

The Constitution Revision Commission
COMMITTEE MEETING EXPANDED AGENDA

RULES AND ADMINISTRATION
Commissioner Cerio, Chair
Commissioner Plymale, Vice Chair

MEETING DATE: Tuesday, October 17, 2017
TIME: 11:00 a.m.—12:00 noon
PLACE: 401 Senate Office Building, Tallahassee, Florida

MEMBERS: Commissioner Cerio, Chair; Commissioner Plymale, Vice Chair; Commissioners Carlton, Coxe, Diaz, Donalds, Johnson, Karlinsky, and Timmann

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
1	Scheduling		
	Committee Action:		
	Calendar Adopted		

NOTE: Public comment will be taken on all noticed agenda items.

DRAFT WEEKLY SCHEDULE OF CONSTITUTION REVISION COMMISSION MEETING TIME ALLOCATIONS

November 27-December 1, 2017

MONDAY November 27, 2017	TUESDAY November 28, 2017	WEDNESDAY November 29, 2017	THURSDAY November 30, 2017	FRIDAY December 1, 2017
	8:00 am-12:00 noon Committee Group A Declaration of Rights 110S Executive 401S Finance and Taxation 301S	8:00 am-12:00 noon Committee Group C Ethics and Elections 37S Legislative 301S Local Government 401S	8:00 am-12:00 noon Committee Group B Bonding and Invest. 37S Education 110S General Provisions 401S Judicial 301S	
	1:00-5:00 pm Committee Group B Bonding and Invest. 37S Education 110S General Provisions 401S Judicial 301S	1:00-5:00 pm Committee Group A Declaration of Rights 110S Executive 401S Finance and Taxation 301S 5:15-5:45 pm Rules & Administration 401S	1:00-5:00 pm Committee Group C Ethics and Elections 37S Legislative 301S Local Government 401S	<h1>DRAFT</h1>

All meeting locations are in the Capitol Complex, Tallahassee, Florida, unless otherwise specified.
 THIS TENTATIVE SCHEDULE IS SUBJECT TO CHANGE.

The Constitution Revision Commission COMMITTEE VOTE RECORD

COMMITTEE: Rules and Administration
ITEM: Scheduling – Allocations for November 27-December 1
FINAL ACTION: Adopted
MEETING DATE: Tuesday, October 17, 2017
TIME: 11:00 a.m.–12:00 noon
PLACE: 401 Senate Office Building, Tallahassee, Florida

FINAL VOTE		COMMISSIONERS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Carlton						
X		Coxe						
X		Diaz						
X		Donalds						
		Johnson						
X		Karlinsky						
X		Timmann						
X		Plymale, VICE CHAIR						
X		Cerio, CHAIR						
8	0							
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

10/17/17
Meeting Date

Proposal Number (if applicable)

*Topic CRC Rules

Amendment Barcode (if applicable)

*Name Bob Solari

Address 730 Painted Bunting Lane
Street
Vero Beach FL 32963
City State Zip

Phone 772-226-1438

Email Bob.Solari@JRC
GOV.COM

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? _____

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

Bob Solari
730 Painted Bunting Lane
Vero Beach, FL 32963

Commissioners:

I am here today to ask for your help to get clarification as to the meaning of the CRC Rule 1.23. As you may recall Rule 1.23 states:

“1.23 Open meetings and records.—
All proceedings and records of the Commission shall be open to the public.”

This rule was discussed at the special rules meeting, held on May 17, in some detail and more briefly at the full CRC meeting held on June 6, but despite the discussion it seemed to me that an essential question was never resolved. As I put it to Mr. Woodburn in an email a few hours after the June 6 meeting:

“I asked a clear and I thought simple question at the Rules meeting this morning. Does the proposed open meeting rule, now as I understand it the rule under which the CRC is operating, apply for "two or more" commissioners or "more than two" commissioners?

An answer to this question at your earliest convenience would be appreciated.”

After five days without a reply, I emailed Mr. Woodburn again explaining in a little more detail what I thought was the issue:

“I am still hoping to get an answer to the question that I asked last week (please see below) about the open meeting rule that was adopted by the CRC last Tuesday, June 6. Again, does Rule 1.23 “All proceedings and records of the Commission shall be open to the public”, apply when **"two or more"** commissioners or **"more than two"** commissioners meet?

Given the June 7 CRC press release, “Constitution Revision Commission Adopts Rules”, which States in part: “with key revisions incorporated to facilitate an open and transparent process for the public”, it seems that we must have adopted the more open and transparent **"two or more"**, essentially what Commissioner Martinez recommended. When

coupled with the discussion at the May 17 Rules Committee meeting I would think that this is the only meaning that we could give to the rule, especially if we are at all interested in keeping the public's trust.

