

CHARLOTTE COUNTY AIRPORT AUTHORITY

MINUTES OF WORKSHOP – JANUARY 06, 2021 – 9:00 A.M.

5 **1. Call to Order**

2. Invocation

 Chair Herston gave the invocation.

10

3. Pledge of Allegiance

4. Roll Call

15 **Present:** Chair Herston (left at 9:45 a.m.); Commissioners Andrews, Coppola, Hancik and Oliver; Attorney Carr; CEO Parish; Mrs. Paglialunga; Mr. Laroche; Mrs. Miller; Mr. Mallard; Mrs. Cauley (via video); Mr. Ridenour (via video), and Mr. Liliberte (via video). **Others present:** David Jackson; Jim Kaletta; Jim Lyons; Martin Nielsen; Barbotin Laurent (via video); Sarah Beaver (via video), others from the private sector, and a member of the press.

20

5. Citizen’s Input

Jim Lyons – A hangar tenant, commented that he was out of the Country when an email was sent out that demanded tenants place \$1 million of insurance on their aircraft in order to continue being a tenant. He commented that there is not a state or federal mandate to operate an aircraft with insurance and that there was no other alternatives offered on obtaining the insurance. He commented that several people don’t have insurance on their aircraft and that he called his broker, who said if there was an incident in the hangar that wasn’t his fault, that his insurance would not pay, even if the Authority was named additionally insured. He commented that he’s been at the Airport since 1981 and that he can’t remember a single incident where there has been a result of something happening in a hangar from an aircraft. He commented that he can recall at least five instances of damage being caused on the ramp in front of the FBO in the last few years due to airplanes. He commented that there was no mention of storage for outdoor aircraft within the email as there are several aircraft parked on the ramp that aren’t airworthy. He inquired if the Board will discriminate against those using indoor storage or require insurance for those with outside storage. Chair Herston confirmed with Mr. Parish that there have not been other phone calls or questions on the matter. Chair Herston commented that there was a large discussion on the new requirements and requested Mrs. Paglialunga to send Mr. Lyons the December meeting recording to listen to the conversation and reason for the decision. He opined that he doesn’t personally like insurance himself. Mr. Lyons commented that if he submitted a claim, his insurance will ask if he’s a fault and if he’s not, his insurance will only pay the claim to replace his aircraft. He commented that in his T-hangar row in the 200 series, his electrical service is weak enough that he can’t run a small air compressor and instead has to use a battery powered air compressor. He commented that the tenant directly behind his hangar used a spray can of Rust-oleum and the overspray and smell from the spray entered his hangar. He commented that the hangars do not have smoke or fire alarms, opined that the Authority would be partly at fault of an incident and inquired if the Authority has insurance as he’s never seen it. Chair Herston commented he’s sure the Authority holds some of the best insurance. He commented that he will provide Mr. Lyon’s with his cell phone number for further discussion and Mrs. Paglialunga will provide the information to review the discussion. Mr. Lyon commented that he is unable to attend every meeting.

50

Chair Herston commented that he does need to leave the meeting around 9:40 a.m.

