

## **MANNY ANNON, JR.**

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### **PERSONAL**

Address: 2649 S.E. Emmett Road  
Port St. Lucie, Florida 34954

Contact: Cell: (305) 219-8083  
Email [mannyanon@yahoo.com](mailto:mannyanon@yahoo.com)

### **EDUCATION**

J.D. - 1992  
The American University Washington College of Law, Washington, DC

B.A., Politics and Public Affairs - 1989  
University of Miami, Miami, Florida

### **SUMMARY OF RELATED EXPERIENCE**

2001 - Present	<u>UNITED STATES ARMY RESERVE</u> 174 <sup>th</sup> Legal Operations detachment, Miami, Florida
	Team Leader
2020 - Present	<u>CITY OF SEBASTIAN, FLORIDA</u> Population 21,929
	City Attorney
2019 -2020	Assistant City Attorney (Contract)
2016 - 2019	<u>CITY OF PORT ST. LUCIE, FLORIDA</u> Population 201,846
	Sr. Assistant City Attorney
2015 - 2016	<u>UNITED STATES ARMY RESERVE</u>
	Active Duty
2014 - 2015	<u>EDUCATIONAL SABBATICAL (FIU)</u>
2014	<u>TOWN OF SURFSIDE, FLORIDA</u> Population 5,744
	Assistant Town Attorney
1999 - 2014	<u>AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES</u> North Miami, Florida
	Deputy General Counsel
1997 - 1999	<u>CITY OF MIAMI, FLORIDA</u> Population 362,470
	Assistant City Attorney

1996 SANDLER & SANDLER  
Coral Gables, Florida  
Associate

1995 THE LEGAL GROUP, P.A.  
Miami, Florida  
Associate

1992 - 1993 LAW OFFICES OF CARLOS E. CASUSO  
Miami, Florida  
Law Clerk

1992 RASSNER RASSNER KRAMMER & GOLD  
South Miami, Florida  
Independent Research Assistant

1991 UNIVERSITY OF MIAMI SCHOOL OF LAW  
Coral Gables, Florida  
Visiting Law Student, Litigation Skills Program

1991 GAEBE MURPHY MULLEN & ANTONELLI  
Miami, Florida  
Law Clerk

1991 DADE COUNTY, FLORIDA  
Population 1,937,000  
Certified Legal Intern

August 3, 2021

Mayor, Vice Mayor and City Council Members  
City of Ft. Pierce  
100 N. US Hwy 1  
Fort Pierce, FL 34950

My name is Manny Anon, Jr. and I am the City of Sebastian City Attorney. I am a law graduate from the American University Washington College of Law and licensed to practice in the State of Florida since 1993. Also, I have been practicing as a U.S. Army Reserve Judge Advocate since 2001. I am a native Floridian of Cuban descendant and currently live in Port St. Lucie with my wife. I read, speak, and write Spanish fluently.

My resume reflects that I have been clerking since my second year of law school and have been practicing law in the municipal public law sector since 1997. Throughout these past twenty-eight (28) years, I have worked with several different cities and governmental entities, including the U.S. Army Reserve Judge Advocate General Corp, City of Sebastian, City of Port St. Lucie, Town of Surfside, City of Miami, AFSCME Florida Council 79 and the State Attorney's Office. Thus, I have been exposed to various aspects of law including: Government Municipal Law, Labor and Employment Law, Procurement and Contract Law, Public Records and Sunshine Law and many areas of military law. Throughout these years, I have represented boards, drafted and argued many pleadings and briefs before arbitrators, special magistrates, hearing officers, and county, circuit, and administrative judges.

As a Major for the United States Army Reserve, I have served honorably since 2001 and deployed three times in support of Operation Enduring Freedom (2004) and Operation Iraqi Freedom (2008 & 2016). I was assigned to the 478<sup>th</sup> Civil Affairs Battalion (BN) out of Perrine, Florida as the International Law Officer/Brigade Judge Advocate. I was responsible for advising the BN Commander, Company Commanders, and staff on Administrative Law, and Contract Law, including legal opinion, Financial Liability Investigation of Property Loss, Article 15-6 and Military Justice. Currently, I am with the 174<sup>th</sup> Legal Operations Detachment in Miami Florida as a Team Leader supervising several officers and enlisted. Previously, I was the Team Chief in Orlando supervising four (4) Judge Advocates and two (2) enlisted service members. Also, I was the S3/S7 Operational Officer in charge of training and providing legal service and advice to service members and their dependents on family, civil and criminal law wills, notaries, Power of Attorney and other legal documents.