However, given I clearly asked Commissioner Heuchan this question at the June 6, CRC meeting and he was not given time to respond, I would like to have confirmation from either you or the CRC attorney that my understanding of the rule is correct and if I am wrong I would appreciate being told that, with further clarification as to what the rule does mean."

Mr. Woodburn and I discussed the issue on the phone but without any clear resolution. What I was left with was the belief that the CRC was moving forward without any idea what Rule 1.23 meant for CRC commissioners.

On June 18 I wrote a longer email to Mr. Woodburn explaining the issue in greater length noting not only that it was still not clear what the rule meant for commissioners, but more importantly:

"Worse, we may have misled the public. In Indian River County, if we said that we were operating in an "open and transparent" manner most citizens would take this to mean that we were operating in the full sunshine, not in the partial shade."

I finished the email making what I thought were three reasonable and simple requests:

1. On Monday, June 19, please forward a copy of this email to all other members of the CRC, with a note, following the advice that you gave me Wednesday, that they should not respond to any other Commissioner.
2. Ask the CRC attorney to give his legal opinion as to the meaning of Rule 1.23, and forward it to all commissioners as soon as possible.
3. If the opinion of the attorney is not clear, please outline in writing to me the path forward to getting this before the full CRC so that we can get clarity on this important issue."

I'll note that in a later phone call Mr. Woodburn and I discussed the first request, which he plainly said he would not do. He did offer to provide me with a list of all the individual email addresses of CRC members suggesting that I could forward them the email. I did not accept Mr. Woodburn's offer because our County Attorney strongly recommends against commissioners sending information

directly to other commissioners and suggests that the County Attorney forward the information to other commissioners with a strong warning that no commissioner reply to the email.

The other two requests were simply ignored.

I have since written to and spoken with the Rules Committee Chairman, Commissioner Cerio about the issue, but to date there has not been the slightest forward movement towards resolving what I believe to be a simple but important issue.

So, Rules Committee, I am here to ask your help. Please clarify the meaning of Rule 1.23 for me, my fellow commissioners and most importantly for the public, does Rule 1.23 "All proceedings and records of the Commission shall be open to the public", apply when "**two or more**" commissioners or "**more than two**" commissioners meet?

Thank you.

From: Woodburn, Jeff
Sent: Tuesday, June 13, 2017 8:11 PM
To: Solari, Bob
Subject: Re: CRC Rule 1.23

I will try you at 5.

Jeff

Get [Outlook for iOS](#)

On Tue, Jun 13, 2017 at 3:54 PM -0400, "Solari, Bob"
<Bob.Solari@flcrc.gov> wrote:

Jeff:

It will be tight. Turns out I have a busy day as a County Commissioner and I am giving lunchtime and evening talks - on the CRC.

I should be home, 772-231-0412, between 5:00 pm and 6:00.

Bob

From: Woodburn, Jeff
Sent: Tuesday, June 13, 2017 11:17 AM
To: Solari, Bob
Subject: RE: CRC Rule 1.23

Commissioner Solari:

Do you have time to talk tomorrow morning?

Jeff

From: Solari, Bob **Sent:** Sunday, June 11, 2017 2:46 PM **To:** Woodburn, Jeff <Jeff.Woodburn@flcrc.gov> **Cc:** Mackintosh, Andrew <MACKINTOSH.ANDREW@flsenate.gov> **Subject:** CRC Rule 1.23

Jeff:

I am still hoping to get an answer to the question that I asked last week (please see below) about the open meeting rule that was adopted by the CRC last Tuesday, June 6. Again, does Rule 1.23 "All proceedings and records of the Commission shall be open to the public", apply when **"two or more"** commissioners or **"more than two"** commissioners meet?

Given the June 7 CRC press release, "Constitution Revision Commission Adopts Rules", which States in part: "with key revisions incorporated to facilitate an open and transparent process for the public", it seems that we must have adopted the more open and transparent **"two or more"**, essentially what Commissioner Martinez recommended. When coupled with the discussion at the May 17 Rules Committee meeting I would think that this is the only meaning that we could give to the rule, especially if we are at all interested in keeping the public's trust.

However, given I clearly asked Commissioner Heuchan this question at the June 6, CRC meeting and he was not given time to respond, I would like to have confirmation from either you or the CRC attorney that my understanding of the rule is correct and if I am wrong I would appreciate being told that, with further clarification as to what the rule does mean.

Thank you very much for your help with this matter.

Have a great week.

Bob

Jeff:

I asked a clear and I thought simple questions at the Rules meeting this morning. Does the proposed open meeting rule, now as I understand it the rule under which the CRC is operating, apply for **"two or more"** commissioners or **"more than two"** commissioners?

