

ADMINISTRATION COMMISSION AGENDA

November 14, 2006

1. **Request approval of the minutes of the meeting held October 17, 2006.**
2. **Consideration of Proposed Revisions and Proposed New Rules to the Uniform Rules of Procedure, Chapter 28, Florida Administrative Code.**

Section 120.74, Florida Statutes, requires periodic review of agency rules to identify and correct deficiencies in the rules, clarify and simplify the rules, delete redundant, obsolete or unnecessary rules, and to improve efficiency or decrease costs to the government and the private sector. In accordance with statute, a review was conducted and several rules were identified for revision, repeal and creation. In addition, rules were identified that require updating to incorporate recent legislative changes. Proposed rule revisions, rule repeal, and proposed new rules include:

- 28-101.001 Statement of Agency Organization and Operation
- 28-102.001 Notice of Public Meeting, Hearing, or Workshop
- 28-102.003 Emergency Meetings
- 28-103.002 Rule Development Workshops
- 28-104.001 Purpose; Construction
- 28-104.005 Time for Consideration of Emergency Petition
- 28-105.001 Purpose and Use of Declaratory Statement
- 28-105.002 The Petition
- 28-105.0024 Notice of Filing
- 28-105.0027 Intervention
- 28-105.003 Agency Disposition
- 28-105.004 Notice of Disposition
- 28-106.103 Computation of Time
- 28-106.104 Filing
- 28-106.106 Who May Appear; Criteria for Qualified Representatives
- 28-106.111 Point of Entry into Proceedings and Mediation
- 28-106.201 Initiation of Proceedings
- 28-106.2015 Agency Enforcement and Disciplinary Actions
- 28-106.202 Amendment of Petitions
- 28-106.204 Motions
- 28-106.205 Intervention
- 28-106.213 Evidence
- 28-106.217 Exceptions and Responses
- 28-106.301 Initiation of Proceedings
- 28-106.305 Conduct of Proceedings
- 28-106.401 Scope
- 28-106.402 Contents of Request for Mediation

28-106.501	Emergency Action
28-107.001	General
28.107.002	Application for License
28-107.003	Denial of License
28-107.004	Suspension, Revocation, Annulment, or Withdrawal
28-107.005	Emergency Action
28-108.001	Petition for Exception to Uniform Rules of Procedure
28-109.001	General
28-109.004	Government in the Sunshine
28-109.005	Notice
28-109.006	Evidence, Testimony, and Argument
28-110.002	Definitions
28-110.003	Notice of Protest
28-110.004	Formal Written Protest
28-110.005	Bond

Staff Recommendation:

Recommend approval of proposed rule revisions, rule repeal, and proposed new rules and authorize the Secretary to finalize rulemaking.

Back-Up:

Proposed rule revisions, rule repeal, and proposed new rule text.

3. Consideration of a Recommended Order issued by the Division of Administrative Hearings in the proceeding of the Department of Community Affairs vs. Lee County and Leeward Yacht Club, LLC (DOAH Case No. 06-0049GM) (AC Case No. ACC-06-012).

On October 12, 2005, Lee County adopted Ordinance No. 05-20, amending its comprehensive plan by changing the designation for 41.28 acres in the northeast quadrant of Interstate 75/State Road 80 interchange from General Commercial Interchange to Urban Community on its Future Land Use Map (FLUM). On December 19, 2005, the Department of Community Affairs (DCA) issued a Notice of Intent and a Statement of Intent finding the amendment not in compliance, as defined in Section 163.3184(1)(b), Florida Statutes, as it is inconsistent with the State Comprehensive Plan; Chapter 9J-5, Florida Administrative Code, and Chapter 163, Part II, Florida Statutes.

On January 5, 2006, the DCA filed a petition for a formal administrative hearing on the FLUM amendment with the Division of Administrative Hearings (DOAH). Leeward Yacht Club, LLC, (Leeward) was granted leave to intervene in the proceeding by the DOAH Administrative Law Judge. On April 25 and 26, 2006, DOAH Administrative Law Judge Bram D.E. Canter conducted an administrative hearing in Ft. Myers, Florida. Judge Canter

issued a Recommended Order on August 25, 2006, (Judge Canter corrected pages of the Recommended Order on August 28, 2006) recommending the Administration Commission determine the amendment adopted by Lee County in Ordinance No. 05-20 is in compliance as defined in Chapter 163, Part II, Florida Statutes. Exceptions to the DOAH Recommended Order were filed by both the DCA and Leeward on September 20, 2006. The DCA filed a response to Leeward's exceptions to the Recommended Order on October 2, 2006. Leeward filed a response to DCA's exceptions to the Recommended Order on October 2, 2006.

Staff Recommendation:

The staff recommendation will be distributed separately.

Back-Up:

DOAH's Recommended Order and DOAH's corrected pages to the Recommended Order issued August 25, 2006, and August 28, 2006, respectively.

DCA's exceptions to the Recommended Order received September 20, 2006.

Leeward's exceptions to the Recommended Order received September 20, 2006.

DCA's response to Leeward's exceptions to the Recommended Order received October 2, 2006.

Leeward's response to DCA's exceptions received October 2, 2006.

Draft Final Order. (To be distributed separately.)