

County & Citizen Roles and Responsibilities

Project Manager

The Project Manager is responsible for directing the overall project on behalf of the Development Services Bureau. The Project Manager is responsible for the general leadership of the project and is supported by other planning professionals assisting with the preparation of the document.

Project Support Team

The Project Support Team includes County staff and administrative support. The role of the Support Team is to provide direction, guidance, assistance and technical support throughout the code revision process. The Support Team will be responsible for the preparation of the draft code documents. The Team will coordinate draft documents with the advisory committee, overseeing and assisting in the advisory committee meetings.

Citizen, Stakeholders and Others

These persons are interested individuals and groups who seek to participate in the development of the plan and will provide input and guidance over the course of the project. They may provide written or oral comments to the Advisory Committee at the meetings.

Background and General Information for the LDC Revisions Citizens Advisory Committee

(1) What is the Land Development Code?

The LDC is a collection of zoning and other regulations - Part III of the Escambia County Code of Ordinances - that control how land within the county is used and developed. Adopted in 1996, the code simply combined all relevant ordinances of the time into a single document. It has since been amended numerous times, often with little or no coordination with county planning goals, objectives, or policies, or otherwise sufficient consideration. The immediate result has been an inadequate and inconsistent document, but the overall long-term outcome can be a less than desirable built environment and a diminished quality of life for the residents of Escambia County.

(2) What is the purpose of the LDC revisions process?

Florida Statutes require periodic review of the effectiveness of the Escambia County Comprehensive Plan, our long-range land use planning guide. The latest review, the 2007 Evaluation and Appraisal Report (EAR), recommended both amendments to the Comprehensive Plan and revisions to the LDC. As the implementing document for many Comprehensive Plan policies, the LDC must be made consistent with the plan. But the EAR also more broadly required revision of the LDC into a document "reflecting contemporary design standards and modern land use regulations," and one that enhances the quality of life of county residents.

Another function of the revisions process is to continue implementation of zoning district and future land use (FLU) category recommendations from the Central Escambia County Area Study (CECAS I & II). Specifically for zoning this means an "aggregation and reduction" of districts and improved compatibility between districts and FLU categories. But with fewer districts to accommodate the same range of uses, the scale and design methods of form based zoning rather than traditional use segregation will be necessary to resolve compatibility issues and allow the greater mix of uses within individual districts.

(3) How does the advisory committee fit into the overall LDC revision process?

The principle purpose of the Citizens Advisory Committee is to broaden the expertise and experience applied to the evaluation of how the LDC implements the Comprehensive Plan and EAR and CECAS recommendations. It is anticipated that review and comment by the committee will help produce a consensus document with broad support.

As described by the BCC resolution establishing it, the committee has the duty and responsibility to "review and provide input for those Land Development Code standards, regulations, and provisions it may find obsolete, contradictory, confusing,

insufficient, or otherwise contrary to the adopted 2007 Evaluation and Appraisal Report or the goals, objectives, and policies of the Escambia County Comprehensive Plan.” The committee has no rulemaking authority, but has specific advisory responsibilities. So, based on its evaluation of the current LDC the committee will provide comments, ideas, and suggestions to assist county staff in the drafting of revised LDC content.

(4) How will the advisory committee operate?

The basic composition and operation of the Citizens Advisory Committee is established by resolution of the BCC. In coordination with county staff the committee will establish its methods of LDC review and comment. Communication among committee members regarding the work of the committee will be limited to committee meetings, and all meetings will follow “sunshine” requirements for public meetings. More detailed information on these responsibilities is provided in the committee members’ materials. The state’s website www.myflsunshine.com provides extensive information on Florida’s open government and public records laws.

(5) When and how often will the advisory committee meet?

The frequency of committee meetings will vary with the review demands and availability of members, but once initiated the meetings will likely average two per month. The dates and times of meetings will be determined based on the ability of a majority of the committee members to attend. Late afternoon and early evening meeting times are likely, but earlier daytime meetings are possible. Meetings will be scheduled sufficiently in advance to allow adequate public participation.

(6) How long will the term of service be for the advisory committee?

The entire LDC revisions process, from the beginning of advisory committee work to a final adopted document, is expected to require about two years. Ideally, most committee work would be completed about midway through the overall process to allow multiple venues and opportunities for broad public review and comment. So, all those serving on the committee should be prepared to participate for the time required to address the issues identified.

