

BISCAYNE BAY COMMISSION MEETING

PROCEDURAL ITEMS - Florida Sunshine and Public Records Laws



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PROCEDURAL ITEMS - Florida Sunshine and Public Records Laws



SCOPE OF THE SUNSHINE LAW

- Provides a right of access to governmental proceedings at both the state and local levels.
- Equally applicable to elected and appointed boards.
- Applies to any gathering of two or more board members to discuss some matter which will foreseeably come before that board.
- Applies to advisory boards, even though their recommendations may not be binding upon the agencies that create them.

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Florida Sunshine Law



THREE BASIC REQUIREMENTS

- Meetings of public boards or commissions must be open to the public.
- Reasonable notice of such meetings must be given.
- Minutes of meetings must be taken, promptly recorded, and open for public inspection.

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Florida Sunshine Law



APPLICATION OF THE SUNSHINE LAW

- Board members may not use electronic or other means of communication to conduct board business privately.
- Board members are not prohibited from discussing board business with a staff or non-board member **however**, these individuals cannot be used as a liaison to communicate between board members.
- No resolution, rule, regulation or formal action shall be considered binding if they are not made in an open meeting.
- If you receive a communication regarding board business, specifically soliciting an idea or process, reach out to staff for guidance.
- Board members can be penalized, including misdemeanors and fines.

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WHAT IS A PUBLIC RECORD

- All documents, papers, letters, maps, tapes, photos, films, recordings, data processing software or other material, regardless of physical form, characteristics or means of transmission.
- Made or received pursuant to law or ordinance in connection with the transaction of official business.
- That is intended to perpetuate, communicate, or formalize knowledge.

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WHAT IS NOT A PUBLIC RECORD

- Documents that are NOT intended to perpetuate, communicate, or formalize knowledge of some type:
 - Documents that are not intended as final evidence of the knowledge to be recorded.
 - Personal notes to yourself, which are not shared.
 - These only include documents that serve no governmental function.

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EXEMPTIONS AND CONFIDENTIAL INFORMATION

- All records are public records unless designated exempt or confidential by the Florida Legislature.
 - An exemption **permits** withholding.
 - A confidential designation **requires** withholding.
 - Although many confidential and exempt designations are found in Chapter 119, Florida Statutes, they can be found throughout other Florida statutes.



CONFIDENTIAL	EXEMPT
Prohibited from being provided for inspection/copying, unless ordered by a court to do so.	Disclosure not prohibited, but also not required.
EXAMPLES	
Social security numbers	Bank account numbers, debit/credit card numbers
Certain bids/proposals for pollution response action contracts	Attorney work product
Certain proprietary and trade secret info	Active criminal intelligence/investigative information
Security system plan info for property owned by or leased to the State	Home addresses, phone numbers of law enforcement officers, judges, etc.
Appraisals, offers, and counteroffers for property that DEP/BOT seeks to purchase	Building plans, blueprints, etc. for any <u>“water treatment facility”</u> owned or operated by an agency*

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TIPS TO REMEMBER

- Expect everything to be a public record. When in doubt ask.
- Exchanges between you and an attorney are not guaranteed to be exempted.
- Record requests can be made to anyone, if you receive a request please speak with your staff.
- Use the Government-In-Sunshine Manual (the current year's version).
- **Drafts and notes can be public records.**