6. Government in the Sunshine / Public Records

5 Mr. Jackson gave a presentation on the Sunshine Law and Public Records (see attached).
Commissioner Hancik inquired how the situation of an existing Board member running for
office and posting their political position on social media that may or may not have been decided
upon by the Board plays into the Sunshine Law. Mr. Jackson commented that asking someone
10 to vote for you is not engaging in Board business and that once Board business is included the
issue becomes discussions amongst the Board. He commented that for example, if
Commissioner Hancik were to post a position on his social media that takes a position on a
Board issue and Commissioner Andrews replied to the post, there is a discussion created, which
is a problem. He commented that in that example, Commissioner Hancik posting his position
15 is not a problem but the engagement between Commissioners is. Commissioner Hancik
inquired if in that situation, the Commissioner that post or the Commissioner that responds is
the one violating the Sunshine Law. Mr. Jackson commented that the violation occurs when the
response is given and that any further responses to the initial comment by a Commissioner
would also be in violation. He commented that a violation can also happen during an event with
20 multiple Board members present if a discussion is started by a speaker and a Board member
stands to discuss the matter. Mr. Jackson commented that Board members should speak with
the Board Attorney if there is concern about a possible or potential Sunshine violation.
Commissioner Coppola confirmed with Mr. Jackson that the County Commission asking for
her opinion is not an issue. Commissioner Hancik confirmed that he can request Staff to pass a
25 pertinent article along to all of the other Board members to read. Mr. Jackson commented that
if a Board member has an opinion on something, it can be written down and requested for Staff
to provide to every Board member to be discussed at the next meeting. Commissioner Hancik
confirmed with Mr. Jackson that there can be a potential issue if he were to share his opinion
with a member of the public and that member of the public shared the comments with another
30 Board member. Mr. Jackson commented that it could lead to an investigation to determine if
Commissioner Hancik meant for that message to be passed along to another Board member.
Commissioner Andrews confirmed that he can state an opinion of position, but the problem
begins if he engages in conversation with another Board member about it. Chair Herston
confirmed with Mr. Jackson that allowing citizens input applies to Workshops. Chair Herston
commented that he has heard the City nor County allows citizen input during Workshops. Mr.
35 Jackson commented that he doesn't believe it's required but opined that it's good to have. Chair
Herston confirmed with Mr. Jackson that the word "knowingly" has been challenged when
being charged with a Sunshine Law violation. Commissioner Coppola confirmed with Mr.
Jackson that there is nothing within the Public Records Laws that require an individual to have
an exact date for their record request. Mr. Parish commented that the Authority has an internal
40 policy that Staff does not conduct business through text message and due to that, does not have
a requirement for Staff to save their text messages. He inquired if the Authority is covered by
policy for that occurrence as there is no way to recover the messages except by subpoena. Mr.
Jackson commented that the policy is only as good as making sure everyone is following it and
that if accused of not following the policy, there is potential problems. He commented that the
45 means would be that the messages would need to be subpoenaed and that it's extremely
important that everyone is adhering to the policy. Mr. Parish inquired what an appropriate rate
would be for a Public Record request that requires extensive Staff time. Mr. Jackson commented
that there are parameters set for the cost, that he hasn't had to complete one in a while so he is
unsure of what reasonable is, that it is not salary, and that he can look into it. Mrs. Miller

commented that when she was employed by the County, the cost was the hourly rate of the least high paid person that could complete the task. Mr. Jackson commented that he has witnessed that scenario.