(7) What are some of the specific review responsibilities of the advisory committee?

- Evaluate consistency with the Comprehensive Plan.
- Avoid issues that are not within the scope of the LDC.
- Avoid unnecessary creation of separate definitions of terms that are used once within limited text and can be sufficiently described there.
- Determine how nonconformity of existing development will be addressed for new additions, redevelopment, and/or other site modifications.

- Determine what is required and how compliance with the requirement is confirmed.
- Determine what illustrations would be useful to clarify definitions or requirements.
- Avoid subjectivity in a requirement that may create inconsistency in its application.
- Where a county official is given discretion, include objective criteria (positive and negative) that must be evaluated to support the official's decision.
- Provide guidance and assistance within the LDC, but remember that the basic character of the code is regulatory - it exists to require, control, and direct elements of land use according to the Comprehensive Plan.
- Remember the audience. Yes, the LDC is used routinely by engineers, planners, and other land use professionals, but it is also used by many others with varying levels of expertise. So, avoid jargon.

(8) What are some useful questions to ask about existing or proposed LDC provisions?

- What in the Comprehensive Plan supports or requires the provision in the LDC?
- Does the provision implement a policy of the Comprehensive Plan?
- Is the provision clear, complete, and objective?
- Is all the information necessary to comply with a requirement provided or directions to it given?
- Is the provision outdated, vague, unenforceable, arbitrary, or subjective? If so, can it be revised to accomplish a valid purpose?
- Are there secondary reasons to include a provision - federal or state law or code, good professional practice, best management practices?
- Is the provision stated both in a way that it can be understood and in a way that it cannot be misunderstood?
- Are there alternatives to a requirement? If so, are they presented?
- Is the requirement too severe or too lenient to accomplish the intent?
- When a process is required, are all the steps presented clearly and in order?
- Is there any subjectivity in the requirement? If so, is guidance provided to achieve a consistent result?
- Is it clear what is required or allowed?
- Are absolutes such as "all," "every," "no," "shall," properly used, excluding or including only what is intended?
- Will the provision produce a consistent result when applied by different people, or when applied to different circumstances by the same person?
- Is any flexibility available? If so, are there objective measures for it? Can flexibility be added to a provision without making it too complicated for either applicant or reviewer?
- Is the provision an appropriate balance of right and responsibility?

An Overview of Parliamentary Procedure for the LDC Revisions Advisory Committee

What is parliamentary procedure? Parliamentary procedure is a set of rules for conduct at meetings that allows everyone to be heard and to make decisions without confusion. It exists to facilitate the transaction of business, foster cooperation among group members, advance the public interest, and promote the democratic principle of having full, open and fair discussions on public issues. Even a basic application of parliamentary principles can help a group hold more efficient meetings.

What are Robert's Rules of Order? Robert's Rules of Order is a time-tested parliamentary authority providing a foundation for the entire process of a meeting. Robert's Rules are based in principles of parliamentary law that take into account the rights of the majority, the minority, the individual, any absent members, and the collective rights of them all.

Robert's Rules of Order are used to:

- Ensure fairness and equity.
- Streamline the meeting, maintain focus and order, and ensure items not germane to the issues at hand are kept in check.
- Allow written minutes to reflect the issues, actions and decisions made, and to accurately document the work of the groups.
- Help ensure that decisions and actions taken can be justified or defended if needed.

What are some general characteristics of advisory committee work? In recognizing their commitment to the citizens of Escambia County, advisory committee members should keep the following principles in mind:

- The group is self-governing, meeting to determine, in full and free discussion, courses of action to be taken in the name of the entire group.
- A quorum must be present for the group to conduct official business.
- The Chair is responsible for presiding over the order of business in a fair, orderly and impartial manner.
- The committee should consider one matter at any given time.
- Members should actively engage in discussions of relevant matters and any debates should be confined to the merits of the pending question.
- Members have equal rights, privileges, and obligations.
- Members should be free to engage in full and free discussion of every motion or relevant issue of business before the group.
- Members should not speak out of turn and generally should yield to a fellow member who has the floor.
- If there are absentee members - as there usually are - the members present at a properly called meeting act on behalf of the entire membership.
- In any decision made, the opinion of each member present has equal weight when voting; when members vote, they join others in assuming direct personal responsibility for the decision.

