

RESOLUTION R-94-246 (UCAP)

A RESOLUTION OF THE MANATEE COUNTY UNLICENSED CONSTRUCTION ACTIVITIES PANEL; ESTABLISHING CERTAIN RULES AND PROCEDURES FOR THE MANATEE COUNTY UNLICENSED CONSTRUCTION ACTIVITIES PANEL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Manatee County Unlicensed Construction Activities Panel (UCAP) is empowered under Manatee County Ordinance 94-34 to adopt its own rules of procedure; and

WHEREAS, UCAP has decided to adopt rules of procedure to hold meetings, do business, and to further protect the health, safety and welfare of the citizens of Manatee County; and

WHEREAS, UCAP has prepared these rules in an attempt to encourage public participation during public hearings to the full extent allowed by law; and within the confines of the law, the Trades Board intends its meetings and hearings to be informal and not intimidating for the public, while recognizing the need for certain structure to maintain orderly meetings.

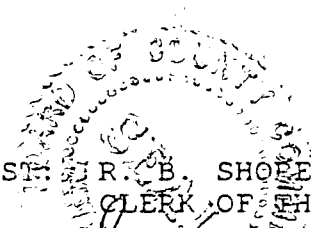
NOW, THEREFORE, BE IT RESOLVED BY THE MANATEE COUNTY UNLICENSED CONSTRUCTION ACTIVITIES PANEL, THAT:

1. The Rules of Procedure, attached hereto as Exhibit "A" and incorporated herein by reference for UCAP meetings, are hereby adopted.

ADOPTED in open session with a quorum present and voting this 10th day of October, 1994. This Resolution shall become effective immediately upon adoption.

MANATEE COUNTY UNLICENSED CONSTRUCTION ACTIVITIES PANEL

By: David Tubel
Chairman

ATTEST:  R. B. SHORE
CLERK OF THE CIRCUIT COURT

By: Susan P. Pomine
D.C.

EXHIBIT "A"

**PROCEDURES FOR THE MANATEE COUNTY
UNLICENSED CONSTRUCTION ACTIVITIES PANEL**

I. OFFICIAL UNLICENSED CONSTRUCTION ACTIVITIES PANEL

- A. Matters for Unlicensed Construction Activities Panel Consideration. Any matters which relate to the duties of the Unlicensed Construction Activities Panel, to the authorities and powers given to it under Ordinance 94-34 and other applicable law may be brought before UCAP for appropriate consideration or action.
- B. These procedures shall apply to the Unlicensed Construction Activities Panel, herein also referred to as "UCAP."

II. CONSTRUCTION TRADES BOARD

- A. Election of Officers. UCAP shall elect a Chairman, a First Vice-Chairman and a Second Vice-Chairman at the first regular meeting held each calendar year. Officers shall hold office until a successor is elected, unless removed from such office by a majority vote of UCAP prior thereto, or unless the officer's term of office as a UCAP Member ceases for any reason.
- B. Assignment of Duties. The Chairman shall have the authority to assign honorary and administrative duties to other members of UCAP.
- C. Quorum and Officers. A quorum exists when three (3) members of UCAP are present. In the absence of the Chairman, the Vice-Chairman shall have all duties and authority of the Chairman. In the absence of both the Chairman and Vice-Chairman, the Second Vice-Chairman shall have all duties and authority of the Chairman until the return of a higher ranking officer. In the absence of any elected officers at the time scheduled for the opening of a public meeting or workshop, the first member who notifies the Clerk of the member's intention to preside over the meeting shall have all the duties and authority of the Chairman until the return of a UCAP officer. In the absence of a quorum, those members assembled, including a single member of UCAP if only one member should be present, may:
1. Take measures to obtain a quorum;
 2. Fix the time to adjourn or take a recess; and

3. Continue a hearing on any scheduled matter to a time and date certain, but no longer than thirty-one (31) working days later than the originally scheduled meeting, unless such requirement is waived by the respondent.

