Sunshine Law -- Workshops -- Formal Action

Number: INFORMAL

Date: December 02, 2015

Subject:
Sunshine Law -- Workshops -- Formal Action

Mr. Michael J. Stebbins
Capital Trust Agency Community
Development Entity, LLC
504 North Baylen Street
Pensacola, Florida 32501

Dear Mr. Stebbins:

As the attorney for the Capital Trust Agency Community Development Entity, you ask for assistance in determining what constitutes a “workshop,” “informal discussions,” or “formal action” for purposes of conducting public meetings via electronic means. You also question whether the approval of the minutes of a public meeting is “formal action” by a board.

The Government in the Sunshine Law, section 286.011, Florida Statutes, applies to a gathering of two or more members of a board or commission where there is discussion of matters upon which official action may foreseeably be taken. While there is no question that such meetings must conform to the dictates of the Sunshine Law that they be open to the public, reasonable notice be given, and minutes be taken, your questions appear to relate to whether members may electronically participate in a gathering. This office has determined that a member of a board or commission may attend a meeting under certain extraordinary circumstances, but that a quorum of the board or commission must physically be present in order to carry out official business.[1] The physical presence of a quorum has not been required where electronic media technology is used to allow public access and participation at workshop meetings where no formal action will be taken. At workshops and special meetings where no formal action will be taken, this office has found that electronic media technology may be used. The board or commission, however, must be vigilant in adhering to the requirements of the Sunshine Law and ensure that the meetings or workshops using electronic media technology are not forums to undertake formal decisionmaking.[2]

As was previously recognized by this office, the use of electronic media technology to increase public participation in meetings and the use of such media to allow members of a board or commission to participate in a duly noticed public meeting does not necessarily raise Sunshine Law issues, but rather implicates the ability of a board or commission to conduct official business with a quorum. I am not aware of, nor have you directed my attention to, any authority which exempts a vote to approve the minutes of a public meeting from the quorum requirements. In Attorney General Opinion 2002-40, this office observed that the official decisions or acts taken by a board in carrying out its duties would necessarily encompass voting on such actions. Moreover, in Attorney General Opinion 2002-51, this office concluded that the adoption of the

minutes of a city commission meeting as the formal record of that meeting would appear to be a step in the decisionmaking process in which the public would be interested, such that a vote on the concurrence and revisions of the members should be taken at a public meeting. Inasmuch as the Sunshine Law requires that minutes of public meetings be taken and promptly recorded, it would appear that a vote to approve such minutes would constitute official action of a board or commission.

I trust that these informal comments will be of assistance to you in resolving the questions you have raised.

Sincerely,

Lagran Saunders
Senior Assistant Attorney General

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[1] *See* Op. Att'y Gen. Fla. 2003-41.

[2] *See* Inf. Op. to The Hon. Charles "Sonny" McCoy, dated November 29, 2005.