- If a member does not agree with the decision of the body, this does not constitute withdrawal from the body.

What are the specific roles of the advisory committee members?

(1) Chair

- Helps facilitate the meeting.
- Keeps order.
- Makes rulings on points of order, points of information, or points of procedure.
- Can make a motion, but may also prompt for one from other members or assume one ("If there are no corrections, the minutes stand approved as read.")
- Clarifies and restates pending motions for which a vote is in order.
- Can enter into debate and vote on issues.

(2) Vice Chair

- Helps facilitate the meeting.
- Helps keep order.
- Takes the chair if the presiding chair wishes to vacate on an issue or if the presiding chair is absent.
- Can make motions and has full voting rights.

(3) Secretary

- Accurately records the facts of the meeting for future use.
- Notes all motions and their results, but not the discussions of motions.
- Presents and posts minutes of the meeting and keeps past minutes filed for future reference.
- Is next in line to fill the chair in the absence of the presiding chair or vice chair.

(4) Committee members

- Own the meeting.
- Make, discuss, amend and vote on motions germane to the agenda.
- Ensure the actions taken and motions passed represent the needs and requests of the membership at large.
- Uphold the rules.

Agenda. A meeting agenda documents the order of business to be addressed. Everyone can participate in the development of the agenda, suggesting topics or issues that need to be covered. The agenda should be sent out prior to the meeting. However, agendas are considered to be provided for information only, not binding as to detail or order of consideration. A portion of the agenda should include a time for receiving any public comment. This can be done at the end of a meeting. The agenda should generally be organized as follows:

(1) Call to order

(2) Read and approve minutes of previous meeting.

(3) Reports of officers and any subcommittees

(4) Unfinished business - any questions from previous meeting's agenda

(5) New business - members can introduce new items

(6) Announcements

(7) Adjourn

Minutes. Minutes are the official record of the proceedings of the advisory committee meeting. Robert's Rules say that minutes "should contain a record of what was *done* at a meeting, not what was *said* by the members." As with other parliamentary rules and devices, minutes should serve the needs of the organization and its special character. The minutes of an advisory group meeting should contain:

- The name of the committee.
- The date, time, and location of the meeting.
- The names of all committee members present and their roles, permanent or acting.
- The names of all county staff or other advisors present.
- An attached sign-in sheet for all public attending.
- Notation whether the minutes of the previous meeting were read and approved – as read or corrected.
- A separate paragraph for each subject area.
- All main motions, including the name of the member offering the motion, the wording in which each motion was adopted or otherwise disposed of, and the disposition of the motion. The minutes should also include all secondary motions that were lost or withdrawn.
- The time of adjournment.

Reports. In the work of the advisory committee it may be necessary to have members gather and condense information into reports for presentation to the group.

- Reports should be prepared ahead and copies provided at the meeting. Have some additional copies if public attendance is anticipated.
- If possible, distribute reports to members prior to the meeting, especially if they are lengthy, complex, or constitute a motion that will require a vote.
- Reports should be as clear and succinct as possible.
- Subcommittee reports should not be a rehash of the subcommittee meeting, but should contain the main points of what was done.
- Recommendations from subcommittees should be made in the form of a motion. These motions do not require a second.

What are motions? Motions are the method used by committee members to express themselves. A motion is a proposal that the entire membership take action or a stand on an issue. There are four basic types of motions:

- (1) **Main Motions:** The purpose of a main motion is to introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and they yield to privileged, subsidiary, and incidental motions.
- (2) **Subsidiary Motions:** Their purpose is to change or affect how a main motion is handled, and are voted on before a main motion.
- (3) **Privileged Motions:** Their purpose is to bring up items that are urgent about special or important matters unrelated to pending business.
- (4) **Incidental Motions:** Their purpose is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.