Currently I am the City of Sebastian City Attorney. I legally advise the City Council, City Manager, City Clerk and City Department Heads on all matter pertaining to the City including, labor and employment, personnel matters, litigation, Forfeiture, Risk Protective Orders, election matters, airport issues, draft and review ordinances, resolutions, contracts, legal opinions and other related legal documents. I attend Council, Code Enforcement, Construction and Planning & Zoning Board Meetings. I was involved with the 2040 Comp Plan, City Charter Review, Recall Election, and Canvassing Board. I provide Sunshine and Public Records law training to the elected and appointed officials. I track and advise Council of executive orders and pending legislation before the Florida Legislature and Congress. I provide legal advice to several departments, including Manager, Clerk, Human Resources, Airport, Golf Course, Procurement, Parks & Recreation, Building, Community Development, Police, and Code Enforcement.

Previously, I was employed as a Senior Deputy City Attorney for City of Port St. Lucie. I was the Labor & Employment Counsel, Negotiation Team Member (6 unions) and advised several departments, including Human Resources, on all Labor, employment and personnel matters, risk management, Neighborhood Services, Utilities, Parks & Recreation and Police. I drafted and reviewed ordinances, resolutions, contracts, legal opinions and other related legal documents for the City. Finally, I attended Council, Code Enforcement and other Board Meetings to assure compliance with F.S. Ch. 162, Code Enforcement, Florida Ethics, F.S. Ch. 286, Sunshine Law and F.S. Ch. 119, Public Records Law. Also, I was employed as Assistant Town Attorney for Town of Surfside. During my tenure, I prepared and reviewed ordinances, resolutions, contracts, legal opinions and other related legal documents for the Town. I attended Commission, Planning and Zoning and other Board Meetings to assure compliance with Florida ethics, Sunshine and public records laws. Finally, I worked closely with several directors in the Public Works, Building, Code Enforcement, Parks & Recreation and Police Departments.

Prior to that I was the Deputy General Counsel and Region 5 Director/General Counsel for AFSCME Florida Council 79, I was responsible for servicing, and providing legal support in labor employment issues, hearings, arbitrations and administrative proceedings in four (4) counties: Monroe, Miami-Dade, Broward, and Palm Beach. This included about 25 locals and over 11,000 dues paying members. I argued over a 100 arbitration cases and/or administrative hearings and resolved many other cases through settlement agreements. Finally, before AFSCME, I was an Assistant City Attorney with the City of Miami. I was assigned to the litigation department and carried a caseload of about 70 tort liability cases of which I was responsible from answering the complaint, discovery, and closing argument at trial (Jury or Bench). I represented the Departments of Public Works, Risk Management Police and Fire in tort defense litigation. I had several jury trials and many motions for summary judgments.

Thus, I will bring to Ft. Pierce City Attorney's Office the highest level of professionalism, ethics, dedication and commitment. Also, I bring vast knowledge and experience in City Municipal Law, Administrative Law, Labor and Employment law, F.S. Chapter 163, Municipal Planning/Land Development Regulation, F.S. Chapter 162, Code Enforcement, F.S. Chapter 286, Sunshine Law, F.S. Chapter 119, Public Records, Ethics, Forfeiture, Risk Protective Orders (RPO) and collective bargaining. Due to my military experience, I understand politics and diplomacy. Thus, I will be able to advise the City Council and Department Heads what is legal and ethical. I will give City Council Members the same information, keep them well informed and when necessary, promptly conduct research to provide Council the best legal advice and course of action. Also, due to my experience and knowledge in Labor and Employment, Forfeiture and RPOs, the city will be able to eliminate any outside counsel providing a savings to the City of Ft. Pierce. Finally, I am trained in all aspects of FEMA, NIMS, NRF and ICS so I can assist the City of Ft. Pierce in times of an emergency.