In the absence of a quorum, the provisions of Section IV shall not be applicable and staff reports shall not be provided, public comments shall not be solicited, and only discussion related to those actions authorized hereunder shall be permitted.

D. Vacancy in Office.

1. Upon occurrence of a permanent vacancy or inability to serve in the position of Chairman, the following shall occur:
 - a. The First Vice-Chairman shall automatically succeed in the Chairmanship for the remainder of the term of office thereof;
 - b. The Second Vice-Chairman shall automatically succeed to the First Vice-Chairmanship for the remainder of the term of office thereof;
 - c. UCAP shall, at the first regularly scheduled meeting at which the existence of the vacancy is known, elect a new Second Vice-Chairman.
2. Upon occurrence of a permanent vacancy or inability to serve in the position of Vice-Chairman, to which he has been elected, the next highest ranking official shall automatically succeed to fill the existing vacancy for the term of office thereof and the procedures established in Paragraph II.D.1.c above shall be followed.

III. MEETINGS.

- A. Types of Meetings. UCAP shall have the authority to hold the following types of meetings:
 1. Regular Meetings. UCAP shall hold regular meetings on the second Monday of each month. Regular meetings shall commence at 1:00 p.m. and shall be held in such place as may be designated. Any regular meeting may be held earlier, rescheduled, postponed or canceled by the Chairman of UCAP, the Building Official or their designees.
 2. Special Meetings. A special meeting of UCAP may be called by the Chairman of UCAP, by the Board of County Commissioners or by the Building Official,

or his designee, as necessary. Whenever a special meeting is called, a written notice shall be given by the person calling the meeting to the Board of County Commissioners, the members of UCAP, the Clerk, the County Attorney, the Building Official, or any persons entitled, as a matter of law, to written notice, and the press, stating the date, hour and place of the meeting and the purpose(s) for which the meeting is called. Twenty-four (24) hours must elapse between the time the meeting is called and the time the meeting is to be held. The minutes of the special meeting shall show the manner and method of notice.

3. Workshops. UCAP may hold workshops from time to time for consideration of matters which are not ready for UCAP action. No formal action may be taken at workshops. Notice of workshops shall be posted at the Planning, Permitting and Inspections Department.

B. Conduct of Meetings. All meetings shall be open to the public. The Clerk will administer oaths. The order of business shall be as follows:

1. Pledge of Allegiance to the Flag.
2. Roll call and declaration of a quorum.
3. Approval of minutes of previous meeting.
4. Swearing in of potential witnesses.
5. Reports on cases awaiting decisions and other unfinished business.
6. Hearing new cases.
7. Other new business.
8. Reports and requests by Planning staff.

C. Preparation of Agenda.

1. Building Official. The Building Official, or his designee, shall prepare the agendas and assemble the accompanying back-up or background information for UCAP meetings. Except as stated below, no item may be added to the agenda without the approval of the Building Official, or designee.

The agenda will be made available to the public at the Planning, Permitting & Inspections Department

in sufficient time for citizens to review the materials prior to the meeting.

2. UCAP. UCAP may have an item placed on its agenda for the next scheduled UCAP meeting at which the item can be considered consistent with all applicable notice requirements. Matters that do not require published notice may, with the consent of the majority of UCAP members, be considered and acted upon at any UCAP meeting.

IV. CONDUCT AT MEETINGS.

- A. Generally. The business of UCAP shall be taken up in accordance with the agenda prepared for the meeting. The Chair, at the Chair's option, may take business out of order if he determines that such a change in the agenda's schedule will expedite the business of UCAP.

All meetings of UCAP and its committees shall be public meetings, and no business shall be transacted except in compliance with the Florida Government-In-The-Sunshine Law.

In the case of delays caused by reasons other than lack of a quorum, the meeting should be rescheduled to the next appropriate UCAP meeting. The Building Official shall notify all UCAP members of the date of the continued meeting.

