



Board of County Commissioners
Leon County, Florida
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Agenda Item
Executive Summary

November 16, 2010

Title:

Adoption of Proposed Revised Policy No. 98-6, "Membership on Boards, Committees, Councils, Authorities"

Staff:

Parwez Alam, County Administrator
Vincent S. Long, Deputy County Administrator
Christine Coble, Agenda Coordinator

Issue Briefing:

This agenda item requests the Board adopt a revised Policy No. 98-6, "Membership on Boards, Committees, Councils, Authorities" (Attachment #1). The recommended policy revisions are necessary to make Policy No. 98-6 consistent, in terms of the appointment of a member of the Leon County Board of County Commissioners to the Leon County Research and Development Authority, with the requirements of the Leon County Code of Laws at Chapter 2, Article III, Division 2, and the Florida Statutes at Section 159.703(3).

Fiscal Impact:

This item has no fiscal impact to the County.

Staff Recommendation:

- Option #1: Adopt proposed revised Policy No. 98-6, "Membership on Boards, Committees, Councils, and Authorities," which makes the policy consistent with the Membership Statute and the Membership Code relative to the appointment of a member of the Leon County Board of County Commissioners to the Leon County Research and Development Authority Board for a four-year term.
- Option #2: Direct staff to prepare a resolution that increases membership of the Leon County Research and Development of Authority to ten members.

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Report and Discussion

Background:

Policy No. 98-6, Membership on Boards, Committees, Councils, and Authorities, addresses the authority to appoint members of the Board of County Commissioners to various boards, committees, councils, and authorities, and the terms of those appointments.

At the July 13, 2010 meeting, the Board adopted a revised Policy No. 98-6, "Membership on Boards, Committees, Councils, and Authorities" to include the appointment of a County Commissioner to the Educational Facilities Authority and directed staff to bring back an agenda item to revise Policy No. 98-6 to address the appointing authority and the term that Commissioners may serve on the Civic Center Authority, Educational Facilities Authority, Research and Development Authority (LCRDA), and the Tourist Development Council.

In preparing to respond to the Board's July 13, 2010 direction, staff learned that Policy No. 98-6 is not consistent with the certain requirements of the Florida Statutes and Leon County Code relative to appointments to the LCRDA. While the structure of the LCRDA and other boards will be discussed during the December Board retreat, staff believes it is important to revise Policy No. 98-6 so that it is consistent with those legal requirements, as discussed in the following analysis section. Further, it is important to note that Policy No. 98-6 stipulates that appointments shall be made by the appointing authority during the month of December or as soon thereafter as possible. Therefore, an agenda item to address the Board appointment to the LCRDA and other boards, committees, councils and authorities will be on the December 14, 2010 agenda.

Analysis:

Prior to the February 26, 2008 revision, Policy No. 98-6 stated that appointments to the LCRDA were for four years and that the Commission was the appointing authority. The appointments lists for 2004-05 and 2005-06 (Attachments #2 and #3) reflected the appointments were for four-year terms.

In the 2006-07 appointments list, the appointment to the LCRDA was listed as "annual" rather than "four years"; however, Board policy had not been changed (Attachment #4). Therefore, the appointments list was in conflict with Board policy.

Information included in a June 26, 2007 status report to the Board regarding Board-Appointed Committees and Chairman's Appointment (Attachment #5) was also in conflict with Board policy regarding the appointment of a Commissioner to the LCRDA, and appears to have been obtained from the appointments list which was attached to the agenda item. Table 2 of the status report, "Proposed Chairman Appointments for Continuation," included the LCRDA and stated the appointment was annual. However, the version of Policy No. 98-6 that was in effect at the time stipulated the appointment to the LCRDA was for four years and to be made by the Commission, not the Chairman. The status report's recommendations did not recommend revisions to Policy No. 98-6 relative to the LCRDA.

The 2007-08 appointments list also identified the appointment of a Commissioner as an annual appointment (Attachment #6).

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The February 26, 2008 revisions to Board Policy No. 98-6 changed the LCRDA appointments from four years to annual and authorized the Chairman, rather than the Commission, to make such appointments (Attachment #7 is the revised policy, in legislative format so that it may be viewed in the prior version of the policy as well). This change was made without discussion or analysis in the item, and appears to have been based on the June 26, 2007 status report, which had apparently been based on appointment lists.