For these reasons, I am very interested in being the City of Ft. Pierce City Attorney. I honestly believe that the above-mentioned qualifications, knowledge, experience and leadership skills are all assets that I possess which will enable me to hit the ground running and immediately contribute to the high demands required by the City Council, City Attorney's Office and the City of Ft. Pierce. If there is anything else you need, please contact me.

Respectfully,  
*Manny Anon, Jr.*  
MANNY ANON, JR.

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Education	<p>THE AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW Washington, D.C., J.D. – May 1992 <i>Activities:</i> Hispanic Law Society Association, Parliamentarian; Phi Delta Phi International Legal Fraternity; Honor Code Committee; Judiciary and Budget Committee; <i>Honor:</i> Who's Who Among American Law Students.</p> <p>UNIVERSITY OF MIAMI, Miami, Florida B.A. – May 1989, Politics and Public Affair/Chemistry and Biology Minor. <i>Activities:</i> Pi Sigma Alpha Honor for Political Science Majors; Kappa Sigma Fraternity, Vice President; Student Body Government, Cabinet Member, Chief Justice of the Supreme Court, Intra Fraternity Council Justice and UM Moot Court Finalist. <i>Honor:</i> Dean's List; Who's Who Among American College Students; Outstanding Young Men of America; Outstanding Young Scholar; National Association of Student Government Award; University of Mimi Leadership Certificate Program; Kappa Sigma Fraternity; Scholarship-Leadership Award; Omicron Delta Kappa Honor Society; and Order of Omega Honor Society.</p> <p>MIAMI-DADE COMMUNITY COLLEGE, Kendall, Florida A.A. May 1986, Pre-Legal/Pre-Med. <i>Honor:</i> Dean's List; Achievement of Excellence Award; Phi Theta Kappa Honor Society, Vice President; Phi Alpha Phi Pre-Med Society, Vice President.</p>
Employment History	<hr/> <p>UNITED STATES ARMY RESERVE JUDGE ADVOCATE GENERAL United States Army Reserve, 174<sup>th</sup> Legal Operations Detachment, Miami Florida <i>Team Chief/S3 Operation Officer</i>, August 3, 2001 - Present I am in charge of the Orlando Office, supervising four (4) Judge Advocate Officers and two (2) enlisted paralegals. Also, I am in charge of training and providing legal advice to service members and their dependents in family, civil and criminal law; assisting soldiers with legal questions, preparing wills, notaries and powers of attorneys.</p> <p>CITY OF SEBASTIAN, Sebastian, Florida <i>City Attorney</i>, February 2010 - Present Legally advise the City Council, Manager and Directors on all matter pertaining to the City including, all labor and employment and personnel matters, draft and review ordinances, resolution, contracts, legal opinions and other related legal documents.</p> <p>CITY OF PORT ST. LUCIE, Port St. Lucie, Florida <i>Sr. Assistant City Attorney</i>, August 2016 – January 2019 Labor and Employment Attorney, Litigation, prepare and review ordinances, resolutions, contracts, and other related legal documents</p> <p>TOWN OF SURFSIDE, Surfside, Florida <i>Assistant Town Attorney</i>, July 2014 - November 2014 I prepare and review ordinances, resolutions, contracts, and other related legal documents</p> <p>AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES, North Miami, Florida <i>Deputy General Counsel</i>, September 1999- January 2014 I provide legal support for AFSCME staff and bargaining unit members in Monroe, Miami Dade, Broward, and Palm Beach Counties. I handle all labor and employment issues, arbitrations, administrative hearings and negotiations arising out of the collective bargaining agreements.</p>

MANNY ANON, JR.

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CITY OF MIAMI ATTORNEY'S OFFICE, Miami, Florida  
*Assistant City Attorney*, February 1997 – September 1999  
I was a trial civil litigator doing defense work for the City of Miami. I handle all litigation matters from answering complaints, to closing arguments.