B. Rules of Debate.

1. Question Under Consideration. When a motion is presented and seconded, it is under consideration and no other motion shall be received thereafter, except to amend, to substitute, to adjourn, to lay on the table (i.e., to postpone indefinitely), to defer to a date uncertain (i.e., to postpone until the occurrence of an independent event which will definitely occur at an unknown time), or to continue to a date certain until the question is decided. These types of motions shall have preference in the order in which they are mentioned above and motions to adjourn or to lay on the table shall be decided without debate. Final action upon a pending matter may be continued until a date certain or deferred to a date to be scheduled by the Building Official, or the Building Official's designee, upon the vote of the majority of the members present.
2. Chairmanship. The Chairman may second any motion, or after relinquishing the chair, may make any motion. The Chairman shall not resume the chair

until after UCAP has acted upon the matter under consideration when he or she relinquished the chair.

3. Discussion. Every member desiring to speak for a purpose shall address the presiding officer, and upon recognition, shall confine himself to the question under debate.
4. Interruption. A member, once recognized, shall not be interrupted when speaking, unless it is to call him to order or as herein otherwise provided. If a member, while speaking, is called to order, or if a question of person privilege is raised, the member who had the floor shall cease speaking until the question of order or privilege is determined by the presiding officer, and if in order, he shall thereafter be permitted to proceed. The ruling of the presiding officer on the point of order can only be overturned by a majority vote of UCAP present. A question of privilege for purposes of this Resolution is defined as a pressing situation affecting a right or privilege of UCAP or an individual UCAP member which permits interruption of pending business to state an urgent request or motion. Examples are the need to deal with disruptive noise, inadequate ventilation, or introduction of a legally confidential subject in the presence of those not entitled to knowledge thereof.
5. Public and Staff Comment. A member of County staff who addresses UCAP shall first identify himself for the record and shall utilize the speaker's lectern or microphones made available so as to allow his comments to be recorded. Each other person who addresses UCAP shall speak from the speaker's lectern and shall provide his name, address and whether he speaks for himself, a group of persons or a third party. The Chairman may set reasonable time limitations on presentations to UCAP and may restrict irrelevant comments.
 - a. Hearings regarding unlicensed persons engaging in contracting activities.
 - (1) UCAP shall allow staff and other comments in licensing hearings as follows:
 - (a) Initial Presentation by Staff. County staff shall make the initial presentation to UCAP regarding any item under consideration. Staff may present relevant evidence and

witness testimony. UCAP and the Respondent may make inquiries of staff and staff's witnesses at this time.

- (b) Respondent's Presentation. After staff presentation, the Respondent shall be allowed to make a presentation to UCAP. The Respondent may present relevant evidence and witness testimony. UCAP and staff may make inquiries of the Respondent and the Respondent's witnesses.
- (c) Comments by Others. After presentation by the Respondent, UCAP may allow others to speak to the matter if such comment would be relevant to the application under consideration. At the conclusion of each person's comments, UCAP, Staff or the Respondent may make inquiries of the person speaking.
- (d) Staff Summary and Response. After the Respondent's presentation and comment by others, if any, the staff shall be allowed an opportunity for response to the presentations by the Respondent and comment by others, if any, and a summary with any changes in position after consideration of relevant comments. Anyone who believes that the staff response includes errors of fact may ask for and may be allowed an opportunity to point out such errors of fact.
- (e) Respondent's Rebuttal.
 - 1) After staff response, the Respondent shall be allowed an opportunity for uninterrupted rebuttal with the time limit therefor to be five (5) minutes unless otherwise set by UCAP. Rebuttal shall not raise new issues or facts to the hearing.
 - 2) Anyone who believes that the Rebuttal Presentation includes an error of fact may ask for and may be allowed an

opportunity to point out such error of fact.

