NorthPort FLORIDA

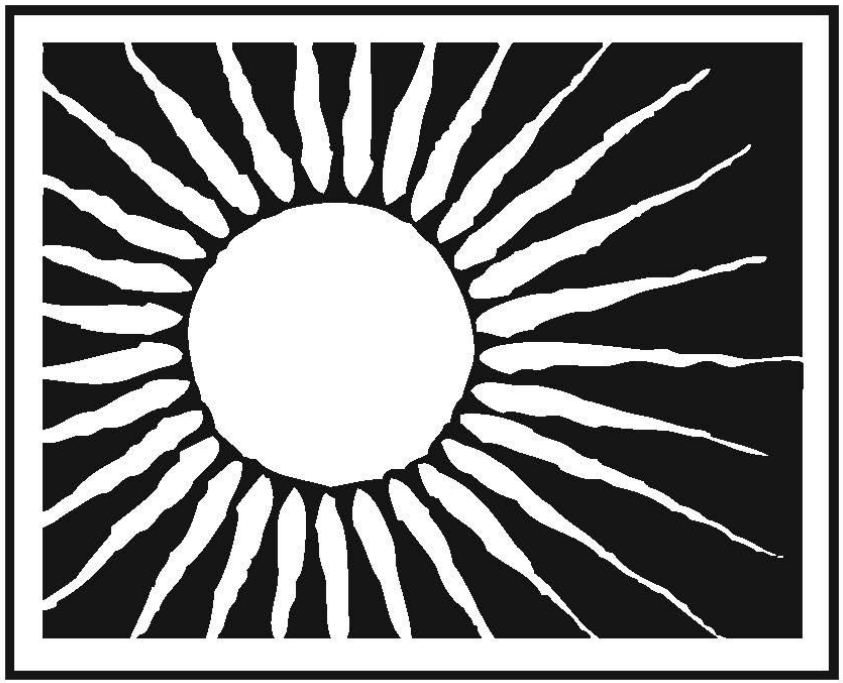
ACHIEVE ANYTHING

Advisory Board and Committee Training

- ❑ Public Meeting & Public Records
- ❑ Ethics
- ❑ Meeting Procedures

PUBLIC MEETINGS & PUBLIC RECORDS

GOVERNMENT-IN-THE-SUNSHINE



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Public Meetings - Definition

To Provide Right of Access to Government

A meeting is **any gathering**, whether formal or casual, of two or more members of the same board where they discuss some matter on which **foreseeable action** will be taken by their board.

Gathering = any conversation, text, e-mail, phone call, etc.

Applies to members-elect that have not yet taken office.

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Open Meeting Requirements

Meetings **must be open** to the public

Reasonable notice of the meeting must be provided

Minutes of the meeting must be taken and recorded

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Penalties for Violation

Criminal Prosecution = 2nd Degree M**isdemeanor**

Maximum **$500 fine + 60 days** in jail

Noncriminal **fine** up to **$500**

Removal from office

Court shall assess a reasonable **attorney's fees** against the City

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Penalty Examples

NEWS

Sebastian council members arrested on Sunshine Law violations

By **Meghan McRoberts** | June 16, 2020 at 7:28 PM EDT - Updated June 17 at 12:28 PM

Two Sebastian council members have been arrested on criminal charges related to their involvement in an illegal meeting in April where they tried to remove multiple top city officials from their positions.

On April 22, the Sebastian city manager postponed a regular council meeting where the removal of the mayor was a topic of discussion. The postponement was advertised on the city's website.

Council members Charles Mauti, Damien Gilliams and Pamela Parris are accused of still holding their own meeting that night, unbeknownst to the public, and voting to fire the city attorney, city manager, and city clerk from office and remove the mayor from his position.

The actions were voided as the legality of the meeting was under review.

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Public Records - Definition

ALL RECORDS: documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, **regardless of the physical form**, characteristics, or means of transmission, **made or received** pursuant to law or ordinance or in connection with the **transaction of official business** by any agency.

