

**GUIDE FOR BOARD
MEMBERS:**

**GOVERNMENT IN
THE SUNSHINE
LAW**



Government in the Sunshine Law

- Purpose of the Government in the Sunshine law is to protect the public from “closed door” decision making and to provide **right of access** to governmental meetings.
- Section 286.011, Florida Statutes
- The law is equally applicable to elected and appointed boards, and applies to **any gathering of two or more members** of the same board to discuss some matter which will foreseeably come before that board for action.

Definition of a “Meeting”

- **What constitutes a meeting under the Sunshine Law?**
 - ✓ Any time two or more persons on the same board or committee communicate about any foreseeable matter that may come before the board or committee, it is a meeting under the Sunshine Law.
- **What types of communications qualify as a "Sunshine" meeting?**
 - ✓ Face-to-face
 - ✓ Written correspondence
 - ✓ Telephone
 - ✓ Email
 - ✓ Hand signals
 - ✓ Through an intermediary (a person who separately speaks to both board or committee members and tells one what the other says regarding a matter that may come up before the board or committee.)



Meetings between members of different boards:

- The Sunshine Law does not apply to a meeting between individuals who are members of *different* boards *unless* one or more of the individuals has been delegated the authority to act on behalf of his or her board. *Rowe v. Pinellas Sports Authority*, 46 I So. 2d 72 (Fla.1984).

Social Events

- Members of a public board or commission are not prohibited under the Sunshine Law from meeting together socially, provided that matters which may come before the board or commission are not discussed at such gatherings.
- Therefore, a luncheon meeting held by a private organization for members of a public board or commission at which there is no discussion among such officials on matters relating to public business would not be subject to the Sunshine Law merely because of the presence of two or more members of a covered board or commission.

DOES THE
SUNSHINE LAW
APPLY TO
COMMUNICATIONS
BETWEEN BOARD
MEMBERS WHO
ARE NOT PRESENT
IN THE SAME
ROOM?

- Application of the Sunshine Law to telephone conversations, written correspondence, and electronic communications media:

Telephone Conversations

- Private telephone conversations between board members to discuss matters which foreseeably will come before that board for action violate the Sunshine Law.

Email

- May send email to fellow member, however no replies are permissible
- Email could be discussed at a future board or committee meeting
- Recommend the following footnote be added to the email:

"PLEASE NOTE THAT AS MEMBERS OF THE XXXXX BOARD OR COMMITTEE, TWO-WAY COMMUNICATION BETWEEN MEMBERS IS PROHIBITED BY SUNSHINE LAW. DO NOT REPLY TO ANY BOARD OR COMMITTEE MEMBER. DISCUSSION SHOULD TAKE PLACE AT A SCHEDULED BOARD OR COMMITTEE MEETING."

Public Records

What is a public record?

- Public records include all documents, papers, letters, maps, books, videos, photographs, films, sound recordings, data processing software or other material, regardless of the physical form, characteristics or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of the city.

When may a board or committee members destroy meeting agendas, notes and backup?

- City staff maintains the documentation relating to a meeting such as agendas and backup. The board or committee member 's duplicate may be destroyed. Only notes used to perpetuate, communicate or formalize knowledge are public records and should be retained for two years after the meeting minutes for the particular meeting are adopted.

Does this include my email on official business sent from my personal computer?

- Yes