

Legislative #

140303 MOD

Sunshine Law

Meetings Held at Locations Other than City Hall

City of Gainesville
Office of the City Attorney
September 4, 2014

Sunshine Law - Basic Requirements

- Any **MEETING** of a public board/commission:

1. **OPEN**

2. **NOTICE**

3. **MINUTES.**

- Section 286.011, Florida Statutes (1967); Article I, Section 24, Florida Constitution (1992).

Sunshine Law – Liability

- **Violation** – noncriminal infraction, fine not exceeding \$500.¹
 - **Knowing Violation** – criminal 2nd degree misdemeanor, punishable by up to 60 days in jail and \$500 fine.²
 - **Removal from Office.**³
 - **Attorney’s Fees** – may be assessed against individual board member(s) if advice of attorney not followed.⁴
 - **Action Void** – any violation (irrespective of intent or degree of resulting prejudice/injury) is “irreparable public injury” that voids any resulting action.⁵
- **1)** §286.011(3)(a), F.S.; **2)** §286.011(3)(b), F.S.; **3)** §112.52, F.S.; **4)** §286.011(4), F.S.; **5)** *Town of Palm Beach v. Gradison*, 296 So. 2d 473 (Fla. 1974), *Port Everglades Authority v. International Longshoreman’s Association, Local 1922-1*, 652 So. 2d 1169 (Fla. 4th DCA 1995).

Sunshine Law – “Meeting”

- Any gathering, whether formal or casual, of two or more members of the same board with **discussion on any matter that will foreseeably come before that board** for action.
- *Sarasota Citizens for Responsible Government v. City of Sarasota*, 48 So. 3d 755, 764 (Fla. 2010).

Sunshine Law – “Meeting” Fact-Finding or Inspection Trip Exception

- This judicially-created exception recognizes that **staff or advisory boards/committees** may take inspection trips or hold non-Sunshine Law meetings when they are merely gathering information, fact-finding, or otherwise **not exercising “ultimate decision-making authority.”**

- *Finch v. Seminole County School Board*, 995 So. 2d 1068 (Fla. 5th DCA 2008).

Sunshine Law – “Open”

- May not hold a meeting at any facility that:
 - discriminates on the basis of sex, age, race, creed, color, origin, or economic status, OR
 - operates in a manner that unreasonably restricts public access.

- Section 286.011(6), Florida Statutes.

Sunshine Law – “Open”

- Meeting shall not be held in a location or manner that may have a “**chilling effect**” upon the public’s willingness or desire to attend.
- Op. Att’y Gen. Fla. 71-159 (1971).

Sunshine Law – “Open” Chilling Effect

- Municipalities with greater than 500 residents may not hold board meetings outside its boundaries.¹
 - Meeting shall be audible to everyone in attendance.²
 - Meeting facility shall, with reasonable provisions, accommodate all who wish to attend.³
 - May not require public to provide ID, or to request permission before entering meeting.⁴
 - May not hold meeting in private home, even if public invited.⁵
 - May not hold in a public dining room.⁶
- **1)** Op. Att’y Gen. Fla. 03-03 (2003); **2)** Op. Att’y Gen. Fla. 71-159 (1971); **3)** *Kennedy v. St. Johns River Water Management District*, 84 So. 3d 331 (Fla. 5th DCA 2011); **4)** Op. Att’y Gen. Fla. 96-55 (1996); **5)** Inf. Op. to Galloway, August 21, 2008; **6)** Op. Att’y Gen. Fla. 71-159 (1971).

Sunshine Law – The Gray Area

- As a statute enacted for the public benefit, the Sunshine Law should be liberally construed to give effect to its public purpose.
 - *Board of Public Instruction of Broward County v. Doran*, 224 So 2d 693 (Fla. 1969).
- “Even though their intentions may be sincere, ...boards should not be allowed to circumvent the...provisions of the statute. The benefit to the public far outweighs the inconvenience of the board...If the board...feels aggrieved, then the remedy lies in the halls of the Legislature and not in efforts to circumvent the plain provisions of the statute...in the hope that the judiciary will read some [flexibility] into the law.”
 - *Canney v. Board of Public Instruction of Alachua County*, 278 So. 2d 260, 264 (Fla 1973).

A serene sunset scene over a beach. The sun is low on the horizon, casting a bright, golden glow across the sky and reflecting on the water and sand. Gentle waves are breaking on the shore, and the overall atmosphere is peaceful and contemplative.

•Questions?