal operations including establishment of the District’s account books and records, development of the annual draft budget, procurement, plans and reports, maintenance of District records, facilitate and support the work of the Auditing Division, and general support services to the District.
 - (c) **Operations Division.** This Division is managed by the Operations Plant Manager and is responsible for the effective and efficient operation and maintenance of the District's wastewater treatment and reclamation facilities, including treatment of wastewater, production of reclaimed water, and beneficial reuse or disposal of treated wastewater.
 - (d) **Information Services Division.** This Division is managed by the Director of Information Services and is responsible for the District’s data collection and management systems including Information Technology, Customer Service, and the WildPine Laboratory. Customer Service is responsible for the collection of the District’s rates, fees, and charges. The WildPine Laboratory is responsible for assessing water quality within the wastewater treatment system and the environmental and ecological health of the

Loxahatchee River watershed. Information Technology is responsible for development, security (including aspects of physical security), maintenance, and use of computer systems, services, and networks for the processing and distribution of electronic information.

(e) **Engineering Division.** This Division is managed by the Director of Engineering and is responsible for drafting, maintaining and interpreting the District's Construction Standards and Technical Specifications. The Engineering Division is also responsible for the District's collection, transmission, and distribution systems, which collects and transmits raw wastewater and then distributes reclaimed water (i.e., treated effluent aka Irrigation Quality Water). In addition, this Division is responsible for the design, construction, inspection, and protection of the works of the District. It provides evaluation of facilities and proposes upgrades to and rehabilitation of existing District infrastructure. The Engineering Division also is responsible for the review and approval of construction plans of all wastewater collection systems within the District's service area.

(f) **Legal Division.** This Division is handled by contract and, as such, there are no in-house staff. This Division is responsible for all legal aspects of District affairs including interpreting laws and regulations, formulating legal opinions, reviewing resolutions, and providing professional consultation to the Governing Board and Divisions for all legal matters of the District.

(g) **Auditing Division.** This Division is handled by contract and, as such, there are no in-house staff. This Division is responsible for the annual auditing requirements of Chapter 2021-249 and 31-1.002(7) contained herein.

Specific Authority Chapter 2021-249, Laws of Florida. Law Implemented Chapter 2021-249, Section 5, Section 6, Section 11, Section 12. History - New 11-12-75, Formerly 31-1.03, Amended 4-5-87, 9-19-2013, 5-21-2015, 7-21-2016, 10-21-2021, 8-20-2026.

31-1.004 General Information Concerning Agency

(1) The District headquarters is located at 2500 Jupiter Park Drive, Jupiter, Florida 33458-8964 and is open for business between the hours of 8:00 a.m. and 5:00 p.m. on all weekdays, except State and Federal holidays, discretionary closings as directed by the District's Executive Director, and emergency closings.

(2) All interested persons can make requests and procure general information, rules, and regulations, and other printed material at the District office.

(3) The Governing Board normally holds business meetings during the third week of each month at the District headquarters. Public notice of these meetings must conform with Florida Statutes 50.0311 and Chapter 31-2. Copies of meeting agendas can be obtained from the District website (www.loxahatcheeriver.org), District headquarters, or by making a request to the District.

(4) The District maintains a web site www.loxahatcheeriver.org in order to provide the public with convenient and efficient access to information about District governance, divisions, programs, services, public notices, and other public information.

Specific Authority Chapter 2021-249, Laws of Florida. Law Implemented Chapter 2021-249, Special Acts of Florida, Section 4(7). History-New 11-12-75, Formerly 31-1.04, Amended 4-5-87, 5-15-92, 5-18-00, 9-19-2013, 10-21-2021, 8-20-2026.

31-1.005 Statutory Chapters and Rules

The following statutory provisions affect the operation of Loxahatchee River Environmental Control District: Chapter 2021-249, Laws of Florida, and Chapters 73, 74, 97, 98, 99, 100, 101, 102, 104, 106, 111, 112, 119, 153, 189, 218, 286, 287, and 403, Florida Statutes, and any and all other applicable laws and regulations.

Specific Authority Chapter 2021-249, Laws of Florida. Law Implemented Chapter 2021-249, Section 15. History-New 11-12-75, Formerly 31-1.05, Amended 5-15-92, 9-19-2013, 10-21-2021.

31-1.006 Public Information and Inspection of Records

All public records of the District shall be available for public inspection pursuant to Chapter 119, Florida Statutes, except those specifically exempted by Florida Statutes. Any person wishing to examine public records of the District may do so during normal business hours at the headquarters as provided in 31-1.004(1).

Specific Authority Chapter 2021-249, Laws of Florida. Law Implemented Chapter 119, Florida Statutes. History-New 11-12-75, Formerly 31-1.06, Amended 9-19-2013, 10-21-2021.