(f) Closing of Comment. The Chair shall close the hearing portion of the meeting on that item upon the conclusion of the last appropriate speaker's comments or the expiration of the allowed speaking times as set forth above. No additional comments shall be allowed, except in specific response to questions by members of UCAP or if an extension of time for comment is approved as set forth above.

b. Other Hearings. After staff presentation, each person speaking before UCAP shall be allowed a maximum of five (5) minutes to make comments regarding any matter before UCAP only if the Chair allows comments on a matter not part of a public hearing. Extension of time for public remarks may be extended upon a majority vote of UCAP; however, such extension shall be established for a specific time period.

c. Workshops. If appropriate, UCAP may establish time limits for persons speaking at workshops, if the Chair allows comments on the matter.

6. Termination of Presentation. At any UCAP proceeding, the Chair, unless overruled by a majority of UCAP members present, may restrict or terminate presentations or exclude evidence which in the Chairman's judgment are frivolous, unduly repetitive or out of order.

7. Written Comments. Anyone interested in any matter under consideration by UCAP shall be entitled to submit written comments for consideration by UCAP. Written comments submitted shall be considered and entered into the record of the meeting in accordance with the provisions of Section VI.B. herein.

C. Voting and Reconsideration.

1. Voting.

a. Time. Unless otherwise provided by law, ordinance or statute, when UCAP has finished discussion and is ready to vote a question, the Chair shall call for the vote, and, except

as provided in Paragraph IV.C.2 below, there shall be no further discussion by any member voting.

- b. Number of Votes. A vote of a simple majority of UCAP present shall be required to take action, provided, however that a vote of not less than a simple majority of the entire UCAP is required to discipline or penalize any Respondent. Each member shall vote aye or nay and silence shall be considered an "aye" vote. When a matter is brought up for a motion to approve it, and said motion fails, the status quo ante shall be maintained and the matter shall be considered denied. Such a vote shall not preclude a subsequent motion at the same meeting. The vote upon any question shall be by voice vote unless the Chair or any UCAP member requests a roll call vote to be taken. After the vote, any member may give a brief statement to explain his vote, and such explanation should be consistent with the vote registered. A member shall have the privilege of filing with the Secretary a written explanation of his vote.
2. Preparation or Modification of Motions. Prior to a vote on any matter, a UCAP member may move to direct staff to prepare or modify the motion during a recess called for that purpose. Alternatively, if advisable in the discretion of UCAP, the public comments portion of the public hearing, if applicable, may be closed and brought back to UCAP for motion and vote at a subsequent meeting of UCAP. The County Attorney, the County Administrator, the Building Official, or their respective designees, may request that motion and vote be delayed to allow preparation or revision of a motion, as provided hereunder.
3. Tie Votes. When the vote of UCAP is equally divided, the status quo ante shall be maintained or recommended to be maintained, as appropriate. In such event, the proposal to make a change in the status quo shall be considered to have been denied unless, at the same meeting, UCAP takes other action on the matter.
4. Reconsideration. When a question has been decided by UCAP, any member of UCAP may move for reconsideration of the question at the same meeting or at the next regular meeting of UCAP. Upon a finding by a majority of UCAP at any time that there is reason to believe that a previous vote of

UCAP was based upon material mistake of fact or erroneous information, the matter may be brought up for reconsideration. Any member of UCAP may move at any time for correction of clerical or typographical errors inadvertently included in any matter previously passed by UCAP.

5. Motions to Deny. When a matter is brought forward to a vote based on a motion to approve it or approve it with modifications, and such motion fails, the status quo ante shall be maintained and the person who sought a change in the status quo ante shall be considered to have had the request denied or recommended to be denied, as appropriate. When a matter is brought to a vote based upon a motion to deny it, and said motion fails, the matter shall not be considered granted and shall be treated as if no action has been taken on the matter. Such a vote shall not preclude a subsequent proper motion at the same meeting.

