

MINUTES
TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES
SUNSHINE LAW WORKSHOP
Thursday, March 26, 2009
3:00 p.m.

PRESENT: E. William Kenyon, Mayor
William H. Ahrens, Vice Mayor
Frances F. Atchison, Councilmember
Michael B. Ochsner, Councilman
Gerard A. Weick Councilman

STAFF PRESENT: Robert J. Bradshaw, Town Manager
Laura Aldrich, Town Clerk
Chester Clem, Town Attorney

1. **Call to Order**

a. Roll Call

Mayor Kenyon called the meeting to order at 3:00 p.m. The Town Clerk called the roll as reflected above.

2. **Review of Florida's Sunshine Law** (Chester Clem, Town Attorney)

Mr. Clem said that this workshop is to discuss the public records and Sunshine law, and referred to the brief outline he had provided. The Sunshine Law has remained very much the same over the years, and is updated when there is a new decision or recommendation by the Attorney General. All state, county and local government agencies are covered in the Government-In-the-Sunshine book. Florida Statute 286 contains the full requirements of the Sunshine law, and Mr. Clem said that he had outlined what had to do with the Town Council and Town agencies. Essentially, meetings of a public body must be open to the public, reasonable notice must be given, minutes of the meeting must be taken, and the meeting must be accessible to the public. Members of the Town Council, the boards, and committees are subject to the Sunshine law. There was discussion about board members knowledge of Sunshine laws between the Mayor, Town Manager and Town Attorney.

Mr. Clem also mentioned the recent lawsuit in Venice, Florida regarding e-mail Sunshine law violations among the Council. Indirect communications (e-mail) are subject to Sunshine law violations, and can be very costly to rectify. Public records requests are subject to quick or "timely" response, and also can be expensive if ever a lawsuit is filed.

Someone asked what type of burden of proof is required if an infraction is alleged to have occurred. Mr. Clem said that the person could hire a private attorney or file a complaint with the State Attorney's office, and it may be subject to a \$500 fine for an unintentional violation, with possible removal from office for serious or repeat offenses. Another asked if, under the Freedom of Information Act, there is a charge for copies when requested. Mr. Clem replied that the standard charge is 15 cents per copy, but could be more if there is more than a nominal amount of time is involved. A general rule is not to talk about matters of the Town with any other council member or committee member.

Please Note: The Town of Indian River Shores does not routinely keep verbatim minutes. Any party interested in such an appeal relating to any decision made by the council with respect to any matter considered at this meeting is responsible to record the meeting and include the testimony and evidence upon which the appeal is to be based.

The definition of a public body was requested, to which Mr. Clem explained applies to voting members of the same public body, e.g. Council members. Talking socially is fine, but talking about anything that could conceivably come before the Council for a vote in the *foreseeable* future is prohibited. Polling council members and closed meetings (which apply only to pending litigation) were briefly mentioned.

Two members of the Council asked about discussions regarding specific non-Town committees of which they are a member and received advice from Mr. Clem, stating a rule of thumb is if it might be a violation, to consider it a violation. He also summarized that it is the Town Clerk, Building Department and Public Safety staff who have the responsibility of producing public records.

One Council member asked about staff matters, and was told that personnel issues are not part of the Sunshine law. The State Legislature is not covered by the Sunshine Law, but they have another section of the State Constitution that pertains to them.

The Town Clerk stated that she had ordered everyone a newly updated 2009 Sunshine Manual on the 18th of March, and every new member of the Council, boards or committee receives one. Mr. Clem said that is great, and encouraged everyone to look at it.

Mr. Bradshaw and Mr. Clem agreed that the Council is always welcome to call him if there is a question concerning the Sunshine or public records law.

3. **Adjournment**

The meeting adjourned at 3:26 p.m.

/s
Laura Aldrich, Town Clerk

(Approved by the Town Council at the 4/23/09 meeting)