31-1.007 Public Access to Agency

All meetings and workshops shall be held in accordance with Section 286.011, Florida Statutes, and all public hearings shall be open for public access.

Specific Authority Chapter 2021-249, Laws of Florida. Law Implemented Chapter 286, Florida Statutes. History-New 11-12-75, Formerly 31-1.07, Amended 9-19-2013, 10-21-21.

31-1.008 Quasi- Judicial Hearing Procedures.

(1) Scope and Applicability. The procedures set forth herein shall apply to all quasi-judicial hearings¹ (hereinafter “Hearing”), held by the Governing Board of the District.

(2) Administration Order. Matters that do not involve a Notice of Violation (defined herein below), but rather involve requests for approval, shall be classified either as an “Administration Order” or as a “Board Order”. The Executive Director of the District shall determine if a matter has received a final “Administration Order”, and is ripe for consideration by the Governing Board.

(3) Board Order. A “Board Order” is defined as a matter decided by a vote of the Governing Board at a Board meeting not conducted as a Hearing. A “Petitioner” who has legal standing to appeal the Board Order shall Petition the Governing Board, in writing, within the appropriate statute of limitations period according to Florida Statutes, to conduct a Hearing as to the matters contained in the Board Order.

(4) Notice of Violation. For matters that involve a violation of the District’s Act, District Rules, District Policies, District Procedures, Administration Order, or Board Order (hereinafter “Violation”), a written Notice of Violation shall state if the Violation is not corrected by a certain

¹ See *Anoll v. Pomerance*, 363 So.2d 329, 331 (Fla. 1978)(“...a judgment becomes judicial or quasi-judicial, as distinguished from executive, when notice and hearing are required and the judgment of the board is contingent on the showing made at the hearing”).

date, that a Notice of Hearing may be issued, or the Notice of Violation may contain the Notice of Hearing. A Hearing shall be conducted subsequent to written issuance of a Notice of Hearing and subsections (5)-(11) shall apply.

(5) **Petition Requirements.** A party that receives a Notice of Violation may submit a petition requesting a Hearing (hereinafter “Petition”) to the District within the appropriate statute of limitations period according to Florida Statutes.

(a) The District’s hours of operation and address for its Headquarters are provided for in Rule 31-1.004(1). Any Petition to be filed with the District will be accepted during these hours. Any Petition required to be filed with the District may be filed by hand delivery, or U.S. Mail or other delivery service addressed and sent or delivered to the District Executive Director at the District’s Headquarters. The District does not accept legal filings by electronic mail or facsimile. Any document received by the District after 5 p.m. shall be filed as of 8:30 a.m. on the next regular business day.

(b) All petitions filed under this Rule shall contain:

(i) The name, address, any e-mail address, and telephone number of the Petitioner, if the Petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the Petitioner’s representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the Petitioner’s substantial interests will be affected by the agency determination;

(ii) A statement of when and how the Petitioner received the Notice of Violation;

(iii) A statement of all material fact. If there are none, the Petition must so indicate;

(iv) A concise statement of the ultimate facts alleged, including the specific facts the Petitioner contends warrant reversal or modification of the Violation;

(v) A statement of the specific District Act, Rules, Policies, Procedures, Administration Order, or Board Order that Petitioner contends require reversal or modification of the District’s Violation, including an explanation of how the alleged facts relate to the specific District Act, Rules, Policies, Procedures, Administration Order, or Board Order; and

(vi) A statement of the relief sought by the Petitioner, stating precisely the action Petitioner wishes the District to take with respect to the agency’s proposed action.

(6) **Notice of Hearing.** The Petition shall be placed on the agenda for a Board meeting that is not less than twenty (20) days after the Petition is received by the District. The Petitioner shall be provided with a written Notice of Hearing at least fifteen (15) days prior to the Hearing date, which shall include the date, time, and place of the Hearing. The Notice of Hearing shall also state that if the Petitioner decides to appeal any decision made by the Governing Board, with respect to any matter considered at such Hearing, the Petitioner will need a record of the proceedings and that, for such purpose, the Petitioner may need to ensure that a verbatim record of the proceedings is

made, which record includes the testimony and evidence upon which the appeal is to be based.² The Governing Board shall also provide reasonable notice to the public of the Hearing.³

(7) **Proceedings.** Hearings shall be conducted informally, but with decorum. Formal rules of civil procedure shall not apply, except as set forth herein. However, procedural due process considerations shall be afforded at all times. There shall be at least two (2) attorneys present at the Hearing; one as the Advising attorney who shall advise the Governing Board (hereinafter “Advising Attorney”) and a second as the Prosecuting attorney (hereinafter “Prosecuting Attorney”) to prosecute the matter on behalf of the District. Petitioner shall be afforded a fair Hearing with an opportunity to be heard, whether or not Petitioner decides to have legal counsel present at the Hearing.

