

**Administrative Director Search Committee
Broward County Board of Rules and Appeals**

**May 24, 2022
Time: 12 p.m.**

Zoom Meeting Information:

<https://broward-org.zoomgov.com/j/1613217422>

Meeting ID: 161 321 7422

Call Meeting to Order

Roll Call

- 1. Review of Applications to Narrow the Field of Applicants for Interviewing**
- 2. Decision to reject or accept applications received after the published deadline**
- 3. Review Timeline**

2022 TIMELINE

Apr 1-30	Advertise for New Director Position
Apr 30	Deadline for Receipt of Applications
Mid-May	Date for Search Committee to Receive & Review all Applications and Narrow Field for Interviewing
Mid-Jun	Date for Full Board to Interview Finalists and Select New Director at a Special Board Meeting
Jul 14	Date for New Director Contract Approval by Board
Sep 30	Last Day for Current Director

Product(s): Sun Sentinel
AdSize(s): 1 Column
Run Date(s): Sunday, March 27, 2022, Sunday, April 10, 2022
Zone: Full Run
Color Spec. B/W

Preview

ADMINISTRATIVE DIRECTOR - BOARD OF RULES AND APPEALS - EOE -
\$108,890 – \$173,787
Hiring Salary Range Limited To \$145,578

Nature of work

This is highly responsible administrative work in planning, organizing, and directing the activities of the Broward County Board of Rules and Appeals.

Work involves responsibility for the administration and direction of all programs of the Board of Rules and Appeals; structuring of staff; interrelations with county and city building and fire departments and other agencies involved in providing support and monitoring all activities regarding the Florida Building and Fire Codes and supporting regulations. Incumbent is required to use a broad spectrum of financial and management skills. Assignments are received as broad policy statements.

General areas of responsibility are:

- Administers and enforces the Florida Building and Fire Code, and supporting regulations, throughout Broward County through subordinate chief code compliance officers, and the County and local building permitting departments
- Administers the Countywide inspector's competency review program
- Reviews field reports from compliance officers and notifies building and fire code officials of violations and document replies
- Directs submission of code appeals to the Board and the preparation of all proposed amendments to the Florida Building and Fire Code supporting regulations
- Prepares and monitors the Board budget
- Provides support staff to all technical committees appointed by the Board
- Enforces requirements related to inspectors not using Certificate of Competency to engage in free enterprise

Responsibilities

- Directs and supervises the daily administration and function of the agency. Offers recommendations to the Board
 - Performs related work as required
- Work is done independently with general supervision by the Chairman of the Board of Rules and Appeals. Performance is reviewed annually by the Board.

Minimum Education and Experience Requirements

Graduation from an accredited four-year college or university (Master's degree preferred) with major course work in business, public administration, or related fields; and a minimum of seven years high level management, administrative experience in the construction industry or government field in administration and finance; or any combination of training and experience.

Additional Information

The current Director is retiring after more than 22 ½ years of service. Members of the Broward County Board of Rules and Appeals are appointed by the Broward League of Cities and the County Commission. The authority of the Broward County Board of Rules and Appeals is detailed in the State of Florida Special act Chapter 71- 575 and the Charter of Broward County Section 9.02.

How to Apply

Qualified applicants should submit a resume, including salary history, to the address below delivered or postmarked by April 30, 2022: EOE

Administrative Director Screening Committee

1 North University Drive
Suite 3500 B
Plantation FL 33324



MARK S. MUCCI, P.A.
Certified Civil Mediator

5561 NORTH UNIVERSITY DRIVE
SUITE 102
CORAL SPRINGS, FLORIDA 33067

WWW.BMWLAWYERS.NET

BRAD R. WEISS, P.A.
Board Certified in Construction Law
Also Admitted in Michigan

TELEPHONE 954-323-1023
FACSIMILE 954-323-1013

WILLIAM H. BENSON
(1929 – 2013)

BRIAN M. ABELOW, P.A.
Board Certified in Real Estate Law

CHARLES M. KRAMER, Of Counsel
Board Certified in Construction Law

MATTHEW D. COHEN
ROBERT P. GAINES

May 17, 2022

James DiPietro, Administrative Director
The Broward County Board of Rules and Appeals
1 N. University Drive, Suite #3500-B
Plantation Florida 33324

**ADVISORY OPINION AS TO MEETING PROTOCOL FOR
DELIBERATIONS ON SELECTION OF ADMINISTRATIVE DIRECTOR**

Jim,

You have asked the Office of General Counsel for an Advisory Opinion with respect to the meeting protocol for the deliberation and selection process with respect to the BORA Administrative Director.