SANDLER & SANDLER, Coral Gables, Florida  
*Associate*, February 1996- October 1996  
I handled commercial litigation and personal injuries cases. I drafted pleadings, argued motions, attended motion calendar, and special calendar hearings.

THE LEGAL GROUP, P.A., Miami, Florida  
*Associate*, January 1994 – July 1995  
I handled all aspects of personal injury cases.

LAW OFFICES OF CARLOS E. CASUSO, Miami, Florida  
*Law Clerk*, August 1992 – September 1993  
I researched, drafted pleadings, letters and memorandums of law

RASSNER RASSNER KRAMMER & GOLD, South Miami, Florida  
*Independent Research Assistant*, March 1992 – May 1992  
Researched Commercial and Family Law issues for Mr. Monty Rassner, Esq.

UNIVERSITY OF MIAMI SCHOOL OF LAW LITIGATION SKILLS PROGRAM, Coral Gables, Florida  
*Visiting Law Student*, August 1991 – December 1991  
Trial and Pre-Trial skills and practices

GAEBE MURPHY MULLEN & ANTONELLI, Miami, Florida  
*Law Clerk*, June 1991 – December 1991  
Research, drafted pleadings, letters and memorandums of law

DADE COUNTY STATE ATTORNEY'S OFFICE, Miami, Florida  
*Certified Legal Intern*, May 1991 – August 1991  
I worked all phases of pre-trial preparation, morning calendar, deposition, research, opening argument, direct examination. I assisted in several criminal trials & proceedings.

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Community     Services: National Hispanic Republican Association of Florida, Attorney; City of Miami Police Department Crisis Prevention Team, Allapattah Chairperson; Allapattah Crime Prevention, Chairperson; Allapattah YMCA, Board Member; Allapattah Community Action, Board Member; Allapattah Promotion, Board Member.  
Honors: City of Miami Police Department Crisis Prevention Team Certificate of Appreciation; Allapattah Crime Prevention Certificate of Appreciation; State Senator Albert Gutman Certificate of Appreciation and Leadership; City of Miami Mayor Xavier Suarez and Mayor Joe Carollo Award of Appreciation.  
Awards: Bronze Star, Meritorious Service Medal-2, Army Commendation Medal-5, Army Achievement Medal-4, Afghanistan Campaign Medal, Iraqi Campaign Medal, Combat Action Badge, Global War on Terrorism Medal, National Defense Service Medal, Army Reserve Components Achievement Medal, Military Outstanding Volunteer Service Medal, Army Service Ribbon, Army Reserve Components Overseas Training Ribbon, Marine Corps Certificate of Appreciation, USASETAF Certificate of Appreciation, USASETAF Commander's Coin, 5<sup>th</sup> Corp Certificate of Appreciation, 5<sup>th</sup> Corp Commander's Coin, 174<sup>th</sup> Commander's Coins and 478<sup>th</sup> Commander's Coin.

**CITY OF FORT PIERCE, FLORIDA  
CITY ATTORNEY**

Name: MANNY ANON, JR.

Home Address: 2649 SE EMMETT ROAD, PORT ST. LUCIE FLORIDA 34952

Home/Work/Cell phone numbers: (305) 219-8083

E-mail address: manon@cityofsebastian.org

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1. Why are you interested in becoming Fort Pierce's next City Attorney and how does this position fit into your overall career plans?  
-I was born and raised in Miami Florida; however, I moved to St. Lucie County in 2016. I have fallen in love with the Treasure Coast which offers great cities, beautiful beaches and friendly community for all ages. Ft. Pierce is another amazing city in the Treasure Coast, the "Sunrise City". This city offers stable neighborhoods with quality housing choices, a diverse local economy with easy mobility and leisure opportunities for all ages and life style. Since I am from St. Lucie County, Ft. Pierce City Attorney is a great opportunity for me to return home. I would be literally 12-14 miles from City Hall. Also, Ft. Pierce City Attorney would be a progressive step in my career as a City Attorney. The Ft. Pierce City Attorney's position would both be challenging and rewarding. It is challenging because Ft. Pierce is a bigger city with a larger budget, diverse community, more departments (including a larger Public Works and Police Department) and the Ft. Pierce Utility Authority (FPUA). It is rewarding because I could manage and mentor staff and work with outside council in order to provide the City of Ft. Pierce quality legal advice and services.
  
