

RESOLUTION NO. 2022 - 167

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA CREATING AND ESTABLISHING THE AMPHITHEATRE & CONCERT HALL ADVISORY COMMITTEE; ADOPTING BYLAWS FOR THE AMPHITHEATRE & CONCERT HALL ADVISORY COMMITTEE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 19, 2022, the Board of County Commissioners expressed desire to create and establish a temporary five-member advisory committee consisting of business/finance professionals in order to provide insight on the optimum operation of the St. Augustine Amphitheatre and Ponte Vedra Concert Hall; and

WHEREAS, the Amphitheatre & Concert Hall Advisory Committee will be an advisory board to the Board of County Commissioners of St. Johns County created to provide new ideas, suggest changes, enhancements of programs, explore alternate organizational options, and assist in ensuring adequate operation of the facilities for the residents and visitors of St. Johns County while achieving maximum economic advantages and remaining accountable to the tax payers of St. Johns County; and

WHEREAS, the Board of County Commissioners, at its discretion and as it deems appropriate or desirable, is authorized to adopt, amend, abolish, or otherwise change the rules and directives under which the Amphitheatre & Concert Hall Advisory Committee operates; and

WHEREAS, at this time, the Board of County Commissioners wishes to adopt the attached bylaws in order to further the efficient and organized governance of the Amphitheatre & Concert Hall Advisory Committee.

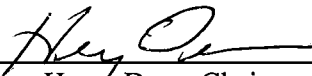
NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County:

1. The above recitals are hereby adopted as legislative findings of fact.
2. St. Johns County hereby creates and establishes the Amphitheatre & Concert Hall Advisory Committee to exist and serve as an advisory body, at the discretion, pleasure and direction of the Board of County Commissioners.
3. The Board of County Commissioners approves the Amphitheatre & Concert Hall Advisory Committee bylaws, which are attached hereto, and incorporated herein as an Exhibit to this Resolution.
4. As the Amphitheatre & Concert Hall Advisory Committee is a temporary committee, the Board of County Commissioners waives the requirements in the Rules and Policies of the St. Johns County Board of County Commissioners Chapter 2 on Committees; this temporary Committee shall be governed by the By Laws adopted in this Resolution. Should the Committee last more than two years the Committee shall be sunset without the passage of amended By Laws and the Committee coming into full compliance with Chapter 2 of the Rules and Policies of the St. Johns County Board of County Commissioners.


5. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners.
6. This resolution shall be effective upon its adoption by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 17th day of May, 2022.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

BY: 
Henry Dean, Chair

ATTEST: Brandon J. Patty, Clerk of the Circuit Court and Comptroller

By: 
Deputy Clerk

Rendition Date 5/19/22



Bylaws of the Amphitheatre & Concert Hall Advisory Committee

Created:

Revised:

ARTICLE I

PURPOSE

The purpose of the Amphitheatre & Concert Hall Advisory Committee is to provide new ideas, suggest changes, enhancements of programs, explore alternate organizational options, and assist in ensuring adequate operation of the facilities for the residents and visitors of St. Johns County while achieving maximum economic advantages and remaining accountable to the tax payers of Saint Johns County. The Amphitheatre & Concert Hall Advisory Committee's primary responsibility is to serve in an advisory capacity to the Board of County Commissioners.

ARTICLE II
MEMBERSHIP

Establishment. The Amphitheatre & Concert Hall Advisory Committee shall consist of five (5) regular members. Each Commissioner of the Board of County Commissioners shall appoint one of the members of the Amphitheatre & Concert Hall Advisory Committee. Members shall serve at the pleasure of the Board of their County Commissioner and may be removed at any time without cause.

Membership Requirements.

- a. All members must be St. Johns County residents.
- b. One member shall be chosen by each member of the Board of County Commissioners of St. Johns County. The County Commission shall then appoint the five (5) chosen members to the Amphitheatre & Concert Hall Advisory Committee.
- c. Commissioners shall heavily weigh in their appointment experience and expertise in business and finance when possible.

Initial Term.

The initial appointee Members shall be appointed to a (2) year term. Should this Committee exist longer than two (2) years, this Committee shall draft revised By Laws for the Committee and submit them to the County Commission for the County Commission to amend and approve.

Regular Members

Regular members shall be those appointed to such position by the Board of County Commissioners and shall meet the attendance requirements as below. Regular members shall have full voting rights and privileges provided all fully executed appointment documents have been filed.

Subject to ethics, Government in the Sunshine, and Public Records Laws

The Amphitheatre & Concert Hall Advisory Committee is an appointed board subject to the State of Florida ethics laws, chapter 112, the Government in the Sunshine Laws, chapter 286, and the Public Records Laws, chapter 119. Members shall be provided with a copy or summary of Chapters 112, 119 and 286, Florida Statutes. Training may be provided by the County Attorney's Office.