Issue:

The current Administrative Director has given notice of his intent to resign from office in September, 2022. In response to public notice seeking candidates to assume the position of Director, the BORA administrative offices have received approximately 140+ applications from potential candidates. A question has been raised with respect to the protocol for the selection process, more specifically whether the selection committee meetings are governed by Florida Statutes Sec. 286, et.al., more commonly known as the Government in the Sunshine Law.

Rule:

Florida's Government-in-the-Sunshine Law was enacted in 1967. The Sunshine Law regarding open government can be found in Chapter 286 of the Florida Statutes. These statutes establish a basic right of access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities. The basic right does not extend to all meetings but rather those meetings which render decisions directly implicating the decision making process. Administrative staff meetings and meetings by fact finding committees whose function is to merely present facts are exempt. *See* Blackford v. Sch. Bd. of Orange County, 375 So.2d 578 (Fla. 5th DCA 1979).

If a board delegates a portion of its decision-making authority to an advisory group, those meetings must be open to the public. By way of example, in Wood v. Marston, 442 So.2d 934 (Fla.1983) the Florida Supreme Court held that a committee appointed by the president of the University of Florida to solicit and screen applicants for deanship of law school and to submit a list of best qualified applicants for faculty approval before forwarding list to president for the final selection, came within ambit of the Sunshine Law. The Court held that the committee performed policy-based, decision-making function in deciding which applicants to reject from further consideration and was therefore inextricably involved with the actual decision making process.

Analysis:

The task before the BORA selection committee is very similar to the one in Wood v. Marston (*supra*). We also review the matter of Silver Express Co. v. Dist. Bd.

of Lower Tribunal Trustees of Miami–Dade Community College, 691 So.2d 1099 (Fla. 3d. DCA 1997) where the Third District held that a committee appointed by college's purchasing director to **consider and rank proposals** to provide flight-training services offered by the college was subject to Sunshine Law. Further, in Krause v. Reno, 366 So.2d 1244 (Fla. 3d DCA 1979) a city manager relied on an advisory group to assist in his decision to select a new chief of police. The fact that the advisory group was relied upon, in whole or in part, as far as rendering the ultimate hiring decision determined that the advisory group and its proceedings were governed by Sunshine Law.

While the right to transparency in government is well established in the Florida Constitution (See Fla, Const, Art. I , sec 24 and Article II) and the Florida Statutes (See Fla. Stat. Sec 119 , and 286 et. al.) the public does not have an unfettered right to participate or interfere with the decision making process. Specifically, the Florida Supreme Court has stated that:

This Court recognizes the necessity for the free exchange of ideas in academic forums, without fear of governmental reprisal, to foster deep thought and intellectual growth. Nonetheless, this freedom is not to be used as a shield which could, in some other case on other facts, be used to mask abuses of the rights of others. We hasten to reassure respondents that nothing in this decision gives the public the right to be more than spectators. The public has no authority to participate in or to interfere with the decision-making process.

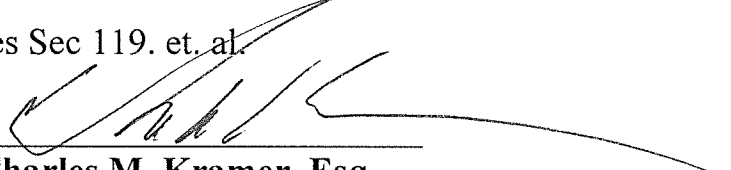
See Wood v. Marston, 442 So.2d 934, 941(Fla.1983).

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Conclusion:

With respect to the meetings of the Selection Committee we state that selection committee meetings must be publicly noticed and available for attendance through communications media technology in full compliance with the Sunshine Law. See § 120.52(5)(b)2, Fla. Stat. (2019); Ch. 28-109, Fla. Adm. Code. Based on extensive legislative precedent we find that electronic media such as Zoom or other suitable format would be the most preferable forum for presentation to the public.¹

We also state that while an opportunity for the public to attend (via communications media format) is mandatory, the public is not permitted to participate or interfere with the proceedings. Neither is it incumbent on the Selection Committee to publish individual applicant's resume's attendant with proceedings. We state that the applicants have a reasonable expectation of privacy and that any member of the public may request a copy of applicants' resumes during the process through a public records request as set forth under Florida Statutes Sec 119. et. al.



Charles M. Kramer, Esq.
General Counsel to the Broward County
Board of Rules and Appeals
Florida Bar Board Certified
Construction Lawyer
Florida Supreme Court Qualified Arbitrator
5561 University Drive, Suite 103
Coral Springs FL 33067
Phone 954.323.1023 | Direct 954.947.2523
ckramer@bmwlawyers.net

¹ See Advisory Opinion dated April 29, 2022, and Florida Attorney General Opinion AGO 2020-03.