  2. What is the largest number of employees that you have managed and where? What is the largest annual operating budget that you have managed?  
-As my resume reflects, while working for AFSCME Florida Council 79, As *Region 5 Director/General Counsel*, I ran the day-to-day operations of the AFSCME Florida Council 79 Region 5 Office and supervised a staff consisting of 4 staff representatives, 2 clericals and one attorney. I would have to guess that the budget I had to work with including staff and expenses was over \$500,000.00

In the military, I was the Team Chief in Orlando supervising four (4) Judge Advocates and two (2) enlisted service members. Also, I was the S3/S7 Operational Officer in charge of training and providing legal service and advice to service members and their dependents on family, civil and criminal law wills, notaries, Power of Attorney and other legal documents.

Also, during my deployments in support of Operation Iraqi Freedom and Operation Enduring Freedom I managed an equivalent to a law office and supervised paralegals. During my first deployment, my duties included serving as the Command Judge Advocate at Camp Darby in Livorno, Italy. I supervised one paralegal and a support staff. Additionally, in further support of Operation Enduring Freedom, I was re-deployed to Bagram, Afghanistan. In Bagram, I served as the Chief Legal Assistant Officer, Chief Claims Officer and Part-time Military Magistrate. I supervised a paralegal. During my second tour, I served with the 25 ID and the 3-1 CAV in support of Operation Iraqi Freedom. I was initially assigned to the 25 ID in Tikrit, Iraq as a Team Leader and supervised 2 Judge Advocates (lawyers). Subsequently I was reassigned to the 3-1 CAV in Mosul, Iraq. My duties included serving as the Chief Legal Assistant Officer, Chief Claims Officer and Chief Contract/Fiscal Officer. In Mosul, I supervised one paralegal. My third

deployment I served as the Command Judge Advocate at Camp As Sayliyah Doha, Qatar. Here I supervised 3 paralegals.

At my current position as the City of Sebastian City Attorney, I only share an office assistant with the City Manager. I am a one stop shop with a current budget of \$210,280.00

3. How do you stay professionally current and on top of issues with the potential for significant impact on your jurisdiction? How do ensure that your employees stay current?
- I stay professionally current in many ways. First and foremost, The Florida Bar offers courses and seminars to stay current on all legal matters. I am currently a member of the City County & Local Government and Labor & Employment Sections. I attend yearly seminars or acquire the CD/Books on Land Use, Labor and Employment Law Annual Update/Certification Review and City County and Local Governmental Certification Review courses. Second, I am a member of Florida Municipal Attorney's Association (FMAA) and attend their yearly seminar. Third, I am a member in IRC/SLC Bar Association. Fourth, I am a member and attend seminars with the Florida League of Cities. Fifth, I subscribe to Attorney Listserv Network and get to post questions and/or review current issues online. Sixth, during the pandemic, I monitored and kept updated on the State of Florida Governor's Executive Orders. Seventh, I maintain a professional network relationship with local government municipal attorneys from Indian River County and other municipalities in the County. We have monthly lunch meeting and bounce issues off of each other. Finally, I will register this year and take next year, the City County and Local Governmental Law Certification. I will follow up by taking the Labor and Employment Law Certification the following year. That way I will be Florida Bar Board Certified.
4. Describe your leadership and management style with your employees?
- As to my leadership style, I live by the following Army Values (LDRSHIP).
- Loyalty – Bear true faith and allegiance to the U.S. Constitution, the Army, my unit and other Soldiers. Likewise, I will be loyal and faithful to the City of Ft. Pierce City Council, City Manager, City Clerk and all city departments that I serve.
  - Duty – I will fulfill my obligation and accomplish my tasks as part of a team.
  - Respect – Treat people as they should be treated, i.e., with dignity and respect while expecting others to do the same.
  - Selfless Service – I served my country and did my duty loyally and without thought of recognition or gain. I will put the best interest of the City of Ft. Pierce City Council, City Manager, City Clerk and all city departments that I serve before my own.
  - Honor – It is a matter of carrying out, acting and living the Army values in everything I do.
  - Integrity – Do what is right, legally, ethically and morally all the time. Earn the respect and trust of others.
  - Personal Courage – The courage to stand up for and act upon things that you know are honorable and right though not popular with others. As City of Ft. Pierce City Attorney, I will do what is legal and ethical to the best of my ability.