How are motions presented? Items that bring up a question of "what shall we do?" require a motion and a vote. These items need to follow a process:

- (1) Obtain the floor
 - a. Wait until the last speaker has finished.
 - b. Address the Chairman by saying, "Mr. Chairman."
 - c. Wait until the Chairman recognizes you.
- (2) Make your motion
 - a. Speak in a clear and concise manner.
 - b. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ...".
 - c. Avoid personalities and stay on your subject.
- (3) Wait for another member to second your motion or the Chairman will call for a second. If there is no second to your motion it is lost.
- (4) If there is a second the Chairman states your motion
 - a. The Chairman will say, "It has been moved and seconded that we ..." thus placing your motion before the membership for consideration and action.
 - b. The membership then either debates your motion, or may move directly to a vote.
 - c. Once your motion is presented to the membership by the Chairman it becomes "assembly property", and cannot be changed by you without the consent of the members.
- (5) Expanding on your motion
 - a. The time for you to speak in favor of your motion is at this point in time, rather than at the time you present it.
 - b. The one who made the motion is always allowed to speak first.
 - c. All comments and debate must be directed to the Chairman.
 - d. Keep to any time limit for speaking that has been established.
 - e. The one who made the motion may speak again only after other speakers are finished, unless called upon by the Chairman.
- (6) Putting the question to the membership
 - a. The Chairman asks, "Are you ready to vote on the question?"
 - b. If there is no more discussion, a vote is taken.
 - c. The right to vote is limited to the members who are present in a meeting during the time a vote is actually taken.
 - d. The Chairman asks members to vote by voice or show of hands. However, the Chairman may seek approval by consent and say, "if there is no objection ..." for approval of minutes or other topics where there seems to be no one opposed to the motion made. The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.
 - e. The Chairman announces the result of the vote.

General rules governing debate on motions or matter. The term debate applies to the discussion on the merits of a pending question or given matter. For a group discussion to be effective:

- Remarks must be germane to the question before the group.
- Speakers should speak audibly and clearly.

- Speakers should refrain from attacking another member's motives.
- Direct comments to the Chair.
- Each member should have an opportunity to speak on a given matter before the group moves to another order of business.
- Members should be free to engage in full and free discussion of every motion or relevant issue of business before the group.
- No member should speak until recognized by the Chair, and the Chair should recognize members who seek the floor.
- Members should not speak out of turn and generally should yield to a fellow member who has the floor.
- Don't be disruptive.
- Make corrections politely if you know something is inaccurate.
- Allow the chair to interrupt you.

Effective Meetings – the Three Ones

from Keenan Patterson, manager at Infra Consulting LC, Jefferson City, Missouri

If you've been in many meetings, you've probably experienced ineffective ones that seemed like a waste of time. Parliamentary procedure has developed as a way to help deliberative assemblies of all sizes handle their business. Though perceived at times as just a set of rules, parliamentary procedure is built on concepts that lead to more effective and efficient meetings.

Three concepts that underlie proper parliamentary procedure help keep meetings on track and on time. Use these "three ones" to improve your meetings.

(1) ONE THING AT A TIME. The first concept is that a group should only consider one issue at a time. Until that issue is resolved through some decision, agreement, action or choice to postpone action on the issue, nothing else should be discussed. When people focus their attention on one issue, they can deal with it more quickly.

Meetings can be derailed by distractions. When people bring up issues willy-nilly, go off on tangents, carry on side discussions and otherwise try to pursue multiple issues, they are undermining their own interest in completing the meeting with good results. Keep your meetings on track by calling people back to the one issue that is before the group now.

(2) ONCE PER MEETING. In any meeting an issue should only be discussed once. Discuss it fully, do what you need to do and move on. If an issue truly can't be settled and the group decides to move on to other topics, do not discuss the topic again in the same meeting; the decision to move on means the issue is settled for the purposes of the current meeting. Pair this concept with "one thing at a time" to bring the focus back to the current issue.

Revisiting old, and still unsettled, matters can seriously bog down a meeting. When people continually rehash an issue, they lose out on the progress they might make on other issues. Remind the group that there are other important issues to discuss in this meeting and the old issue can be discussed again at some other time.

(3) ONE PERSON AT A TIME. Large deliberative assemblies could not possibly get things done if everyone spoke at once. Smaller groups can also suffer confusion, disorder, circular discussions, loss of information, hurt feelings, and other sources of ineffectiveness when people talk over each other. Avoid these bad effects by ensuring everyone speaks one at a time.

When people speak one at a time, they have the opportunity to have their full say. It is courteous to listen to people without interrupting them and members of your group will appreciate receiving this respect. In addition, others in the meeting will have a better understanding of what is said when they can concentrate their attention on a single speaker. Use this strategy to increase knowledge transfer, clarity and respect.