5 Chair Herston passed the gavel to Vice-Chair Andrews at 9:45 a.m.

Commissioner Hancik confirmed with Mr. Jackson that any fines received are to be paid by the individual that received the fine, not the organization. Attorney Carr commented that a fine is incurred for each occurrence, not for the type of occurrence, meaning that a long thread of text
10 messages are fined by individual message, not overall. Commissioner Hancik inquired as to how many times you can receive a fine before going to jail and if anyone has ever gone to jail over violations. Mr. Jackson commented that he is fortunate not to know the answer and that he has knowledge of cases that were tried criminally but was not a part of any of them. Commissioner Hancik inquired if he can delete emails seeing as the Authority backs them all
15 up. Mr. Parish commented that a record is kept although emails should not be deleted. Mr. Jackson opined that good advice is to organize the emails into folders as opposed to deleting them. Commissioner Oliver inquired if it would be properly noticed if three Authority Commissioners attended another agencies meeting in order to speak on a topic that was properly noticed through the agency holding the meeting. Mr. Jackson commented it would not be
20 properly noticed in that case and that the meeting would have to be a meeting of the Authority Board. He commented that just because it is a public meeting of another Board, the Authority Board would not be covered, even if it was just for the public comment portion. Commissioner Hancik inquired if an Authority Board member were to make a position statement to another Board if the position would need to be approved with the Board prior to doing so. Mr. Jackson
25 commented that he would strongly encourage getting any public statement on behalf of the Authority Board approved prior. Mr. Parish commented that he has been on Zoom meetings that included three or four members of the same Board where one Board member discusses an issue in front of the Airport, City, or County and inquired if that is a violation unless they are speaking for the Board. Mr. Jackson commented that if that situation were to arise, he would
30 encourage the individual to clarify whether they are present as a citizen or a member of a Board. He opined that if the matter being discussed is foreseeable before the Authority Board, it is much better to limit discussion to the Authority's meetings. Commissioner Hancik inquired if he could speak during citizens input at an Authority Meeting as a citizen. Attorney Carr opined that Commissioner Hancik could but opined that there is no reason to as it's an open meeting
35 where he can say whatever he'd like. Mr. Parish opined that his concern is that the meetings he's referencing are not open to the public as they're invite only and that there can be multiple Board members in the meeting listening to another's opinion being discussed that may come before the Board. Mr. Jackson commented that he would discourage that occurrence. Mr. Parish confirmed with Mr. Jackson that presenting one-on-one within the group would be fine but
40 speaking to the group as a whole is discouraged. Commissioner Oliver commented that she had heard something about not being able to limit public discussion on a public figure official Facebook page that is open to the public including deleting comments that may contain expletive language and inquired if that is accurate. Mr. Jackson opined that it is accurate, especially characterized on a page as a public figure. Attorney Carr commented that he believes
45 it was the 11th circuit that issued a ruling that states that you do not necessarily have to keep up vile commentary or anything inflammatory as the public figure has a right to control that type of content. He commented that the ruling was just released in the last three to four months as a result of vile comments being made on the Sheriff's Facebook page. Mr. Jackson opined that he would discourage any individual Board member having a social media account related to

their position. Attorney Carr opined that it should be defined whether or not an individual Board member has a public or private social media as a private page is much different. He opined that a Board member listing a persona on a public page is acceptable and that sharing photos of grandchildren with their grandfather is not acceptable as it's a private manner.

5

7. Code of Ethics

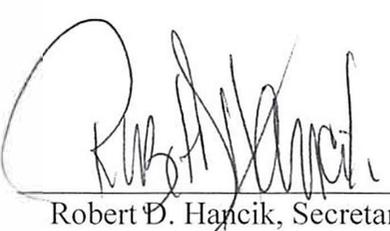
Mr. Jackson gave a presentation on Ethics Code (see attached). Mr. Parish commented that at one point, multiple tenants were on the Board and inquired if that were to occur again, if those tenants should abstain from voting for things such as rent increases. Mr. Jackson opined that the matter would be a personal potential private gain to pay less rent and that it would be a conflict. Commissioner Hancik inquired if it would be acceptable for a Board member who is also a tenant to vote for the rent increase. Mr. Parish commented that it did happen at another airport where there were three T-hangar tenants on a non-appointed Board and that ultimately, two of the three members were removed from the Board as they couldn't vote on items such as raising rents. Mr. Jackson opined that an argument could be made, even if the members vote to raise rent, that it isn't being raised high enough. Commissioner Hancik commented that during conferences, vendors like to invite their customers to expensive events that include all of their customers attending the conference and inquired if that is considered acceptable to attend. Mr. Jackson commented that he would encourage the individual to disclose their attendance, discuss the specifics with Staff and Council and that you have to begin looking at the statute regarding the value to determine how formal the disclosure needs to be. He opined that the matter may not need to be disclosed but it should still be reviewed to determine that. Commissioner Hancik inquired as to who the information is disclosed to. Mr. Jackson commented that once you work with Staff and Council, paperwork is filed with the Florida Commission of Ethics in Tallahassee. He commented that if a challenge is made regarding an ethics matter, if a disclosure is properly completed, it may not be a big deal. Commissioner Hancik inquired if a political donation is accepted from a firm and afterwards, he votes to award a contract to that firm, if the donation is exempt. Mr. Jackson commented that if it is a donation from someone that may come before the Board that he would recommend discussing with Staff and Council to determine if it needs to be reported. Mr. Parish inquired if raffles at conferences are an issue where you place your business card in a jar and may win prizes as expensive as a Yeti cooler. Mr. Jackson opined that the matter is probably okay however he would recommend checking with Council if it is something of a significant value. Commissioner Coppola inquired if all Senators, Representatives and Congressional Staff are subject to the same rules and regulations. Mr. Jackson commented that the presented rules and regulations only apply to the State Government and that the Federal Government may have different rules, although he isn't sure. Commissioner Hancik commented that in the past he has taken a Congressman or Senator and their spouse to an expensive dinner and paid the bill at the end. He inquired if he would need to disclose that scenario. Mr. Jackson commented that in that scenario, only the individual receiving the free dinner would need to be disclosed as they are the one receiving the benefit. He commented that a Commissioner can abstain from voting only if there is a conflict and that the proper channels need to be followed to fill out the appropriate paperwork. He commented that you can't abstain simply because you're uncomfortable with voting on the matter. Commissioner Hancik confirmed with Mr. Jackson that if you abstain, you must do so in writing and that the minutes of the meeting are not enough as there is a conflict form to complete. Mr. Jackson commented that the Florida Commission on Ethics does not currently have a 4-hour training requirement for Special Districts although he will always encourage additional training. Mr. Parish commented that there is a new rule under commercial airports in Florida that is

