

# 2013 City Council Training

(Required by Chapter 15.108, Ordinance Code)



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Office of General Counsel

# Training Instructions

- Read this training module (PowerPoint) on your own time; if you have any questions, call the Ethics Director, Carla Miller (630-1476) or the Office of General Counsel. You can also email your questions to Carla at [ecoethics@coj.net](mailto:ecoethics@coj.net)
- Print out the last page of this PowerPoint (Certification of Completion); sign and give to Cheryl Brown by Sept. 1, 2013.



# Training Overview

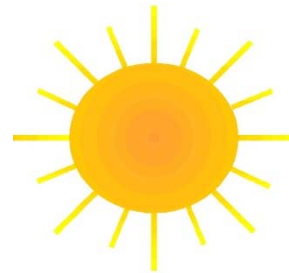
- Florida Sunshine Laws

Things to Remember

Changes for 2013

Sunshine and Texting

Recent Sunshine Violations



- Ethics - Misuse of Position

The Law

Things to Know

Examples of “Misuse of Position”

(Cases Filed with the State Ethics Commission)



# Training Overview

## NOTE:

In this year's training, some of the actual cases are **linked** in the slide so that you can read them to get more information

Look for an “icon” like this:



Click it to pull up the entire document to get the details!

# Training Overview

**NOTE:**

There is a new Florida law that now requires that all Council Members receive 4 hours annual training in Ethics and Sunshine law. This online course will count as one hour towards this requirement.



# Sunshine Law



# THINGS TO REMEMBER

- **Meetings must be open and accessible to the public.**  
Meet at City Hall or other “**public location**”.
- **Reasonable advance notice of the meeting**  
Should be more than 24 hours notice, more time may be required depending on matter being discussed; if less than 24 hours notice, must be an emergency.
- **Written minutes of the meeting**  
At a minimum, include brief notes reflecting events of meeting and who was there. Tape recording with written summary of events is good practice.

# More Things to Remember

- Whispering at noticed meetings can be a violation (or at least appear to citizens that it is).
- Do not call, text, or email other Council members on city related business; discussions must occur in an open noticed meeting.
- Informational Emails can be sent out (“here is an article”, etc.); but do NOT respond to this type of email (that sets up a “discussion” which is not allowed.)
- All sub-committees must follow the same rules.



# Legislative Changes-- 2013

**Senate Bill 50** – Provides citizens with the right to be heard at public meetings. (Training on this will go out to all Boards and Commission of the city before the effective date of Oct. 1, 2013) [SB 50](#) (LINK)



# Sunshine and Texting



- The Attorney General says...
  - “The same rules that apply to **emails** should be considered for electronic communications including Blackberry PINS, SMS (**text messaging**), and instant messaging.” So, unless your text is “see you for lunch in 10”, if it concerns city business, save it!
- How to retain text messages:
  - Back up (send) to your COJ email.
  - Check to see if your phone keeps all text messages indefinitely. You can export all text messages to a COJ email for long term retention.
- IT department can assist with this.

# Recent Sunshine Cases

Governor Scott suspended three South Bay (Palm Beach County) elected officials, including the Mayor and the Vice-Mayor, (Dec. 2012) after they were **charged** with violating the Sunshine Law by agreeing in private to approve \$25,139 in vacation pay for the city manager. It was a factor in their elections-- [South Bay](#)

# Recent Sunshine Cases

An appeal is pending over a Court decision for the St. Pete Beach City Council (violations of Sunshine law in that they had private meetings with legal counsel) [Sunshine St.Pete](#)

Knight News is suing UCF for conducting secret meetings on school hazing cases. [UCF Case](#)



# Recent Sunshine Cases

The First Amendment Foundation sent the Palm Coast City Council a letter informing them that making a short list of candidates to replace a Council member, which was sent to the City Clerk, violated the Sunshine Law as there was no noticed meeting. [Palm Coast](#)



# Recent Sunshine Cases

YOU CAN SEE FROM THE ABOVE FLORIDA CASES THAT:

ANY COMMUNICATIONS BETWEEN YOU AND ANOTHER COUNCIL MEMBER CAN RESULT IN ALLEGATIONS OF SUNSHINE LAW VIOLATIONS; SOMETIMES THEY CAN BE “CURED” WITH A LATER MEETING.

