

# 2015 City Council Sunshine Training

(Review)



Carla Miller, Director  
Office of Ethics, Compliance, and Oversight  
[ethics@coj.net](mailto:ethics@coj.net)

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 [carlam@coj.net](mailto:carlam@coj.net)
- Meet with the Ethics Director for a personal training session. Have your ECA call 630-4747 to schedule a time between now and November 20<sup>th</sup>.
- Print out the last page of this PowerPoint (Certification of Completion); sign and give to Cheryl Brown by November 20, 2015.



# Confronting Blind Spots

“Just as we have visual blind spots when looking at the road through our car mirrors, we also have psychological blind spots - aspects of our personalities that are hidden from our view.” [link](#)

# The Overconfidence Bias

When we do training over and over again, people can feel like “oh, not this again, I already know it,” or “I just need to follow my instincts and it will be fine...”

This training is a reminder to be alert and to continually be on your toes as to the Sunshine laws.

Be also ready to observe what others might be doing and to report it quickly so we can correct it.

# Defensive Mechanisms

A defense mechanism is a mental process in which you want to avoid or deny a source of threat or anxiety—a threat to one's self image.

This is a **blind spot** and will be observed when people strongly assert how they are right in a situation and there is nothing to correct (when there is).... [Link](#)

An interesting [book](#) on this: *Mistakes Were Made (But Not By Me): Why We Justify Foolish Beliefs, Bad Decisions and Harmful Acts.*

# BEWARE!

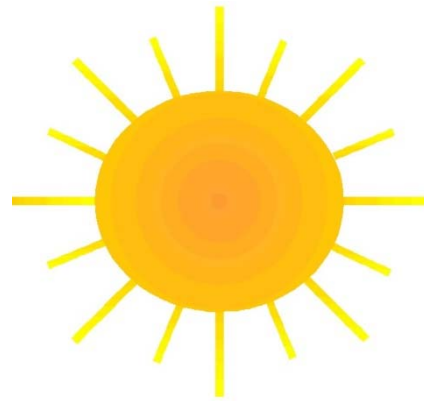
So if you have a lot of confidence that you already completely know the Florida Sunshine Law and you have never made a mistake in following it,

**Beware.....**

You could have blind spots that will get you in trouble down the line.

Now, on to the LAW.....

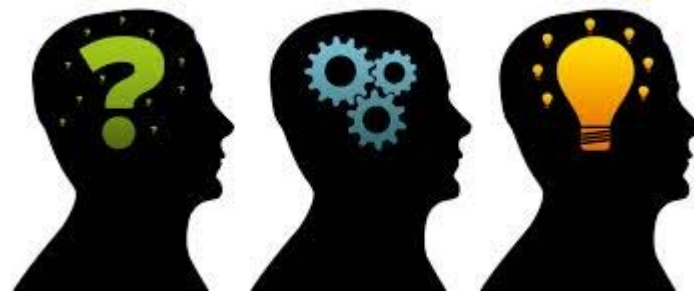
# **Sunshine and Public Records Law**



# Decision Making...

How you come to a decision, the thinking process, should be done at the noticed meeting so the public can see how you got to your decision. If it is all decided somehow ahead of time, if you know how it is going to turn out.... how did that happen?

It could be a Sunshine violation.





# I am not out on a limb here....



If you know that if you speak or vote on an issue that others in the Council pretty much feel the same way you do—  
that you are “safe”...

- How did you know that? This could have resulted from a Sunshine violation.
- Someone going around tallying votes and telling members—is a **warning/danger** sign

“You can do it, you’re not the only one...”

“Things look pretty good; I think we have it in the bag”

# THINGS TO REMEMBER

Meetings must be **open** and accessible to the public.

- Must meet at City Hall or other “**public location—a government owned building**”. (Code sec. 15.102)

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 and approved in writing by the Council President.

**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.

# Chats

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There should be **no talking** about city business with other Council members:

IN YOUR OFFICE

IN THE HALLWAYS

ON THE WAY TO MEETINGS

ON THE WAY OUT OF MEETINGS

# What can you talk about with another Council Member?

To be safe, just discuss purely social things.

If you talk about anything interesting going on in the City, it is likely that it could come up in future legislation.

For example, ABC company is coming to Jacksonville. That's good news; don't discuss it with another Council Member, as ABC might be coming in front of Council for incentives.

Even past bills that are over/dead, can come up again in the future, so you cannot not talk about them either.

- **Whispering** at noticed meetings can be a violation (or at least appear to citizens that it is).
- Informational emails can be sent out (“here is the bill we will discuss at the meeting”, etc.); but do NOT respond to this type of email (that sets up a “discussion,” which is not allowed.)