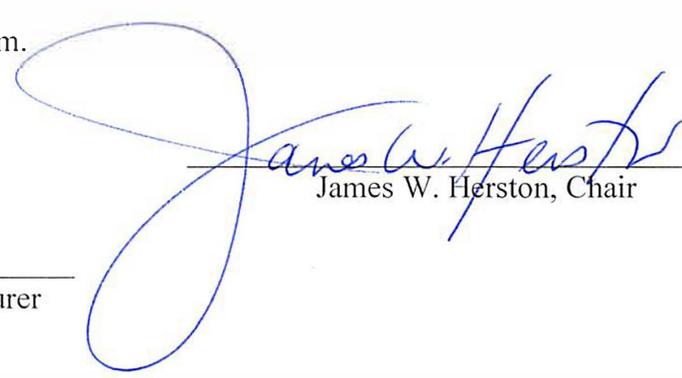
45

5 requiring all Airport Board Members meet the 4-hour training requirements. Mr. Jackson commented that he apologizes as he only looked at training for Special Districts, not commercial airports. Commissioner Hancik opined that the Special District rule may override the commercial airports rule and that Attorney Carr should look into it. Mr. Parish inquired if today's meeting counts towards the requirement. Mr. Jackson commented that it does not and that he isn't going to be able to meet the 4-hour requirement today. He commented that if the requirement is the same as Statute 112.3142 that the 4-hour requirement must be met before the end of the year. Commissioner Coppola commented that she remembers taking an ethics course at the Florida Airport Council conference many years ago. Commissioner Hancik commented that the County Commission has different training sessions for the different committee requirements. Mr. Jackson commented that the County Commission and City Council are required to meet the 4-hour ethics course requirement. Mr. Parish commented that under commercial airports, the requirement reads that beginning January 01, 2021, each member of a governing body must complete 4-hours of ethics training each calendar year. Mr. Jackson opined that it sounds similar to what he saw under Statute 112.3142. Attorney Carr inquired which Statute Mr. Parish is referring to. Mr. Parish commented that it's Chapter 2020-167, which is part of House Bill 915. Commissioner Oliver confirmed with Mr. Jackson that the rules are a minimum, not a maximum, and that the Board can set higher standards if desired. Mr. Jackson commented that the Commission on Ethics website does have a way to search for opinions to questions previously asked to form an idea of an answer before discussing the matter with Staff or Council. He commented that there is also a way to request opinions on the website. He thanked the Board for allowing him to present. Mr. Parish thanked Mr. Jackson for presenting.