D. Adjourned Meetings. UCAP may adjourn a regular or special meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for continuing such a meeting if the time and place of its resumption is stated at the time of adjournment and is not changed after adjournment.

V. DECISIONS AND VOTE.

Final decisions relating to applications for certificates of competency and to disciplinary actions brought against a Respondent shall be made at a public meeting and shall be in the form of an order to be signed by the Chair.

The order state the determination made, and shall set forth such conditions or stipulations required.

An original of the order, shall remain in the file of the case, which shall be a public record. A copy of the order, shall be sent to the Respondent, as appropriate, by certified or registered mail, return receipt requested.

VI. THE RECORD.

A. Automatically Included in the Record. The following documents shall automatically be included in the records of UCAP:

1. Agenda packet or staff report; and
2. The most recent copies of resumes of County staff and County agents speaking on the matter,

previously filed with the Clerk of the Circuit Court; and

3. Letters or other documents previously entered into the record at a prior UCAP meeting on the particular matter.
- B. Items Which Shall be Placed in the Record. Any documents, exhibits, diagrams, petitions, letter or other materials presented to UCAP in support of, or in opposition to, an item to be considered by it shall be entered into the record, unless determined that the items are clearly irrelevant, immaterial, frivolous, or unduly repetitive. UCAP may accept wholly or partially inadmissible items into the record, provided that members shall not consider those items or parts thereof which are inadmissible.
- C. Custodian. The Clerk of the Circuit Court shall serve as Clerk to UCAP.
- D. Records. The Clerk shall keep minutes of all UCAP proceedings, including evidence presented, the name of all witnesses giving testimony, findings of fact by UCAP and the vote of each member, or if absent or, failing to vote, such fact. The Clerk shall be the custodian of the official record of UCAP and shall keep indexed records of all resolutions, transactions, findings and determinations. All such records shall be official public records and shall be covered by all Florida Statutes pertaining to public records.
- E. Correction of Errors in the Record. In the event UCAP determines that there was an error, either of commission or omission regarding the placement of an item into the record, any member of UCAP may move to correct such errors and such act of correction shall be done upon a majority vote of the members of said UCAP.
- F. Exhibits. Unless an oversized exhibit is deemed absolutely essential by the Chair, documentary paper or photographic exhibits shall not exceed 24 inches by 36 inches and, if mounted on a blackboard, shall be removable therefrom.
- G. Substitution of Copies of Exhibits. A person submitting an exhibit for the consideration by UCAP in support of, or in opposition to a pending matter, must file the original thereof with the Clerk. UCAP may approve substitution of a copy or duplicate. In the case of a written document, the person may furnish the Clerk with an exact duplicate and, upon verification thereof, the Clerk may return the original to said person. Alternatively, the Clerk may, at the Clerk's discretion, and at the expense of the person requesting the return of the

original, make or arrange for the making of a copy of the exhibit after which the original may be returned to the person requesting it.

VII. EFFECT OF THESE RULES OF PROCEDURE.

- A. Conflict With Laws. In any instance where the procedure established by this resolution is in conflict with the state law, county ordinance or court order, or has the effect of violating any applicable law, ordinance or ruling, or order of a court or administrative agency, or rights thereunder, the procedures established hereunder shall be inoperative to the extent of such conflict or violation.
- B. Roberts Rules of Order. In all cases not covered by this resolution, the most recent edition of Roberts Rules of Order shall be used as a general guide and may be followed by the Chair, unless UCAP overrules the chair by vote of the members present.
- C. Witnesses Sworn. Witnesses presenting factual information in licensing and disciplinary hearings shall be sworn in the same manner as provided in R-86-106.

VIII. PUBLICATION.

Upon adoption of this resolution and any amendment hereof, the Building Official shall cause same to be published in a form suitable for distribution to the public. Copies shall be provided by the Building Official to all persons who request it. Copies shall be available for review at all meetings of UCAP.