ARTICLE III
ORGANIZATION

Officers. The Amphitheatre & Concert Hall Advisory Committee shall elect a Chair and a Vice-Chair, each of whom shall serve for one (1) year and until a successor is chosen, unless otherwise provided for, with respect to a particular Board/Committee. Staff support will notify County Commission Office annually of the names of members who serve as officers. The Chair and Vice-Chair serve at the pleasure of the majority of the Committee and may be removed and replaced at the pleasure of a majority of the full membership of the Committee.

Method of Election. The Chair and Vice Chair shall be elected one at a time beginning with the Chair. The vote will be viva voce for each office and the nomination serves as a motion. The nomination must be seconded. The different names shall be repeated by the outgoing or acting Chair as they are moved and seconded. The vote shall be taken after the Chair declares that nominations are closed and shall be taken on each nominee in the order in which they were nominated until one is elected by a majority of the votes.

Duties and Authority of the Chair. The Chair shall be the presiding officer of the Committee and shall take the Chair at every meeting precisely at the time for the meeting to begin, immediately call the Board to order, call the roll on the appearance of a quorum, and proceed to the business of the Committee. The Chair shall sign all orders and written determinations approved by the Committee. The chair shall be responsible for the proper execution of these bylaws and the orderly proceeding of the meeting.

Duties and Authority of the Vice-Chair. The Vice-Chair shall, in the absence, disability, or conflict of the Chair, be the presiding officer of the Committee and exercise such administrative powers vested in the Chair.

Minutes. Minutes will be taken and maintained by a County staff member, be it the Staff Support person or staff designated as recording secretary for the purpose of the meeting. Copies of minutes will be made available as requested.

Staff and Administrative Support. A County employee shall be appointed by the County Administrator to serve as Staff Support for each Committee appointed by the Board of County Commissioners. The Staff Support will be assigned to monitor activities, serve as liaison, and promote communication. The Staff Support may prepare Agendas and present items and applications for determination by the Committee. The Staff Support may receive authorization to sign an order or written determination previously authorized by the Amphitheatre & Concert Hall Advisory Committee.

Legal Assistance. Legal advice will be provided by the County Attorney's Office as reasonably requested, and approved by the Board of County Commissioners. At the request of the Board/Committee, the County Attorney's Office may provide information and training on ethics, the Government in the Sunshine law, the Public Records law, and procedural duties.

Annual Reports. The Amphitheatre & Concert Hall Advisory Committee must submit an Annual Report to the Board of County Commissioners by April 1st indicating its activities and accomplishments for the previous calendar year. The report should include the mission statement of the Board/Committee, projections for the current calendar year and any other relevant information, such as the proposed budget.

ARTICLE IV

MEETINGS

Meeting Schedule. The Amphitheatre & Concert Hall Advisory Committee shall hold regular monthly meetings. The Board may meet more frequently if needed or may meet on an alternate day. The Amphitheatre & Concert Hall Advisory Committee shall meet at least annually.

Agenda. The Staff Support is to prepare an agenda for all Committee meetings and workshops in accordance with board instructions. Items on the Agenda shall be reasonably noticed.

Quorum. A majority of the membership of the Committee shall constitute a quorum for the purpose of meetings and transacting business. The physical presence of three (3) members shall constitute a quorum.

If a quorum cannot be met, all non-time-sensitive items on the agenda shall be continued to the next scheduled Amphitheatre & Concert Hall Advisory Committee meeting. If there are time-sensitive items on the agenda, a special meeting will be scheduled as soon as reasonably practicable to hear those items. Reasonable notice for any special meeting shall be provided in the same manner as for regularly scheduled Amphitheatre & Concert Hall Advisory Committee meetings in compliance with the requirements of Government in the Sunshine.

Attendance. If any appointed member of the Committee fails to attend three (3) consecutive regularly scheduled meetings or five (5) of twelve (12) regular or special meetings or workshops of the Committee, the Board shall declare the member's office vacant and the vacancy shall be filled.

If the Committee meets twice a month on a regular basis, the attendance threshold shall be six (6) consecutive regularly scheduled meetings or ten (10) of twenty-four (24) regular or special meetings or workshops of the Committee. Staff shall maintain a record of absences and enforce the attendance policy.

Rules of Decorum and Civility. It shall be the responsibility of the Chair, or in the Chair's absence, the Vice-Chair, to promote and preserve order and decorum. Members shall neither by conversation nor otherwise delay or interrupt the proceedings or peace of the Committee nor disturb any member while speaking or refuse to obey the orders of the Committee or its Chair.

Public Comment. Members of the public shall be given a reasonable opportunity to be heard on a proposition before the Committee, prior to any official action. Additionally members of the public shall be given an opportunity to be heard on items not appearing in the agenda and which reasonably may need the attention of the Committee. No person shall address the Committee unless permitted by the Chair. Each person addressing the Committee shall limit comments to three (3) minutes, unless extended by the Chair for good cause. Public Comment shall not require an immediate response by any member of the board.