25 8. Adjournment

Meeting adjourned at 10:40 a.m.

30 
Robert D. Hancik, Secretary/Treasurer


James W. Herston, Chair



PERSSON, COHEN & MOONEY, P.A.
ATTORNEYS AND COUNSELORS AT LAW

David P. Persson**
Andrew H. Cohen
Kelly M. Fernandez*
Maggie D. Mooney*
R. David Jackson*
Regina A. Kardash*
Lori M. Dorman

* Board Certified City, County and Local Government Law
** Of Counsel

Telephone (941) 306-4730
Facsimile (941) 306-4832
Email: djackson@swflgovlaw.com

Reply to: Lakewood Ranch

**CHARLOTTE COUNTY AIRPORT AUTHORITY
SUNSHINE, PUBLIC RECORDS, AND ETHICS LAWS**

Presented by: R. David Jackson, Esq.

January 6, 2021

I. SUNSHINE LAW

The purpose of Florida's Sunshine Law is to provide a right of access to government proceedings. All public agencies in the State of Florida, including independent special districts, are subject to the Sunshine Law.

The Sunshine Law is set forth in Florida Statutes § 286.011 and Article 1, Section 24 of the Florida Constitution. **The Sunshine Law extends to discussions and deliberations taken by a public board and is applicable to any gathering (formal or casual) of two or more members of the same board of commission to discuss some matter on which foreseeable action will be taken by the public board or commission.**

THREE BASIC REQUIREMENTS OF SUNSHINE LAW AS SET FORTH IN FLORIDA STATUTES § 286.011:

1. Meetings of the public must be open to the public;
2. Reasonable notice of such meetings must be provided; and
3. Minutes of the meeting must be taken.

Lakewood Ranch
6853 Energy Court
Lakewood Ranch, Florida 34240

Venice
236 Pedro Street
Venice, Florida 34285

MEETING:

1. The Sunshine law applies to meetings between individuals who are members of the same board.
2. Meetings with agency staff are not ordinarily subject to the Sunshine Law unless staff ceases to function in a staff capacity and is delegated authority normally within the public agencies discretion (i.e., committee composed of staff to select an Executive Director, attorney, auditing firm).
3. Discussions between a public board and its attorney are subject to the Sunshine Law. However, some discussions between public boards and its attorney are exempt (i.e., when the discussions relate to pending litigation and are conducted in a proper shade meeting; however, the shade meeting exemption does not apply when a lawsuit is only threatened.)
4. A limited exemption from the Sunshine Law also exists for discussions between an agency's Executive Director and the elected body of the public agency for collective bargaining (i.e., labor/union negotiations).
5. The Sunshine Law applies to subcommittees, unless they are engaged solely in fact-finding or information gathering.
6. Members of an Airport Authority can meet socially provided that matters which are coming before the board or may come before the board are not discussed. Discussion of board business may include in-person meetings, telephone conversations, written correspondence, e-mails, text messages, or social media.

MEETINGS OPEN TO THE PUBLIC:

1. Florida Statutes § 286.0114 requires that the public be provided with a "reasonable opportunity" to be heard on a matter before the board takes official action. The statute provides for the recovery of attorney's fees for violations of this provision.
2. The board may adopt rules relating to the orderly conduct of public participation at public meetings or hearings. This includes time limits.
3. When there is a public hearing or quasi-judicial hearing, then the public always has had a right to participate.
4. Public meetings cannot be held at any facility that discriminates on the basis of sex, age, creed, color, origin, or economic status. Location must be "easily accessible" to the public.

5. Meetings of the governing body shall be held in a public building when available within the district or in a building in the county accessible to the public. Fla. Stat. § 189.015(3).