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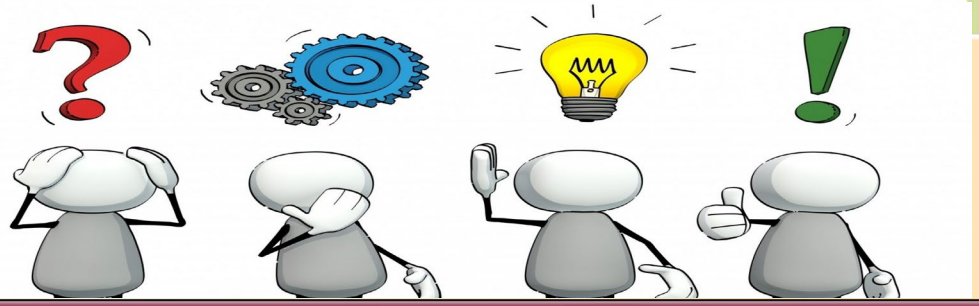
Is It A Public Record?



Am I receiving this material because of my position with the City?

Is the material made or received in connection with the transaction of official business of the City?

Is the material used to **perpetuate**, **communicate**, or **formalize knowledge**?

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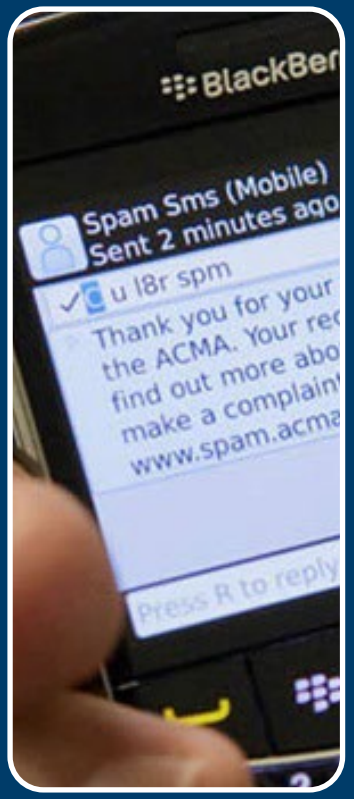
Email & Text Messages



Electronic messages from **private computers and phones** that are **written or received** in connection with official business are public records and are subject to retention and disclosure

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Public Records Requests

Public Records Act is liberally construed in favor of disclosure

The City Clerk is the Custodian of Public Records

Forward all requests for public records to the Liaison and the City Clerk

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Public Records - Retention

As an advisory board member, you are responsible for forwarding any records you receive **and requests for records** to the staff liaison or City Clerk.

The City Clerk's Office will ensure that public records are properly **retained or produced**.

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Penalty Examples

Don’t Forget About a Request for Public Records
It could get you sued!

Newly elected Manatee County Commissioner James Satcher sued over public records request

Emily Wunderlich Sarasota Herald-Tribune

Published 4:02 p.m. ET Dec. 8, 2020 | **Updated 4:48 p.m. ET Dec. 8, 2020**

Newly elected Manatee County Commissioner James Satcher is being sued for allegedly failing to respond to a public records request.

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Penalty Examples

Inability to Comply with a Request is NO EXCUSE

Herald-Tribune

Venice settles Sunshine Law suit

By Earle Kimel
Staff Writer
Posted Jan 13, 2020 at 4:29 PM

Agreement calls for the city of Venice to cover court costs and attorney fees for De Novo Law Services and have a third-party audit of its texts every two years.

VENICE — It took less than 40 minutes for the Venice City Council to approve a $45,321 consent final judgment to settle a 2018 suit that alleged the city violated the Sunshine Law because it could not properly produce text messages in response to a Freedom of Information Act Request.

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Penalty Examples

Not Complying with a Public Records Request Can Be Expensive

Manatee County to cover legal fees linked to Cheri Coryea firing

Jesse Mendoza Sarasota Herald-Tribune

Published 3:44 p.m. ET May 11, 2021 | **Updated 7:59 p.m. ET May 11, 2021**

Manatee County commissioners unanimously agreed Tuesday to pay up to $60,000 in legal fees associated with a civil lawsuit alleging commissioners failed to produce public records tied to the firing of former County Administrator Cheri Coryea.

