Public Meetings held in private home

Number: INFORMAL

Date: August 21, 2008

Subject:
Public Meetings held in private home

Mr. Albert C. Galloway, Jr., Esq.
City Attorney, Village of Highland Park
Post Office Box 3339
Lake Wales, Florida 33859-3339

Dear Mr. Galloway:

On behalf of the Village of Highland Park, you have asked for this office's assistance in determining whether it is a violation of the Government in the Sunshine Law for the Village to hold public meetings in a private home. While this office will be happy to provide you with direction in this matter, we are not fact finders nor have we been granted authority by the Legislature to investigate or prosecute violations of the Government in the Sunshine Law. It is ultimately the State Attorney who receives complaints regarding violations of the Public Records and Sunshine Laws and who investigates and prosecutes those charges.[1] However, this office is happy to provide you with the following informal comments in an effort to assist the Village in complying with the Government in the Sunshine Law.

The Sunshine Law requires that meetings of a public board or commission be "open to the public." In situations where a large turnout of the public is expected for a meeting, public boards and commissions should take reasonable steps to ensure that the facilities where the meeting will be held will accommodate the anticipated turnout. Meetings held at a facility which can accommodate only a small number of the public attending, when a large public turnout can reasonably be expected, may violate the public access requirement of section 286.011, Florida Statutes, by unreasonably restricting access to the meeting. If a huge public turnout is anticipated for a particular issue and the largest available public meeting room cannot accommodate all of those who are expected to attend, the use of video technology (e.g., a television screen outside the meeting room) may be appropriate. In such cases, as with other open meetings, reasonable steps to provide an opportunity for public participation in the proceedings should also be considered.

Public access to meetings of public boards or commissions is the key element of the Sunshine Law and public agencies are advised to avoid holding meetings in places not easily accessible to the public. The Attorney General's Office, therefore, has suggested that public boards or commissions avoid the use of luncheon meetings at restaurants to conduct board or commission business. These meetings may have a "chilling" effect upon the public's willingness or desire to attend. People who would otherwise attend such a meeting may be unwilling or reluctant to enter a public dining room without purchasing a meal and may be financially or personally unwilling to do so.[2]

In addition, discussions at such meetings by members of the board or commission which are audible only to those seated at the table may violate the "openness" requirement of the law.[3] Public boards or commissions are, therefore, advised to avoid holding meetings at places where the public and the press are effectively excluded.[4]

Section 286.011(6), Florida Statutes, prohibits boards or commissions subject to the Sunshine Law from holding their meetings at any facility which discriminates on the basis of sex, age, race, creed, color, origin, or economic status, or which operates in such a manner as to unreasonably restrict public access to such a facility. Similarly, section 286.26, Florida Statutes, requires that public meetings be made accessible to the physically handicapped.

In light of these concerns, this office has determined that a police pension board should not hold its meetings in a facility where the public has limited access and where there may be a "chilling" effect on the public's willingness to attend by requiring the public to provide identification, to leave such identification while attending the meeting, and to request permission before entering the room where the meeting is held.[5] This is not to say, however, that an agency may not impose certain security measures on members of the public entering a public building, such as requiring the public to go through metal detectors.[6]

I am not aware that this office has directly addressed the matter of a public meeting being held in a private home, but would suggest that the concerns expressed above would apply to any space in which the Village of Highland Park chooses to hold its public meetings.

Sincerely,

Gerry Hammond
Senior Assistant Attorney General

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[1] *See* s. 119.10(1)(b), Fla. Stat., and Op. Att'y Gen. Fla. 91-38 (1991).

[2] Inf. Op. to the Hon. Walter “Skip” Campbell, dated February 8, 1999; and Inf. Op. to the Hon. Bill Nelson, dated May 19, 1980.

[3] Op. Att'y Gen. Fla. 71-159 (1971).

[4] Op. Att'y Gen. Fla. 71-295 (1971). *Cf. City of Miami Beach v. Berns,* 245 So. 2d 38, 41 (Fla. 1971), in which the Florida Supreme Court observed: "A secret meeting occurs when public officials meet at a time and place to avoid being seen or heard by the public."

[5] Op. Att'y Gen. Fla. 96-55 (1996). *And see* Op. Att'y Gen. Fla. 05-13 (2005), concluding that a city may not require persons wishing to attend public meetings to provide identification as a condition of attendance.

[6] *Id.*