



City Attorney's Office
Interoffice Correspondence Sheet

To: Advisory Board Members

From: David Margolis, City Attorney

Date: February 9, 2022

Re: Sunshine Law Overview

The Sunshine Law has been in existence since 1967 and has been the subject of considerable litigation. Florida Statutes section 286.011 provides in part:

(1) All meetings of any board or commission of any... county, municipal corporation, or political subdivision...at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

The Sunshine law has been very broadly interpreted in furtherance of the goal of open government. The Florida Attorney General's Office has explained, for example, that "the Sunshine Law applies to such gatherings as 'executive work sessions' held by a board of commissioners of a housing authority to discuss policy matters; 'conciliation conferences' of a human relations board; 'workshop meetings' of a planning and zoning commission; and 'conference sessions' held by a town council before its regular meetings." AGO 2003-53. In other words, members of Clearwater advisory boards should operate under the assumption that the Sunshine Law governs the conduct of the board.

To assure compliance with the Sunshine Law, advisory boards should adhere to the following guidance:

- Any conversation between two or more members of the same advisory board must occur at a publicly noticed meeting, if the topic of conversation relates to advisory board matters. This rule applies to all conversations, regardless of the format or medium used to communicate. For example, oral conversations, email, text,

videoconference, and telephone calls can all be seen as “meetings” under the Sunshine Law.

- Each meeting of each advisory board must be open to the public and held at a place to which there is free public access by anyone wishing to enter, and must be accessible to the physically handicapped. Florida Statutes sections 286.011(1) and 286.26.
- Reasonable notice of the meetings must be given. Florida Statutes section 286.0105. The notice should advise that any person with disabilities requiring accommodation in order to participate should contact the agency at least 48 hours prior the meeting. Florida Statutes section 286.26(1).
- Minutes of the meeting must be recorded. The minutes will be open to public inspection. Florida Statutes section 286.011(2).

Florida law includes significant penalties for violating any of these provisions. Specifically, Florida Statutes section 286.011(3) states that:

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Attached is a list of the applicable Florida Statutes. If you have any questions regarding the Sunshine Law and its applicability to City advisory boards, the City Attorney’s Office will be happy to discuss the matter with you.

SUNSHINE LAW – QUICK REFERENCE GUIDE

The following list include several examples of actions by individual Board members that may **violate** the Sunshine Law:

1. Discussing any Board business with another member of the same Board, outside of a public meeting.
2. Asking a staff member at a private meeting about his or her conversation with another member of the same Board.
3. Sending an email or text to another Board member asking to reveal how they will vote on a certain issue/matter.
4. Holding formal or informal Board meetings in a private location, inaccessible to the general public.
5. Attending or participating in a Board meeting that hasn't been publicly noticed.

If members of advisory boards have any questions regarding the Sunshine Law and its applicability to your service on the board, please feel free to contact the City Attorney's Office at 727-562-4010.

APPLICABLE FLORIDA STATUTES

286.011 Public meetings and records; public inspection; criminal and civil penalties.—

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3) (a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

286.26 Accessibility of public meetings to the physically handicapped.—

(1) Whenever any board or commission of any state agency or authority, or of any agency or authority of any county, municipal corporation, or other political subdivision, which has scheduled a meeting at which official acts are to be taken receives, at least 48 hours prior to the meeting, a written request by a physically handicapped person to attend the meeting, directed to the chairperson or director of such board, commission, agency, or authority, such chairperson or director shall provide a manner by which such person may attend the meeting at its scheduled site or reschedule the meeting to a site which would be accessible to such person.

(2) If an affected handicapped person objects in the written request, nothing contained in the provisions of this section shall be construed or interpreted to permit the use of human physical assistance to the

physically handicapped in lieu of the construction or use of ramps or other mechanical devices in order to comply with the provisions of this section.

286.0105 Notices of meetings and hearings must advise that a record is required to appeal.—Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The requirements of this section do not apply to the notice provided in s. [200.065](#)(3).

775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.—

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(4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

775.083 Fines.—

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. [775.082](#); when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. [775.082](#). A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

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(e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.

(f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.

(g) Any higher amount specifically authorized by statute.