REASONABLE NOTICE:

1. Reasonable notice of all meetings must be provided. According to the Florida Attorney General, the definition of “reasonable” depends on the facts of the situation and board involved. Florida Statutes § 189.015(1) requires special districts to advertise notice of their meetings in a newspaper of general circulation at least seven (7) days prior to the meetings unless there is an emergency.
2. The Sunshine Law does not mandate that an agency provide notice of each item to be discussed through a published agenda. A public body can add additional items to the agenda at regularly noticed meetings and take action on the added item.

MINUTES:

1. Written minutes of all meetings and workshops must be recorded and open to the public for inspection. The minutes do not need to be a verbatim transcript.

CONSEQUENCES OF SUNSHINE VIOLATIONS:

1. Any member of a board or commission who knowingly violates the Sunshine Law may be subject to criminal penalties of a misdemeanor of the second degree. Fla. Stat. § 286.011(3)(b).
2. The Sunshine Law provides that a fine not exceeding \$500.00 may be imposed for noncriminal infractions. Fla. Stat. § 286.011(3)(a).
3. In civil actions to enforce Sunshine Law, reasonable attorney’s fees will be assessed against any board or commission found to have violated the Sunshine Laws.
4. Board action resulting from Sunshine law violations is void.

II. PUBLIC RECORDS LAWS

Chapter 119, Florida Statutes, and Article I, Section 24 of the Florida Constitution set forth Florida's Public Records laws.

The Public Records Act defines "agency" as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law...and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." Fla. Stat. § 119.011(2).

Article I, Section 24 of the Florida Constitution states:

Every person has the right to inspect or copy **any public record made or received in connection with the official business** of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution.

Florida Statutes § 119.011(12) defines public records as "all 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."

PUBLIC RECORDS:

1. **Public records include all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge, no matter the form.**
2. There is no "unfinished business" exception to the public inspection and copying requirement of Chapter 119, Florida Statutes.
3. Budgets and financial records are public records.
4. The Public Records Act includes records contained and stored in a public agency's computer. Computer records are subject to public inspection unless a statutory exemption exists which removes the records from disclosure.
5. E-mail messages made or received by agency employees in connection with official business are public records and subject to disclosure in the absence of a statutory exemption. Private e-mails stored in government computers do not automatically become a public record by virtue of that storage.

6. Communications on social networking sites (Facebook, Twitter, YouTube, LinkedIn, etc.) and text messages are considered to be public records when communications relate to official business of the local government. Content of the communication is the determining factor.
7. The Legislature has also clarified that contractors who perform certain types of work on behalf of a government are also subject to the Public Records law. The law requires certain statements relating to the contractor's records obligation to be included in all contracts for services. Fla. Stat. § 119.0701.

RIGHT TO INSPECT/COPY:

1. Any person is authorized to inspect and receive copies of public records. They do not have to have a special or legitimate interest. Requests do not have to be made in writing.
2. The records custodian of the agency or his/her designee is responsible for making public records available for inspection and/or copying "at any reasonable time, under reasonable conditions." Fla. Stat. § 119.07.
3. Fees may be charged pursuant to the statute for copying costs and special service charges for "extensive use" of clerical or supervisory labor, or "extensive" information technology. Fla. Stat. § 119.07(4)(d). Agencies may adopt a policy imposing a "reasonable special service charge" based on the actual labor cost for clerical personnel who are required, due to the nature or volume of a public records request, to safeguard such records from loss or destruction during inspection.

EXEMPTIONS:

1. There is a temporary exemption from the public records act for sealed bids or proposals received by an agency pursuant to a request for bids or proposals until the agency provides notice of its decision or within 30 days after the bid is opened, whichever is earlier. Fla. Stat. § 119.071(1)(b)2.
2. Attorney-client communications between an agency and its attorneys are subject to the public records laws for a limited period of time when there is litigation pending. Only those records which reflect a "mental impression, conclusion, litigation strategy or legal theory" are protected from disclosure.
3. Some personnel records may be subject to the public records laws. However, social security numbers are confidential and exempt from disclosure and may only be released under a narrow set of circumstances.

