Florida's Sunshine law

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An Overview

- Article I, Section 24
  Florida Constitution

- Section 286.011
  Florida Statutes

PURPOSE

- Provides a right of access to governmental proceedings at both the state and local levels absent a STATUTORY EXEMPTION

- Ensures that DECISIONS of public bodies are made in an open forum accessible to the public

- DECISIONS
  - Recommendations
  - Discussions
  - Deliberations



REQUIREMENTS

- MEETINGS of public boards or commission must be open to the public
- Reasonable NOTICE of such meetings is required
- MINUTES of the meetings must be taken

WHAT IS A "MEETING?"

- Any COMMUNICATION between two or more members of the same board to discuss some matter which will foreseeably come before that board for action.
- Not just a meeting or gathering, but any interactive communication, discussion or deliberation
- No requirement that a quorum be physically present to be considered a meeting that would be subject to the Sunshine Law

COMMUNICATION

- One-way communication is okay (i.e., a member of a collegial body may send written or electronic correspondence to his/her fellow board members pertaining to an item that they may consider at a future date, however the other members may not offer a response).

- Interaction among board members = violation

- DO NOT USE "REPLY ALL"



COMMUNICATION

- There is no prohibition to discuss board business with staff or other person not a member of the same board

- That person cannot communicate information between board members and act as a liaison

- Telephone
- Email
- Texts
- Social Media



SOCIAL MEDIA

- No prohibition against a Board member posting comments on a Facebook page (including a City's page), but members of the Board must not engage in an exchange or discussion of any matter that will foreseeably come before the Board for official action.

SOCIAL MEDIA

- Members of a public board may not use computers to conduct a private discussion among themselves about mattes which may foreseeably come before them in their official capacity. See, AGO 89-39 (1989) and AGO 09-19 (2009).

- The use of a blog or message board by one member of a collegial body to solicit comments from other members does trigger the requirements of the Sunshine Law. See, AGO 08-07 (2008).
  - No statutory provision prohibiting Commission members from posting on a blog.
  - Members of Commission must not engage in exchange or discussion of matters that foreseeably will come before the Board for official action.
  - It is incumbent upon Commission members to avoid any action that could be construed as an attempt to evade the requirements of the law.

VIOLATIONS

- Any member of a collegial body who violates the Sunshine Law is guilty of a noncriminal infraction, punishable by fine not exceeding $500. Section 286.011(3)(a), Fla. Stat.

- Any member of a collegial body who knowingly violates the Sunshine Law is guilty of a misdemeanor of the second degree. Section 286.011(3)(b), Fla. Stat.

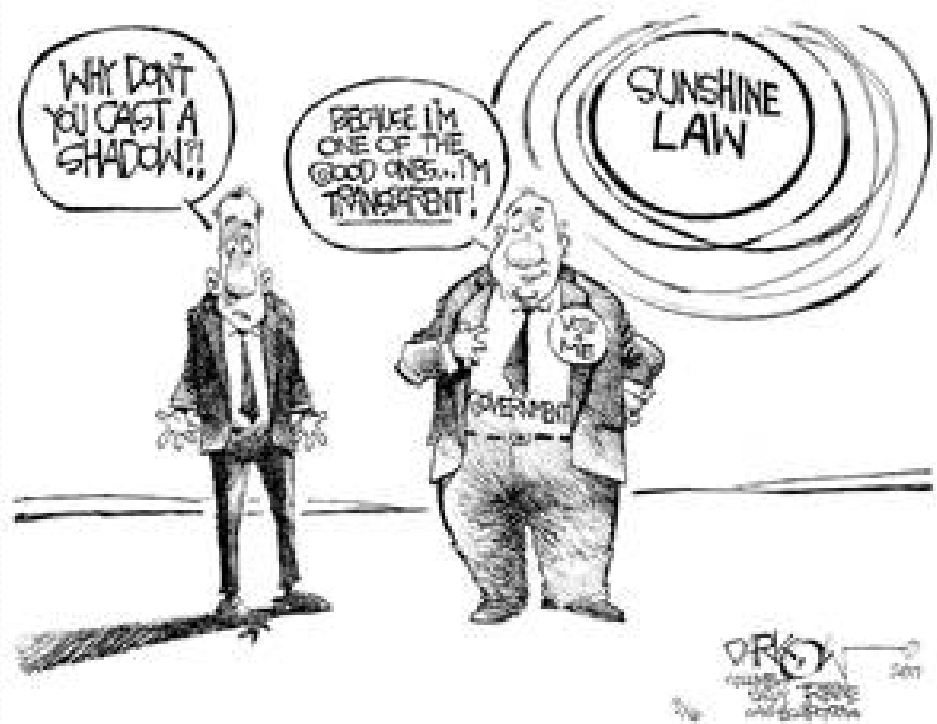
- Criminal penalties apply to members of advisory boards as well as members of elected or appointed boards. AGO 01-85 (2001)

The W.D. Childers Incident (2003)

- Escambia County Commission Chairman; Former State Senate President
- Wanton and Knowing violation of the Sunshine Law
- 60-day jail sentence (served 38 days) – First public official incarcerated for violation of the Sunshine Law
- $500 fine plus $3,600 court costs



Questions??


WHY DON'T YOU CAST A SHADOW?!
BECAUSE I'M ONE OF THE GOOD ONES...I'M TRANSPARENT!
SUNSHINE LAW