Advisory Committee Sunshine Law Meetings Information

from Government-in-the-Sunshine Manual
2009 Electronic Edition, Florida Attorney General's Office

Florida's Government-in-the-Sunshine Law provides a right of access to governmental proceedings at both the state and local levels. The law is equally applicable to elected and appointed boards. Advisory boards created pursuant to law or ordinance or otherwise established by public agencies are subject to the Sunshine Law even though their recommendations are not binding upon the entities that create them.

There are three basic meeting requirements of the Sunshine Law:

(1) MEETINGS OPEN TO THE PUBLIC. Advisory committee meetings must be open to all those who choose to attend. The time and place of meetings should support public accessibility. Reasonable steps should be taken to ensure that the facilities used will accommodate the anticipated attendance.

The open meeting requirement does allow that reasonable rules and policies to ensure the orderly conduct of a public meeting be adopted. For example, a rule which limits the amount of time an individual may address the group could be adopted, but a rule which prohibits the use of non-disruptive recording devices is unreasonable and arbitrary.

(2) REASONABLE NOTICE OF MEETINGS GIVEN. Reasonable public notice must be given of all advisory committee meetings, identifying the scheduled meeting time and place. If available, an agenda should be included, but subject matter summations may be used if no agenda is available. The Sunshine Law does not require that only those matters on a published agenda be considered, but, it is advisable to postpone formal action on any added items that may be controversial.

Each advisory group will be responsible for providing the LDC Revisions Project Manager their meeting schedule and agenda topics. The Project Manager will assure sufficient notice is provided through website postings, e-mail, and other means to enable the media and general public to attend all meetings.

(3) MINUTES OF THE MEETINGS TAKEN. Minutes of an advisory committee meeting must be promptly recorded and open to public inspection. While electronic devices may be used to record the proceedings, meeting events must be recorded in written notes or a brief summary of the meeting. The minutes are public records when the person responsible for preparing them has done so, even though they have not yet been sent to the advisory group members or officially approved by the group.

Other open meeting considerations

- The Sunshine Law extends to the discussions and deliberations as well as the formal action taken by an advisory committee. There is no requirement that a quorum be present for a meeting of members to be subject to the law. Instead, the

Sunshine Law is applicable to **any** gathering, whether formal or casual, of two or more members of the advisory committee to discuss some matter on which **foreseeable action** will be taken by the group. It is the how and the why committee members decided to so act which interests the public, not merely the final decision.

- Discussions conducted via telephones, computers, or other electronic means are **not** exempted from the Sunshine Law.
- The Sunshine Law is applicable to meetings between an advisory committee member and an individual who is not a committee member when that individual is being used as a liaison between, or to conduct a de facto meeting of, committee members.

Robert's Rules Abbreviated

| LANGUAGE | | INTERRUPT SPEAKER? | SECOND NEEDED? | MOTION DEBATABLE? | MOTION AMENDABLE? | VOTE NEEDED? |
|--|---|--------------------|----------------|-------------------|-------------------|-------------------|
| PRIVILEGED MOTIONS deal with the welfare of the group, rather than with any specific proposal. They must be disposed of before the group can consider any other motion. | | | | | | |
| Adjourn the meeting | I move that we adjourn | no | yes | no | no | majority |
| Recess the meeting | I move we recess until | no | yes | no | yes | majority |
| Complain about noise, room temperature etc. | Point of privilege | yes | no | no | no | none, chair rules |
| SUBSIDIARY MOTIONS provide various ways of modifying or disposing of main motions. They must be acted upon before all other motions except privileged motions. | | | | | | |
| Suspend debate on a matter without calling for a vote | I move we table the matter | no | yes | no | no | majority |
| End debate | I move the previous question | no | yes | no | no | 2/3 majority |
| Limit length of debate | I move debate on this matter be limited to | no | yes | no | yes | 2/3 majority |
| Ask for a vote by actual count, to verify a voice vote | I call for a division of the house | no | no | no | no | none* |
| Postpone consideration of a matter to a specific time | I move we postpone the matter until | no | yes | yes | yes | majority |
| Have a matter studied further | I move we refer this matter to a committee | no | yes | yes | yes | majority |
| Consider a matter informally | I move the question be considered informally | no | yes | yes | no | majority |
| Amend a motion | I move that this motion be amended by | no | yes | yes | yes | majority |
| Reject a main motion without voting on the motion itself | I move the question be postponed indefinitely | no | yes | yes | no | majority |
| INCIDENTAL MOTIONS grow out of other business that the group is considering. They must be decided before the group can return to the question that brought them up. | | | | | | |
| Correct an error in parliamentary procedure | Point of order | yes | no | no | no | none, chair rules |
| Object to a ruling by the chair | I appeal the chair's decision. | yes | yes | yes | no | majority |
| Consider a matter that violates normal procedure, but does not violate the constitution or bylaws | I move we suspend the rules | no | yes | no | no | 2/3 majority |
| Object to considering some matter | I object to the consideration of this matter | yes | no | no | no | 2/3 majority |
| Obtain advice on proper procedure | I raise a parliamentary inquiry | yes | no | no | no | none, chair rules |
| Request information | Point of information | yes | no | no | no | none |
| Withdraw a motion | I request leave to withdraw the motion | no | no | no | no | majority |
| MAIN MOTIONS are the tools used to introduce new business. | | | | | | |
| Introduce business | I move that | no | yes | yes | yes | majority |
| Take up a matter previously tabled | I move we take from the table | no | yes | no | no | majority |
| Reconsider a matter already disposed of | I move we reconsider our action relative to | yes | yes | yes | no | majority |
| Strike out a motion previously passed | I move we rescind the motion calling for | no | yes | yes | yes | majority |
| Consider a matter out of its scheduled order | I move we suspend the rules and consider | no | yes | no | no | 2/3 majority |