An answer to this question at your earliest convenience would be appreciated.

Thanks you.

Bob

Subject: FW: CRC and the Meaning of Rule 1.23, continued
Date: Friday, October 13, 2017 8:53:06 AM ET
From: Bob Solari

From: "Solari, Bob" <Bob.Solari@flcrc.gov>
Date: Saturday, October 7, 2017 9:00 AM
To: "Woodburn, Jeff" <Jeff.Woodburn@flcrc.gov>
Cc: Bob Solari <bsolari@ircgov.com>
Subject: Re: CRC and the Meaning of Rule 1.23, continued

Jeff:

I am sure that we can find a time to talk on either Monday or Tuesday. First though, in order to prepare for the conversation and set aside the proper amount of time, I will need to know the exactly what you would like to talk about and why.

Thanks and have a great weekend.

Bob

From: Woodburn, Jeff
Sent: Friday, October 6, 2017 4:38 PM
To: Solari, Bob
Subject: Re: CRC and the Meaning of Rule 1.23, continued

I am free all day Monday and Tuesday if you can do then.

Sent using OWA for iPhone

From: Solari, Bob
Sent: Friday, October 6, 2017 11:39:21 AM
To: Woodburn, Jeff
Subject: Re: CRC and the Meaning of Rule 1.23, continued

Jeff:

I did not see your email until this morning and I am in and out all day today.

It would be best and easiest if you would simply email me as to what you wanted to tell me or ask me.

Thanks and have a great weekend.

Bob

From: Woodburn, Jeff
Sent: Thursday, October 5, 2017 2:02 PM
To: Solari, Bob
Subject: RE: CRC and the Meaning of Rule 1.23, continued

Commissioner Solari:

Do you have time to talk this afternoon?

Jeff

From: Solari, Bob
Sent: Thursday, October 05, 2017 1:47 PM
To: Cerio, Timothy <Timothy.Cerio@flcrc.gov>
Cc: erika.donalds@flcrc; Roberto.martinez@flcrc; Mackintosh, Andrew <MACKINTOSH.ANDREW@flsenate.gov>; Woodburn, Jeff <Jeff.Woodburn@flcrc.gov>
Subject: Fw: CRC and the Meaning of Rule 1.23, continued

Commissioner Cerio:

I had been hopeful that the meaning of Rule 1.23 would have been cleared up by now, but I have seen no progress on what I still see to be a simple, but important matter.

It seemed to me that we agreed on all the important points discussed during our phone conversation of August 11. We agreed that the CRC was basically following the same rules used for the 1998 CRC, as was the desire of many of the public who came before us during the CRC public hearings. We also agreed that it seemed that many in the audience may have thought that this meant that we would be operating under the stricter Sunshine rule where two or more Commissioners could not discuss items on which the CRC would be voting except at public hearings. The interpretation that the stricter rule was applicable has been reinforced both by the discussion at the May 17 Rules Committee meeting and by the CRC's press release, which states that the CRC has adopted rules "with key *revisions* incorporated to facilitate an open and transparent process for the public". (Emphasis added)

We may well have some CRC Commissioners believing that we are now operating under the more restrictive rule and others believing we are operating under the less restrictive version. I believe that both the CRC commissioners and the public ought to have clarity as to the meaning of the rule that we are operating under.

If I understood you correctly, during our phone conversation of September 21, when I asked about the possibility of the Rules Committee, which you now chair, addressing this issue, you said that only the Chairman could put such an item on your agenda. During our conversation I took this to mean the Chairman of the CRC. Looking back I see that the statement could refer to either the Chairman of the CRC or the Chairman of the Rules committee.

Given this I would appreciate it if you would please give me your understanding of how this issue can be most expeditiously addressed so that the entire CRC can go forward with the same understanding of Rule 1.23.

Thank you for your help with this matter.

Bob

From: Solari, Bob
Sent: Friday, August 11, 2017 1:12 PM
To: Cerio, Timothy
Cc: erika.donalds@flcrc; Woodburn, Jeff; Mackintosh, Andrew; Roberto.martinez@flcrc
Subject: CRC and the Meaning of Rule 1.23

Commissioner Cerio:

I am hoping that as Chairman of the Rules committee you can help put my fellow CRC commissioners and myself on the path to understanding of exactly what our Rule 1.23 means for us. Since the last full commission meeting on June 6th it has been unclear to me whether any two commissioners speaking about matters that we might vote on subjects us to the open meeting rule or whether we are subject to the rule only when more than two commissioners are engaged in a conversation dealing with a subject matter that we might vote on. The email string below more fully explains my concerns about this issue.

