

Sunshine, city commissioners meeting with legislator

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Subject:

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The Honorable Walter "Skip" Campbell
Senator, District 33
10094 McNab Road
Tamarac, Florida 33321

Dear Senator Campbell:

This is in response to your request for an opinion regarding the applicability of the Sunshine Law to a luncheon at which you and the Tamarac City Commission would discuss matters of concern to the city.

Florida's Government-in-the-Sunshine Law, section 286.011, Florida Statutes, provides a right of access to governmental proceedings at the state and local levels, applying to any gathering of two or more members of the same board or commission to discuss some matter which will foreseeably come before that board for action.[1] Article I, section 24, of the Florida Constitution establishes a constitutional right of public access to meetings of public bodies at which official acts are to be taken, or at which public business of such body is to be transacted or discussed.[2] Meetings of the Legislature are required to be open and noticed as provided in Article III, section 4(e), Florida Constitution, except with respect to those meetings exempted under Article I, section 24, Florida Constitution, or specifically closed by the Constitution.[3]

In the instance you have described, a gathering of the city commission to discuss matters of concern to the city, the Sunshine Law would apply if the matters discussed would foreseeably come before the commission for action.[4] The Sunshine Law applies to any gathering, whether formal or casual, where two or more members engage in such discussion.[5] This office has advised that public boards or commissions should refrain from using luncheon meetings to conduct business.[6] Public access is the key element of the Sunshine Law and public agencies are advised to avoid holding meetings in places not readily accessible to the public.[7]

In the case of a luncheon, people who might otherwise attend such a meeting may be reluctant to enter a dining room without purchasing a meal and may be financially or personally unwilling to do so.

The clear purpose of the Sunshine Law is to ensure the public's right of access to meetings where official matters are to be discussed. It is my opinion that the Sunshine Law's continued effectiveness is dependent upon the vigilance of every officer who serves on a public board or commission to comply with its terms.

I trust these informal comments will be helpful in your consideration of this matter.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

[1] See *Times Publishing Company v. Williams*, 222 So. 2d 470, 473 (Fla. 2d DCA 1969); *City of Miami Beach v. Berns*, 245 So. 2d 38 (Fla. 1971).

[2] Article I, s. 24(b), Fla. Const., states:

"All meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution."

[3] See Art. I, s. 24(b), Fla. Const., *supra*. Article III, s. 4(e), Fla. Const., states:

"The rules of procedure of each house shall provide that all legislative committee and subcommittee meetings of each house, and joint conference committee meetings, shall be open and noticed to the public. The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public. . . ."

[4] See *Hough v. Stembridge*, 278 So. 2d 288 (Fla. 3d DCA 1973) (intent of the government in the Sunshine Law is to cover any gathering of some of the members of a public board where those members discuss some matters on which foreseeable action may be taken by the board).

[5] See, e.g., Ops. Att'y Gen. Fla. 92-17 (1992) (workshop meetings, conferences, and sessions held prior to regular meeting subject to Sunshine Law); 74-62 (1974) (conference sessions held by town council before regular meeting must be open). And see *Ruff v. School Board of Collier County*, 426 So. 2d 1015 (Fla. 2d DCA 1983) (organizational meeting of task force subject to s. 286.011, Fla. Stat.).

[6] Informal opinion to Hon. Bill Nelson, May 19, 1980.

[7] See *City of Miami Beach v. Berns*, 245 So. 2d 38, 41 (Fla. 1971), in which the Court

observed: "A secret meeting occurs when public officials meet at a time and place to avoid being seen or heard by the public."