(8) **Witnesses and Supporting Materials.** At least eight (8) days prior to the Hearing:

(a) The Prosecuting Attorney shall submit to Petitioner, and Petitioner shall submit to the Prosecuting Attorney, an outline of the argument(s) in support of their respective positions, copies of all documents that will be presented at the Hearing, and the names and addresses of all the witnesses (if any) who will be called to testify in support of the respective parties’ position. If either party intends to qualify any witnesses as an expert, that party may also provide the resume for any such expert witness.

(b) The eight (8) day deadline is necessary to ensure both parties are given sufficient notice and opportunity to review the submissions prior to the Hearing and shall be strictly observed. Should the eight (8) day deadline be missed by either party, the party that did not miss the deadline may elect upon written notice to the other party of not less than three

(c) business days before the scheduled Hearing to either (i) reschedule the Hearing to the next available agenda, or (ii) proceed with the scheduled Hearing.

(9) **Conduct of Hearing.**

(a) The Advising Attorney shall call the proceeding to order, announce that the Hearing has begun, and take roll call of the Board members presiding.

(b) The Advising Attorney shall explain the rules concerning procedure, testimony, and consideration of evidence.

(c) The Advising Attorney shall swear in all witnesses (if any) who are to testify at the Hearing.

(d) Petitioner, or Petitioner’s representative or counsel, shall describe Petitioner’s position on the matter, introduce and review all relevant documents and evidence, present witnesses

² See Fla. Stat. 286.0105.

³ Fla. Stat. Ch. 286.011(1) provides that the Board must provide ‘reasonable notice of all such meetings’. Fla. Stat. Ch. 189.417(1) provides guidance for what constitutes ‘reasonable notice’ when discussing notice requirements for independent special district meetings: “The governing body of an independent special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, *at least 7 days prior to such meeting*, in a newspaper of general paid circulation in the county or counties in which the special district is located, unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the board.” [emphasis added]

in support of Petitioner's position (if any), which witnesses are subject to cross examination by the Prosecuting Attorney, and answer any questions from the Board members.

(e) The Prosecuting Attorney shall describe the District's position on the matter, introduce and review all relevant documents and evidence, present witnesses in support of the District's position (if any), which witnesses are subject to cross examination by the Petitioner's attorney, or the Petitioner or Petitioner's representative if not represented by an attorney, and answer any questions from the Board members related to matters about which the witness testified.

(f) After each witness testifies (if any), the Petitioner, or Petitioner's representative or counsel, or the Prosecuting Attorney, shall be permitted to cross-examine the witness, and such cross-examination shall be limited to matters about which the witness testified.

(g) All evidence shall be considered whether or not such evidence would be admissible in a court of law in Florida.

(h) Petitioner, or Petitioner's representative or counsel, may make final comments and closing remarks, and may submit a proposed Final Order to the Governing Board, if any.

(i) The Prosecuting Attorney may make final comments and closing remarks and may submit a proposed Final Order to the Governing Board, if any.

(j) The Governing Board may conduct open deliberations, which coupled with the facts considered during the Hearing, be sufficient to inform the parties of all the facts upon which the Governing Board acts.⁴ A vote of the Board members present shall be taken, which decision shall be reduced to writing in a Final Order to be signed by the Board and dated within five (5) business days of the Hearing.

(k) The Final Order shall be sent to Petitioner by Certified Mail Return Receipt Requested, or by courier with receipt for delivery.

(l) The Petitioner may appeal the Final Order to the Circuit Court of the County in which the property associated with the Violation is located, that is the subject of the Final Order, within thirty (30) days after the date of the Final Order.

(10) **Transcript of Hearing.** Petitioner may arrange for a court reporter to attend and transcribe the Hearing, at the expense of the Petitioner. Similarly, the District may arrange for a court reporter to attend and transcribe the Hearing, at the expense of the District. Each party shall be responsible for the cost of obtaining a copy of the transcription.⁵

(11) **Failure of Petitioner to Appear.** If Petitioner, or Petitioner's representative or counsel, fails to appear at the time fixed for the Hearing, and such absence is not excused: (i) if the Hearing is based upon Petitioner's Petition, the Board shall issue an Order dismissing the Petitioner's Petition; or (ii) if the Hearing is based on a Notice of Violation, the Board shall issue a Final Order.

Specific Authority Chapter 2021-249, Laws of Florida. Law Implemented Chapter 2021-249, Special Acts of Florida, Section 6. History- New 9-19-2013, Amended 10-21-2021.

⁴ See *Generally Jennings v. Dade County*, 589 So.2d 1337 (Fla. 3rd DCA 1991).

⁵ See Fla. Stat. 286.011(2).