Given that the CRC will be meeting regularly in September it would be a great help to get clarity on this issue as soon as possible. I for one certainly do not want to go into the September meetings without understanding more clearly what the rule is meant to mean for us.

This issue was discussed in some detail at the May 17 Rules Committee meeting and I believe that most commissioners understand the issue, so it seems to me that it is simply a matter of getting the issue on the correct agenda and having a vote.

Thank you very much for your help with this simple, but I believe important matter.

And please, given the interpretation of Rule 1.23 is as yet unclear, do not respond directly to this email.

Commissioner Bob Solari

Sun 6/18/2017 12:25 PM

To:
Woodburn, Jeff;
Cc:
Mackintosh, Andrew;
Jeff:

As I mentioned during our phone conversation, Wednesday, when we discussed the CRC open meeting rule, Rule 1.23, I did not fully understand your response to my question as to exactly what the rule meant and I was not at all clear as to the path forward to get clarification. That is why twice during our conversation I asked you to put your comments to me in writing so I could review them and try to get a better understanding.

Having not heard from you I will put my understanding of our conversation down, but I will apologize in advance if I am not accurate in some particulars.

This issue was brought up at the Orlando CRC meeting on June 6. Driving back from Orlando, it was clear to me that though at least two Commissioners, Commissioner Martinez and myself, tried to get clarification on the meaning of Rule 1.23, the open meeting rule, which was part of Commissioner Heuchan's strike-all amendment, I did not know what type of Sunshine Commissioners of the CRC would be following. After getting home I emailed you, writing:

"I asked a clear and I thought simple question at the Rules meeting this morning. Does the proposed open meeting rule, now as I understand it the rule under which the CRC is operating, apply for **"two or more"** commissioners or **"more than two"** commissioners?"

An answer to this question at your earliest convenience would be appreciated."

Hearing nothing from you for five days, I emailed again on June 11, writing:

"I am still hoping to get an answer to the question that I asked last week (please see below) about the open meeting rule that was adopted by the CRC last Tuesday, June 6. Again, does Rule 1.23 "All proceedings and records of the Commission shall be open to the public", apply when **"two or more"** commissioners or **"more than two"** commissioners meet?"

Given the June 7 CRC press release, "Constitution Revision Commission Adopts Rules", which States in part: "with key revisions incorporated to facilitate an open and transparent process for the public", it seems that we must have adopted the more open and transparent **"two or more"**, essentially what Commissioner Martinez recommended. When coupled with the discussion at the May 17 Rules Committee meeting I would think that this is the only meaning that we could give to the rule, especially if we are at all interested in keeping the public's trust.

However, given I clearly asked Commissioner Heuchan this question at the June 6, CRC meeting and he was not given time to respond, I would like to have confirmation from either you or the CRC attorney that my understanding of the rule is correct and if I am wrong I would appreciate being told that, with further clarification as to what the rule does mean.

Thank you very much for your help with this matter."

Two days later you emailed asking if I had time to talk, which we did the next day. Again, I may have misunderstood some of what you said, but my understanding is, as to whether Rule 1.23 applies when "two or more" or "more than two" commissioners meet, we do not know and we will not know until sometime in the future after the issue is taken up by the Rules Committee.

Your advice was that until the Rules Committee determines what the open meeting provision

mean's, two or more Commissioners should not have any discussion about any matter that we might vote on in the future.

I said that this is problematic and I believe it is for a number of reasons, not least is that I heard something different from a third party who said they heard that Commissioners were told to use their own judgment.

Further, I do not doubt that some people believe that as the Commission basically adopted the 1998 Commission rules, Rule 1.23 ought to operate as it did in 1998, which would allow two commissioners to have any conversation they wish. Given that Commissioner Heuchan was clearly in favor of allowing two commissioners to freely engage in conversation and it was his set of rules that passed, I do not see how any two commissioners could be faulted for any conversation they had until such time as the Commission as a whole clarifies the matter.

Clearly, cutting off discussion immediately after Commissioner Heuchan's strike-all was approved was unfortunate. It meant that no clarification was given as to the meaning not only of Rule 1.23, but of other rules as well.

Worse, we may have misled the public. In Indian River County, if we said that we were operating in an "open and transparent" manner most citizens would take this to mean that we were operating in the full sunshine, not in the partial shade.

At this point I have three requests:

1. On Monday, June 19, please forward a copy of this email to all other members of the CRC, with a note, following the advice that you gave me Wednesday, that they should not respond to any other Commissioner.
2. Ask the CRC attorney to give his legal opinion as to the meaning of Rule 1.23, and forward it to all commissioners as soon as possible.
3. If the opinion of the attorney is not clear, please outline in writing to me the path forward to getting this before the full CRC so that we can get clarity on this important issue.

Thank you very much for your help with this.

Bob Solari