*But majority vote if someone objects.

FREQUENTLY ASKED QUESTIONS ABOUT FLORIDA'S GOVERNMENT IN
THE SUNSHINE LAW (ART. I, SECTION 24, FLA. CONST., AND SECTION
286.011, FLORIDA STATUTES)

1. What is the purpose of Florida's Government in the Sunshine Law?

The purpose of the Sunshine Law is to give citizens a right of access to governmental proceedings.

2. How does the Sunshine Law give citizens access to governmental proceedings?

The Sunshine Law gives citizens access to governmental proceedings in three ways:

- a) Meetings of public boards or commissions must be open to the public;
- b) Reasonable notice of such meetings must be given; and
- c) Minutes must be taken.

These requirements tell interested citizens when a meeting will be taking place and where it will be held. In addition, the minutes provide a written record of who was in attendance and what took place.

3. Why is public access to governmental proceedings so important in Florida?

Since 1967, the public policy of this state underlying Government in the Sunshine is that citizens have the right to know the "how" and the "why" officials decided to take action, not merely the final decision. And so in keeping with this policy, every expressed thought, as well as every affirmative act of a public official as it relates to and is within the scope of his or her official duties, is a matter of public concern; it is the entire decision-making process that the legislature intended to affect by enacting this law.

In 1992, the Florida Constitution was amended to include the open meetings requirement in Art. I, Declaration of Rights. This provision is self-executing.

4. What is "a meeting subject to the Sunshine Law"?

A meeting subject to the Sunshine Law is *any gathering, or interaction* whether formal or casual, of *two or more* members of the *same* public board, commission, or committee to discuss some matter on which *foreseeable* action will be taken by such public board, commission, or committee at some future meeting.

5. What entities are subject to the Sunshine Law?

The statute applies to any board, commission, agency, authority, or advisory committee of the County. It applies to both elected officials and appointed members

6. Are there any exceptions to this?

Yes, exemptions are created by general law or caselaw. One such case says that advisory bodies created by law, ordinance, or otherwise are not subject to the Sunshine Law where such a body has been established for *fact finding/information gathering and has no decision-making authority*.

7. How can it be determined whether an advisory body has only a fact finding/information gathering function as opposed to a decision-making function?

An advisory committee or board is participating in a decision-making process as opposed to fact-finding when it has the discretion to accept or reject options to be presented to the final decision-making authority. For example, screening of applicants and ranking of proposals. However, where a committee is formed to report back to the public entity on, e.g., employee working conditions, such fact-finding is not subject to Government in the Sunshine.

8. Does the Sunshine Law apply to staff?

Not unless the staff member has been delegated decision-making functions outside their normal staff functions.