BUT, THAT IS AFTER PRESS, POTENTIAL SUSPENSIONS IN OFFICE AND LEGAL FEES

# Ethics - Misuse of Position

Florida Law Section: 112.313(6)



# The Law



No public officer or employee of an agency shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to **secure a special privilege, benefit, or exemption for himself, herself, or others.**



# Things to Know

- This law applies to all public officers or employees.  
(YOU)
- “**Corruptly**” means done with wrongful intent and for the purpose of obtaining any benefit resulting from some act or omission which is inconsistent with the proper performance of your (not in your job description).
- Mismanagement, waste in government, or negligent acts are not sufficient; it must be **intentional** conduct that benefits you or another.

# More Things to Know


- The benefit **does not** have to be economic in nature. Sexual harassment can be a violation.   
Maloy
- The use of public business cards or letterhead for private purposes, such as for promoting personal financial gain, is a misuse of position. (note: be careful when you use city stationery).   
Gordon
- The appearance of impropriety should be avoided—**be careful when you ask people to do things for you.**

# Question 1:

Would a Senator be in violation of the “misuse of position law” if he or she was to introduce him or herself as a State Senator to a police officer for the purpose of gaining access to a special parking lot at a football game?



# Answer 1:


- A complaint was filed under these same facts against Senator Gary Siplin 
- He was charged with misusing his position to gain access to a blocked parking lot at a football game. (“Do you know who I am?”)
- An appeals court eventually ruled that Siplin had not “corruptly” misused his position. Note: this case went to the State Ethics Commission; the Florida Legislature and then was appealed in the Courts—years of hearings.

# Question 2:

Could a School Board member be in violation of the “Misuse of Position law” by introducing himself as a School Board member to a school staff person in an attempt to find out about magnet schools for his child?

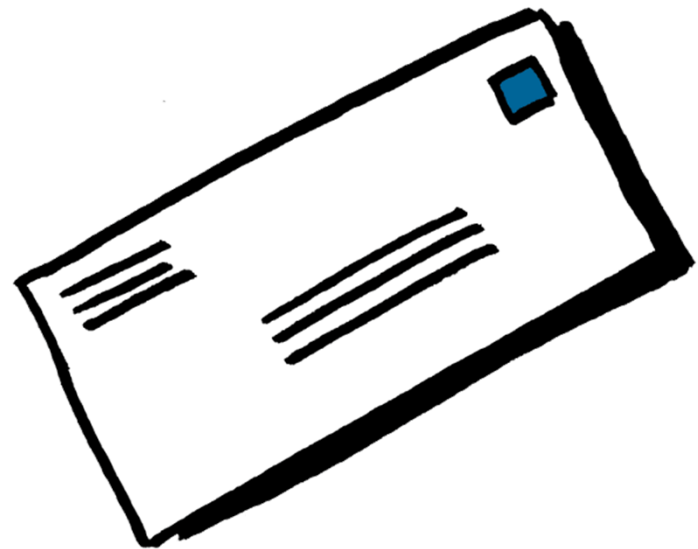


# Answer 2:

- A complaint was filed in a similar situation.   
BPJ
- The Florida Division of Administrative Hearing recommended that the State Ethics Commission enter a judgment finding that there was no misuse of position.
- Again, months of hearings, even if eventually found not guilty. So, be careful when asking for things to be done; is this part of your official duties? Or something for you, your family or friends?

# Question 3:

Can a City Commissioner be in violation of misuse of position by using city letterhead to promote a symposium that he or she had a financial stake in?



# Answer 3:

- YES
- The Appeals court agreed with the State Ethics Commission's ruling that a city commissioner misused his position by using city letterhead to promote a symposium that he had a financial stake in.



Gordon



# Question 4:

Can a County Commissioner be misusing his or her position by sexually harassing subordinate employees?



# Answer 4:

- **YES**
- An Appeals Court upheld the Ethics Commission's ruling that a County Commissioner corruptly misused his position by engaging in sexually or romantically oriented comments, behavior, and/or invitations to female staff members.  Maloy

# Question 5:

Can a County Commissioner be in violation of “misuse of position” by having a staff member compile information and **write an article in support of a pending ordinance**, that is used as a position for the County Commissioner in an election?



# Answer 5:

- Maybe....
- The Appeals Court overturned the state Ethics Commission's ruling that a County Commissioner misused her position because there was insufficient evidence to prove a **corrupt** misuse of position.
- This was after 3 years of hearings and an appeal to the District Court!



Blackburn

These cases took many months of investigations, resulted in newspaper headlines and some resulted in fines and convictions.

**Be careful when you ask  
people to do things for  
you!!!**



# Certificate of Completion

I attest that I have studied the materials in this PowerPoint training module. (Please print this one page out, sign, and send to the Council Director.)

You have now completed your annual Government in the Sunshine and Public Records law training.

**Print and Sign Name**

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**Date**

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