Board Member to Vote. Florida Statutes, Section 112.311 through 112.326 sets forth a code of ethics for public officers and employees. A Committee member may not abstain from voting unless there is, or appears to be, a possible conflict of interest under Florida Statutes sections 112.311, 112.313 or 112.3143. A Committee member may not participate in any matter which would inure to the member's special private gain or loss, knows would inure to the special private gain or loss of any principal, or inures to the special private gain or loss of a relative or business associate, without first disclosing the nature of the interest. In a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice.

Voting. Action by the Committee shall be by motion nominated and seconded. Approval of the motion shall be by majority vote of those members present. Failure to receive a majority vote shall act as a denial of the proposed motion.

ARTICLE V

AMENDMENTS. SUSPENSION. INTERPRETATION

Proposal. Any member of the Amphitheatre & Concert Hall Advisory Committee or the Board of County Commissioners may propose amendments to these bylaws. Bylaws may be amended by resolution accepted and approved by Board of County Commissioners.

Suspension. A motion to suspend any provision of these rules may be made by any County Commissioner. A suspension is a non-debatable motion. These bylaws may only be suspended by a majority plus one of the Commissioners present. Once suspended, the rules remain suspended only for the time indicated in the motion.

No invalidation. These bylaws are for the efficient operation of the Committee. Non-compliance of any particular Rule shall not independently be grounds for the invalidation of any Committee action.

Conflict: In the event of a conflict between the by-laws and Section 2 of the Boards Rules and Policies, the by-laws shall prevail unless approved by a super majority vote of the Board of County Commissioners.

SUPPORTING DOCUMENTATION

Advisory Boards and Dual Office Holding

Article 2, Section 5(a) of the Florida Constitution contains the following prohibition on dual office holding:

No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, taxation and budget reform commission, constitutional convention, or statutory body having only advisory powers. (Emphasis added)

For the purpose of the County's appointed boards and committees, the final exception will be relevant in determining whether a member may serve on multiple bodies. If the board/ committee is a statutory body having only advisory powers, then service on multiple boards may be permitted without violating the constitutional dual office holding prohibition. If the board is not a statutory body having only advisory powers, then service on multiple boards will not be permitted.

What constitutes a statutory body having only advisory powers? The exception has two components to it: First, is the board a statutory body? Second, does the board have only advisory powers? Attorney General Opinion 2008-15 provides guidance in determining whether a body falls within this exception. With respect to whether a board is a statutory body, the opinion states:

The term "statutory" is defined to mean "[o]f or relating to legislation," and "enacted, created, or regulated by statute." These definitions do not limit "statutes" to legislation enacted solely by the State Legislature, but appear to include within the scope of the term enactments by other lawmaking bodies such as municipalities and counties. Thus, it would appear that a county advisory board could be considered a "statutory body having only advisory powers" within the constitutional exception if it has been created by legislative enactment of the governing body. . . . [T]his office would read the term "statutory" for purposes of the constitutional dual office-holding prohibition to include advisory bodies created by local legislative enactment.

The Attorney General concluded that two boards created by resolution of the Brevard County Board of County Commissioners were statutory bodies because they were created by formal legislative action. With respect to whether a body has only advisory powers, the Attorney General referred back to Attorney General Opinion 2005-59, which stated: "In situations where a committee merely makes non-binding recommendations and has not otherwise been delegated any powers to make factual determinations or exercise any portion of the municipality's sovereign power, there would not appear to be an office subject to the dual office holding prohibition." Based on these opinions, any body created by ordinance or resolution of the Board of County Commissioners may be considered a statutory body for the purposes of the constitutional exception. Such a body is advisory when its duties are ministerial or advisory in nature. A body that has the ability to exercise its discretion in order to make binding decisions is not an advisory body.

In light of the above analysis, the following County appointed boards and committees may be considered statutory bodies having only advisory powers. Membership on these bodies would not trigger the dual office holding prohibition.

- Affordable Housing Advisory Committee
- Health and Human Services Advisory Board
- LAMP
 - Library Advisory Board
- Northwest Communication Tower Advisory Board
- Amphitheatre & Concert Hall Advisory Committee

The following County appointed boards and committees are not statutory bodies having only advisory powers. Membership on these bodies triggers the dual office holding prohibition.

- Adjustment Appeals Board
- Architectural Review Committee
- Arts, Culture & Heritage Funding Panel
- Citizens Flood Mitigation Advisory Committee
- Contractors Review Board
- Cultural Resources Review Board
- Design Review Boards (all)
 - Educational Facilities Authority
- Fire Code Board of Appeals
- Housing Finance Authority
- Industrial Development Authority
- Planning and Zoning Agency
- Ponte Vedra Zoning and Adjustment Board
- Recreation Advisory Board
 - A search of County ordinances and resolutions has not turned up any official legislative action formally establishing this board. It is therefore not a statutory body and does not fall within the exemption.
- Tourist Development Council
- Value Adjustment Board
- West Augustine Nuisance Abatement Board