The focus is on the nature of the act performed, not the make-up of the committee or how close or remote the act is from the final decision. For example, if a governmental entity (this includes the County Administrator) forms a committee composed entirely of staff to make non-binding recommendations to him regarding disposition of employee grievances, the Sunshine Law would apply. Another example of a staff Sunshine committee is where a committee (composed of staff and one outside person) is created by the purchasing director to assist and advise him/her in evaluating proposals. Development Review Committees are also subject to the requirements of the Sunshine Law.

However, a committee composed of staff, which is responsible for informing the decision-maker through fact-finding consultations is not subject to the

Sunshine Law. Nor is the law violated when a government executive uses staff for a fact-finding and advisory function in fulfilling his/her *executive* duties.

Informal meetings between staff and a county commissioner, where the discussions are merely informational, where none of the individuals attending the meeting has the authority to make a final decision during that meeting, and where no formal action was taken or could have been taken at that meeting are not subject to the Sunshine Law.

9. **May members of the same board or committee provide written position statements to each other on subjects that will be discussed at a public meeting?**

Yes, so long as (a) there is no interaction related to the report among the members; (b) the report is not used as a substitute for action at a public meeting, and (c) the written report is maintained by the records custodian as a public record.

This is because the circulation of a written report, which does not result in exchange of comments or responses on subjects requiring board action, does not constitute a *meeting* subject to the Sunshine Law.

When circulating written reports, it is important to remember that if other committee or commission members in turn distribute their own position papers to other members, to the extent that such communication is a "response" to another commissioner's position statement, it would violate the Sunshine Law. The circulation of position statements may *not* be used in place of public discussions and deliberations in order to circumvent the requirements of the law.

10. **Are telephone conversations and e-mails subject to the Sunshine Law?**

Yes, therefore, members of *the same board or committee* should not call or e-mail each other on matters which may *foreseeably* come before that board or committee.

11. **What are the consequences if a public board or committee fails to comply with the Sunshine Law?**

Any member of a board, commission, committee or agency of the county who *KNOWINGLY* violates the Sunshine Law is guilty of a misdemeanor of the second degree. Persons convicted of such violation may be sentenced to jail for up to 60 days and/or fined up to \$500.00

KNOWING violation of the Sunshine Law may also result in suspension of an elected or appointed public office by the Governor.

Where an inadvertent violation of the Sunshine Law occurs, the public officer who commits such a violation is guilty of a *non-criminal infraction*, punishable by a fine not to exceed \$500.00. The State Attorney may pursue such actions on behalf of the State.

In addition, any citizen of this County may apply to the Circuit Court to issue an injunction to remedy past as well as future violations.

12. How does a violation of the Sunshine Law affect the validity of action taken?

Any official action of a public board, agency or committee, which does not comply with the requirements of the Sunshine Law is *void*. The public board, agency or committee must hold a full open public meeting and take independent final action in the Sunshine to cure the violation.

Note, however, that curing the violation does not shield the individuals who violated the Sunshine Law from liability.

13. Are there any guidelines for complying with the notice requirement?

Yes, in the absence of specific statutory requirements for advertising, the Attorney General suggests the following notice guidelines:

- a) The notice should contain the time, date and place of the meeting *and*, if available, an agenda or subject matter summation;
- b) The notice should be prominently displayed in the area the County sets aside for that purpose;
- c) Emergency sessions should be afforded the most appropriate and effective notice under the circumstances and special meetings should have at least 24 hours reasonable notice to the public; and
- d) The use of press releases and/or phone calls to the wire services and other media is highly effective. Advertising in the local newspapers of general circulation would be appropriate.

(NOTE: The determination of who will actually prepare the notice or agenda as well as who will take the minutes should be contained in ordinances, resolutions or policy manuals).

When a public board or committee acts as a quasi-judicial body or takes action on matters that affect the individual rights of citizens in contrast with the rights of the

public at large, the board or committee is subject to the additional notice requirements of Section 286.0105, Fla. Stat., which states:

Each board, commission, or agency of this state or of any political subdivision thereof shall include the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

14. **How can members of public boards or committees avoid liability for Sunshine violations relating to notice and access to the public?**

If a board or committee member is unable to determine whether a meeting is subject to the Sunshine Law, he or she should leave the meeting *or* make sure that the meeting was properly noticed or advertised, that there are no barriers to public access or ADA access to the meeting place, and that minutes of the meeting are being taken.