LCRDA – Terms and Appointing Authorities			
	Term	Appointing Authority	Appointment
1) Policy 98-6 Prior to February 26, 2008 (Attachment #7)	4 Years	Commission	
2) Appointments Summaries:			
• 2004-05 (Attachment #2)	4 Years		Sauls
• 2005-06 (Attachment #3)	4 Years		Sauls
• 2006-07 (Attachment #4)	*Annual		Sauls
*Note: The term for the Commission's appointee to the LCRDA changed, on the list of appointments, from four years to annual, without a change to Policy No. 98-6. Staff has not been able to identify an agenda item approving the revised term prior to this 2006-07 change.			
• 2007-08 (Attachment #6)	Annual		Sauls
3) Policy 98-6, February 26, 2008 Revised (Attachment #7)	Annual	Chairman	

Given the change in the practice in LCRDA appointments that took place in 2006-07, County Administration turned to the County Attorney's office for a legal review of LCRDA membership requirements. The County Attorney's office provided its response, dated October 19, 2010 (Attachment #8), which is summarized, in part, as follows:

The LCRDA was established by Board Ordinance No. 80-68, in accordance with Florida Statutes, Section 159.703(1) and codified in the Leon County Code of Laws at Chapter 2, Article III, Division 2. LCRDA membership is specifically addressed in Florida Statutes at Section 159.703(3) (the "Membership Statute") and in the Leon County Code at 2-57 (the "Membership Code"), each of which requires designation of the membership by duly enacted resolution of the Board of County Commissioners. The Membership Statute requires:

- (1) Board appointment of not less than five persons, each of whom shall serve four year terms, and
- (2) Membership of the Presidents of FSU and FAMU who, by statute, serve ex officio with no specific term.

Board Resolution R05-15 designates the current LCRDA nine-member Board of Governors. Four of the members (the Mayor and the Presidents of FSU, FAMU, and TCC) are appointed by virtue of the positions they hold; are considered to serve in an ex officio capacity; and, by statute, have no specific term of service. The remaining five members must, therefore, by necessity be considered to be the statutorily required five persons appointed by the full Board to each serve four-year terms.

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This October 19, 2010 guidance from the County Attorney's office is consistent with the fourth "Whereas" clause in Resolution 05-15, which states in part, "the Section 2-57 of the Leon County Code of Laws requires that there shall be no less than five members of the Leon County Research and Development Authority, which is herein proposed to be inclusive of an individual recommended by the President of Florida A & M University, an individual recommended by the President of Florida State University, the Mayor of the City of Tallahassee, or its designee, an individual recommended by the President of Tallahassee Community College, and five other individuals from Leon County as appointed by the Leon County Board of County Commissioners...". Further, the Membership Code stipulates, "...Membership to the authority shall be upon designation of the Board of County Commissioners by a duly enacted resolution of the Board..."

Based upon the analysis, staff recommends adopting the revised Policy No. 98-6, which will make the Policy consistent with the Membership Statute and Membership Code relative to the appointment of a member of the Leon County Board of County Commissioners to the LCRDA Board. The revisions require the appointment of a member of the Board of County Commissioners to fill one of the five positions on the LCRDA Board for individuals appointed by the Board for four-year terms, and that such appointment shall be made by the full Board with a duly enacted resolution of the Board.

Additionally, at the September 14, 2010 meeting, the Board appointed Mr. David Ramsay to the LCRDA Board as a non-voting member, to be formally appointed as the Chairman's designee at the November Commission meeting when Commissioner Rackleff's term on the LCRDA Board will have ended. However, based on staff's analysis, the LCRDA Board vacancy that will occur with the expiration of Commissioner Rackleff's term will need to be filled by another member of the Board of County Commissioners, and such appointment will need to be made by the Board upon adoption of a duly enacted resolution for a term of four years. Should the Board want to appoint Mr. Ramsay to the LCRDA Board, it may do so by increasing the number of Board-appointed members from five to six through the adoption of a resolution that increases the membership of the LCRDA Board to ten members, and appointing Mr. Ramsay to fill the newly added seat. If added, the term of this new LCRDA seat is not required to be four years.

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Options:

1. Adopt proposed revised Policy No. 98-6, "Membership on Boards, Committees, Councils, and Authorities," which makes the policy consistent with the Membership Statute and the Membership Code relative to the appointment of a member of the Leon County Board of County Commissioners to the Leon County Research and Development Authority Board for a four-year term.
2. Direct staff to prepare a resolution that increases membership of the Leon County Research and Development of Authority to ten members.
3. Do not adopt proposed revised Policy No. 98-6, "Membership on Boards, Committees, Councils, and Authorities."
4. Do not direct staff to prepare a resolution that increases membership of the Leon County Research and Development of Authority.
5. Board Direction.

Recommendation:

Options #1 and #2.

Attachments:

1. Proposed Revised Policy No. 98-6, "Membership on Boards, Committees, Councils, Authorities"
2. Appointments List 2004-05
3. Appointments List 2005-06
4. Appointments List 2006-07
5. June 26, 2007 Status Report, with attached appointments list
6. Appointments List 2007-08
7. Policy No. 98-6, revised February 26, 2008 (with prior language in legislative format)
8. County Attorney's October 19, 2010 Memo