



TOWN OF INDIAN RIVER SHORES

Sunshine Law Guidance **for members of Boards, Committees, and Council**

It is an absolute necessity that any volunteer serving on a Town Committee or Board have more than a passing acquaintance with the Florida Government in the Sunshine Law (“Sunshine Law”).

The Sunshine Law was passed by the Florida Legislature in 1967 and is found in the Florida Statutes at Chapter 286. A copy of an explanatory note of the Attorney General about the law is included with this outline and should be referenced.

It is noted that the Sunshine Law covers practically every level of government in Florida, including state agencies, county agencies, municipal governments, and agencies.

From the standpoint of the Town, it is most important to note that the Sunshine Law covers the Town Council and Town Boards, including the Planning, Zoning & Variance Board, Code Enforcement Board, and Police-Fire Pension Board. Committees that may be included are the Finance Committee and Building & Grounds Committee. If there are additional committees formed from time to time, they should be closely reviewed to see if the Sunshine Law applies.

The law is directed at meetings of the covered boards and committees. One of the ongoing problems in understanding what is and what is not a violation is understanding what constitutes a “meeting.” Essentially, any communication between two members of the same board or committee can be a “meeting” and is prohibited by this law, unless it has been properly advertised and minutes are taken.

This outline is not meant to be comprehensive, but a few examples of potential violations are:

1. A telephone call from one board member to another regarding a matter that could be addressed by that board.
2. An email from a fellow board/committee member to another member about issues that could come before the Board they serve on.
3. A casual conversation between two members of the same board or committee at a social function can be construed as a violation. It is the content of the conversation that could lead to a violation.

You get the idea – Be alert to the potential of a violation and take every effort to avoid the conflict.

The idea behind the Sunshine Law is that public bodies performing business for the public should do so in the open and at a public place. Thus, we have notices published informing of meetings with disclosure of what will take place at the meeting. The Florida legislature and our courts insist on transparency in matters of public business. The idea is good, but is contrary (in some respects) to the way we conduct our private business and private affairs. Understanding the law will prevent an inadvertent violation.

For anyone who wants more depth information, it is suggested that a publication printed yearly is the “Bible” reference source. The publication is titled “Government-In-The-Sunshine Manual.” It can be downloaded at the following web link: <http://www.myfloridalegal.com/sun.nsf/sunmanual> or a hard copy of the Manual can be ordered from:

The First Amendment Foundation
336 East College Avenue, Suite 101
Tallahassee FL 32301
Telephone: (850) 224-4555
Facsimile: (850) 224-0435
www.floridafaf.org

or please contact the Town Clerk, Mrs. Laura Aldrich, for assistance in obtaining a copy of the manual. A copy of the manual may also be reviewed at the Town Clerk’s office.

A few comments on the Public Records Law which is closely associated with the Sunshine Law should be made. The Public Records Law is closely followed by the Town which must maintain literally all written communications relating to Town matters.

This is of importance to committee and board members since written communications between members on matters that relate to Committee business (real or potential) may have to be retained at the office of the Town Clerk.

A little reflection would show that an email or note between two or more members of the same board could lead to a Sunshine Law violation as well as involving the Public Records law. It is best to simply follow the rule or practice of having no written or oral communications regarding Town business with another member of the same committee, board, or council.

If there is a violation of the Sunshine Law, is there a penalty? The answer is yes, and penalties are spelled out in the Manual referenced above. In general, a violation where no intent to violate is involved, could lead to a fine of up to \$500. A knowing violation is a misdemeanor of the second degree and there could be a term of imprisonment of up to sixty (60) days and/or a fine up to \$500. A serious violation could lead to removal from office.

If a committee or board member has a question about coverage of the Sunshine Law or the Public Records Law, please feel free to contact the Town Attorney. See contact information on the Town’s website (www.irshores.com)