**Example:** you receive an email sent from a Council Member to all Council Members; it has an article attached about how other cities around the U.S. are passing laws on disclosure of information on city contracts. You respond: “great idea—let’s do it here.” You can’t do this! You have replied outside of the Sunshine!

- Having “scripts” for meetings: “this is what we are all going to say or do”.
- All sub-committees must follow the same rules as the entire Council.

# More...

If you have a Facebook page, a blog or any other way to communicate, be careful that other Council members are not communicating on it—

Example: you post an idea on an issue concerning the Jags...you get a “Like” (thumbs up) from another Council member

# More...

If the Council appoints you to represent the entire Council at another group

(like you are the Council representative to the JTA, or the Pension Board, etc.)

Then even if you are one person, you represent the entire Council and you cannot meet with members of that Board without noticing it.

# TOWN HALL MEETINGS

- If you set up a town hall meeting, you cannot have another Council member there to do it with you unless the meeting is noticed.
- You have to have it in a government owned building or get advance approval for the location from the Ethics Office or OGC.



# Whole Council is Invited to Special Luncheon, Etc.

Example: Owner of Jags invites all Council members to a lunch; or new Mayor invites all Council members to a lunch.

This must be noticed as a meeting and open to the public. It's hard to substantiate that only social things were discussed.

See Ethics Office/OGC for details on this, if you want.

# TEXTING

- Do not call, text, or email other Council members on city related business; discussions must occur in an open noticed meeting.
- **Danger area: any text messages during a meeting.** Where is the real meeting? What is being shown to the public? Or is there a “subterranean meeting” going on where the real decisions are being made outside of the noticed meeting and out of public view? This is not government in the Sunshine.

# Preserve Texts



- 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! THIS IS EVEN IF IT IS ON YOUR PERSONAL CELL PHONE.** The phone companies do not preserve your text messages for more than a few days.
- How to retain text messages:
  - Back up (send) to your COJ email.
  - Check to see if your phone company can back up all text messages; sometimes they can for a charge. You can export all text messages to a COJ email for long term retention.
- IT Department can assist with this.

# Advisory Groups

If a city official or employee **sets up a group** to advise them on an issue, these meetings might have to be noticed. The issue is whether or not this “advisory group” will make recommendations as to future actions. Check with the Ethics Office or OGC on this type of group.

Example: setting up a neighborhood group to meet on an issue and get with you on suggestions

# No Tours of Facilities

- If another group has a tour set up that is open to the public, you can go, like any other member of the public.
- You cannot set up such a tour for fact finding.

Example: tour of blighted neighborhoods; tour of new facilities built by City

## 2013 Law Allowing Public Right to Comment at all Public Meetings:

JACKSONVILLE, Fla., May 12, 2014 – The Jacksonville Ethics Commission received an opinion from the Florida Attorney General that helps to clarify Florida’s new law regarding the public’s right to comment at government meetings. The Ethics Commission requested this opinion after a local citizen brought concerns to the Commission.

The opinion states, “a board or commission (Council) should err on the side of allowing the public to (comment).”

# 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.

**❑ NOTE: nothing is “private” when it comes to city business.**

It was a factor in their elections-- [South Bay](#)

# Orange County Case

CHARGE: “that this communication **through third parties** is, in effect, a meeting and therefore in violation of the Sunshine Law.”

- ❑ [June 14, 2014 article](#) on details on the case.

**REMINDER:** You cannot use another person (like ECAs, lobbyists, Mayor’s staff; union officials) to communicate with another Council Member

- ❑ For example: “What does everyone else think about this bill?”



# Sunshine Cases

YOU CAN SEE FROM THE ABOVE FLORIDA CASES THAT:

ANY COMMUNICATIONS BETWEEN YOU AND ANOTHER COUNCIL MEMBER (or through a liaison—a third person) CAN RESULT IN ALLEGATIONS OF SUNSHINE LAW VIOLATIONS

THEN, WE SEE PRESS, LAWSUITS, POTENTIAL SUSPENSIONS OF YOUR OFFICE AND LEGAL FEES.

But worse, LOSS OF TRUST OF OUR CITIZENS.

# Meeting with Ethics Director

If you have not yet met with Carla Miller, Ethics Director for your individual Sunshine training session, please call 630-4747 to schedule one.

I will be submitting a list to the Council Secretary on Nov. 20<sup>th</sup> as to any Council members I have not yet met with.

# Certificate of Completion

I attest that I have studied all of the materials in this PowerPoint training module and met personally with the Ethics Director for an individual Sunshine training session. (Please print this one page out, sign, and send to the Council Director.) This must be completed by Nov. 20<sup>th</sup>, 2015.

You have now completed this Sunshine review for 2015.

**Print and Sign Name**

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**Date**

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