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Florida Commission on Ethics

ETHICS.STATE.FL.US

(850) 488-7864

Guide to Sunshine Amendment and Code of Ethics

http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf?cp=2021514

Florida Statutes Sections 112.311 through 112.3261

Prohibited Conduct

Solicitation or Acceptance of Gifts

- Shall not solicit or accept **anything of value, favor, or service** based on understanding that your vote, official action, or judgment will be influenced

Unauthorized Compensation

- Shall not accept compensation, payment, or thing of value, when you **know or should know**, it is given to influence a vote or official action
- Applies to your **spouse and minor children**

Misuse of Public Position

- Shall not corruptly use or attempt to use official position or resources to obtain a **special privilege or benefit** for yourself or others

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Prohibited Conduct

Abuse of Public Position

- Shall not abuse public position to obtain a **disproportionate benefit** for yourself or others

Disclosure or Use of Certain Information

- Shall not disclose or use information **not available** to the public and **obtained** through your public position for the benefit of yourself or others

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Prohibited Relationships

Doing Business with the City

- Shall not purchase, rent, or lease any realty, goods, or services for the City from your business
- Applies to your spouse and child

Conflicting Employment or Contractual Relationship

- Shall not hold any employment or contractual relationship with a business or agency regulated by or doing business with the City
- Shall not hold any employment or contract which will pose a frequently recurring conflict between private interests and official duties

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Voting

Florida Statutes Section 286.012 mandates that a member who is present **may not abstain** from voting unless:

(1) A conflict of interest exists, as set forth in the ethical statutes; or

(2) In a quasi-judicial proceeding, to assure a fair proceeding free from potential bias or prejudice

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Voting Conflicts of Interest

PROHIBITED from Voting (State Law)

- If the item would inure to public officer's special private gain or loss (almost always means a **financial interest**)
- Applies to public officer and **relative** and **business associate**
- Must file written voting conflict in advance of vote, but if not possible, then must orally announce at meeting and file conflict paperwork within 15 days after vote

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Relatives

Who Is a Relative?

- Spouse (fiancée and partner)
- Anyone with same residence
- Parent (in-law and step)
- Child (in-law and step)
- Sibling (in-law, step, and half)
- Aunt/uncle
- First cousin
- Niece/nephew
- Grandparent (step)
- Grandchild (step)
- Great grandparent (step)
- Great grandchild (step)

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Penalties

- Impeachment
- Removal from office
- Suspension from office
- Public censure and reprimand
- Civil penalty not to exceed $10,000
- Restitution of any pecuniary benefits received

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MEETING PROCEDURES

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Quorum & Motions

Quorum = Majority

Motion should be a clear statement about a decision

Requires a second

Discussion opens, beginning with the person who made the motion

The board now debates the motion

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Discussion

Stay on topic - Talking about something else is out of order

Time limits per item and per speaker can apply (and may be modified any time with a two-thirds vote)

Each board member speaks once per motion unless no one is waiting to speak

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Alternate Members

City Code Section 4-2

When a regular member is absent, an alternate shall take the place of the regular member.

Only then may the alternate **participate and vote** in the meeting as a regular member.

The first alternate takes the place of the first absent regular member, and the second alternate takes the place of the next absent member.

In the absence of a regular member and the first alternate, the second alternate will take the place of the absent regular member.

An alternate may participate in a meeting ONLY when taking the place of a regular member.

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Requesting Information that is NOT a Public Record

Information, reports, and research can be requested from the City **only** through a unanimous vote of approval by the entire board.

If approved unanimously, the chairperson may request the information, report, or research through the Board's staff liaison.

Staff liaison shall forward the request to the appropriate Charter Officer (City Manager, City Clerk, City Attorney) for review and response to the request.

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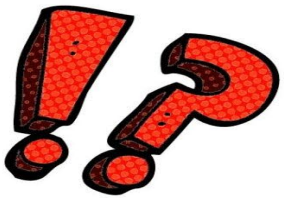
Thank you

Any question?