4. Airport security plans, photographs, maps, blueprints, drawings, and similar materials that depict critical airport operating facilities are exempt from disclosure. Fla. Stat. § 331.22.
5. Any exemption from the public records laws must be stated in writing. Fla. Stat. § 119.07(1)(e). **The public records laws are construed in favor of open government, so exemptions are strictly construed.**

CONSEQUENCES OF PUBLIC RECORD VIOLATIONS:

1. Any member of a board or commission who knowingly violates the Public Records Act may be subject to criminal penalties of a misdemeanor of the first degree (one year in prison or \$1,000 fine, or both). Fla. Stat. § 119.10(1)(b).
2. The Public Records Act provides that a fine not exceeding \$500 may be imposed for noncriminal infractions by a public officer. Fla. Stat. § 119.10(1)(a).
3. Further, any person who willfully and knowingly violates any provision of the Public Records Act commits a misdemeanor of the first degree punishable by one year in prison or \$1,000 fine, or both. Fla. Stat. § 119.10(2)(a).
4. If a civil action is filed against an agency and the court determines that the agency unlawfully refused to permit a public record to be inspected or copied and the complainant provided written notice identifying the public record request to the agency's custodian of public records at least five business days before filing the civil action, the court shall assess and award attorney's fees against the agency responsible. If the court determines the complainant's request to inspect or copy a public record was for an "improper purpose," the court may not assess and award the reasonable costs of enforcement, including reasonable attorney fees, to the complainant, but shall assess and award against the complainant and to the agency the reasonable costs, including reasonable attorney fees, incurred by the agency in responding to the civil action. Fla. Stat. § 119.12.

CASES:

Lorenzo v. City of Venice, Case No. 2008 CA 8108 SC (Fla. 12th Cir. Ct. Oct. 7, 2009) - Judge Robert Bennett ordered the City of Venice to pay \$777,114.42 in attorney's fees and costs to the Plaintiff's attorney. This judgment (for just the Plaintiff's attorneys' fees and costs) is one of the highest and most costly judgments entered against a local government for violations of the Public Records and Sunshine Laws.

Citizens for Sunshine v. Susan Chapman, Case No. 2013-CA-7532NC (Fla. 12th Cir. Ct. 2016). City Commissioner Susan Chapman was alleged to have committed a violation of the Sunshine law when she attended a meeting in 2013 with area business owners, city leaders and another sitting

commissioner relating to homelessness in downtown Sarasota. Judge Brian Iten ruled after a 2-day trial that Chapman's decision to attend the meeting with another city commissioner did not technically constitute a Sunshine law violation, but stated that those holding public office should "always endeavor to avoid even the appearance of impropriety". The City of Sarasota spent over \$350,000 in attorney's fees defending Chapman in this litigation.

III. FLORIDA'S ETHICS CODE FOR AIRPORT AUTHORITY BOARD MEMBERS:

Florida's Ethics Code is found in Part III of Chapter 112, Florida Statutes, and Article II, Sec. 8 of the Florida Constitution.

Florida's Ethics Code applies to all public officers and employees of the state, regional and local levels, including Airport Authority Members.

The Ethics Code is premised upon maintaining public trust and prohibits public officials from using their office for "private gain." Private gain almost always references a public official's *financial interest* that is directly enhanced as a result of the vote, where the gain is direct and immediate.

1. The Ethics Code reads like a list of prohibited acts and includes prohibitions on:

- a) Bribes: Airport Authority Members are prohibited from soliciting or accepting anything of value if they know, or with the exercise of reasonable care, should know that it was given to influence their official actions. Fla. Stat. § 112.313(2), (4).
- b) Soliciting Gifts: Except for gifts from relatives, Airport Authority Members are prohibited from soliciting a personal gift of any size from a political committee or from a lobbyist [i.e., vendors, contractors, etc.]. Fla. Stat. § 112.313(2).
- c) Accepting Gifts: Except for gifts from relatives, Airport Authority Members also must comply with following regarding acceptance of personal gifts:
 - 1) Gifts under \$25.00 – May be accepted from anyone and need not be reported.
 - 2) Gifts between \$25.00 and \$100.00 – May be accepted from anyone, but lobbyists, e.g., vendors, must report giving the gift.
 - 3) Gifts above \$100.00 – Must be reported by all Airport Authority Members and may not be accepted from political committees or lobbyists, e.g., vendors. See, Fla. Stat. § 112.3148.

- d) **Misuse of Public Position:** Airport Authority Members are prohibited from wrongfully using or attempting to use their official position or confidential information to secure a special privilege, benefit, or exemption for themselves or others. Fla. Stat. § 112.313(8).
 - e) **Employees/Authority Members:** No Airport Authority Member may be an employee of the Airport Authority over which they govern. Fla. Stat. § 112.313 (10).
 - f) **Doing Business with Ones Agency.** Airport Authority Members are prohibited from purchasing or leasing any items or services on behalf of their Airport from any business in which they (or certain family members) are an officer, partner, director, or proprietor, or in which they (or certain family members) have a material interest. Subject to certain limited exceptions, Airport Authority Members (acting in their public capacity) are prohibited from renting, leasing, or selling items or services to their Airport. Fla. Stat. § 112.313(3).
 - g) **Conflicting Contractual or Employment or Employment Arrangement.** Subject to certain exceptions, Airport Authority Members are prohibited from having any employment or contractual relationships with an entity that does business with their Airport, or that creates a continuing or frequently recurring conflict between their private interests or duties. Fla. Stat. § 112.313(7).
 - h) **Anti-Nepotism:** Generally, Airport Authority Members are prohibited from appointing, employing, or promoting (or advocating for such actions) any of their relatives to a position over which they exercise jurisdiction or control. Fla. Stat. § 112.3135(2).
 - i) **Voting Restrictions:** Airport Authority Members must abstain from voting and refrain from participating in discussion on any measure that specifically benefits themselves, their employers or principals, or their relatives. Fla. Stat. § 112.3143.
 - 1) If conflict is known by Airport Authority Member, he/she must publicly state to the assembly the nature of the conflict and abstain from voting.
 - 2) Memorandum of Voting Conflict must be filed with board secretary within 15 days.
2. **Disclosure Requirements:** There are multiple forms that are available on the Commission of Ethics website for financial interest disclosures and voting conflicts. All of these forms are subject to Florida's public records laws.
3. **Training Requirement:** Florida's Constitutional officers (including the Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property

appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools) and elected municipal officers are required to "complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state." Fla. Stat. § 112.3142.

4. Complaints/Civil Penalties.

- Removal/suspension from office
- Impeachment
- Public censure, reprimand, demotion or salary reduction
- Restitution of any pecuniary benefits received due to the violation
- Civil penalty of up to \$10,000.00

5. Advisory Opinions from Florida Commission on Ethics.

- Ethics Commission opinions (formal and informal) are binding on the conduct of the person who is the subject of the opinion.
- Once issued and followed the Ethics Commission opinion provides a type of immunity from ethics complaints for the requesting individual seeking direction.
- Informal ethics opinions take approximately two weeks to 30 days, and potentially several months for formal opinions.

WEBSITES:

Florida Statutes and Constitution:

<http://www.leg.state.fl.us>

Florida's Attorney General's Government in the Sunshine Manual:

<http://www.myfloridalegal.com/sun.nsf/sunmanual>

Florida Commission on Ethics:

<http://www.ethics.state.fl.us/>