As to my management style, I believe I have a proactive and adaptive management style. In every organization where I have worked, I have found professionals who operate with minimal input while others need significantly more feedback and oversight. Some of the latter people, even after very reasonable effort has been made, just do not succeed. Thus, over the course of my career, civilian and military, I have taken almost every personnel action possible, both positive and punitive. I have been able to approach actions in a progressive manner such that employees are notified of what is expected, provided copies of policies and given the opportunity to voice any concerns or address any issues. Also, I

believe in an open door policy. I have been fortunate in that in my civilian and military career, I have worked with very dedicated public servants. I have always learned something new in each of my oversea deployments or jobs I have held. I am very proactive, flexible, adaptable, but hands on. Tough but fair. It is my goal in each job I hold to learn and become a better person, officer and attorney. I hope that most of my staff will say that they have learned from me, become better and more proficient at their job as a result of their interaction with me or my mentorship.

5. Have you ever worked directly for a policy making body?

-Yes, I worked directly for a policy making bodies (elected and appointed). As the Town of Surfside Assistant City Attorney, I attended Commission, Planning and Zoning and other Board Meetings to assure compliance with Florida ethics, Sunshine and public records laws. Finally, I worked closely with several directors in the Public Works, Building, Code Enforcement, Parks & Recreation and Police Departments.

As the City of Port St. Lucie Senior Deputy Assistant City Attorney, I attended City Council, Code Enforcement and other Board Meetings to assure compliance with F.S. Ch. 162, Code Enforcement, Florida Ethics, F.S. Ch. 286, Sunshine Law and F.S. Ch. 119, Public Records Law. I advised several departments, including Human Resources, on all Labor, employment and personnel matters, Risk Management, Neighborhood Services, Utilities, Parks & Recreation and Police.

As to the City of Sebastian City Attorney, I attend City Council, Code Enforcement, Construction and Planning & Zoning Board Meetings to assure compliance with F.S Ch. 162, Code Enforcement, Florida Ethics, F.S Ch. 286, Sunshine law and F.S. Ch. 119, Public Records laws. I legally advised the City Council, City Manager, City Clerk and City Department Heads on all matter pertaining to the City including, labor and employment, personnel matters, litigation, Forfeiture, Risk Protective Orders, election matters, airport issues, draft and review ordinances, resolutions, contracts, legal opinions and other related legal documents. I was involved with the 2040 Comp Plan, City Charter Review, Recall Election, and Canvassing Board. I provide Sunshine and Public Records law training to the elected and appointed officials. I track and advise Council of executive orders and pending legislation before the Florida Legislature and Congress. I provide legal advice to several departments, including Manager, Clerk, Human Resources, Airport, Golf Course, Procurement, Parks & Recreation, Building, Community Development, Police, and Code Enforcement.

6. Are you a member in good standing of the Florida Bar?

-Yes, I have been a member in good standing with the Florida Bar since 1993

7. Describe your workload tolerance.... what type of office hours do you typically keep?

-I intend on keeping the current office hours; however, I will review it for efficiency. My philosophy is as long as you are doing the work and getting the job done, I can be flexible with staff. Me personally, I will be First in/Last out. I usually work until the job gets done. This includes taking work home during the weekend, if necessary. Also, I will be available by phone to the Mayor and all members of the City Council.

8. What would you hope to accomplish the first 30 days on the job; the first 6 months; and the first year?

-First 30 days: I will acclimate myself to the City of Ft. Pierce, Mayor, Council Members, City Manager, City Clerk, Department Heads and the staff of the City Attorney's Office. I will attend City Council, Planning and Zoning, Code Enforcement/Special Magistrate, Construction Board and Board of Adjustment Meetings. I will become familiar with the

City of Ft. Pierce City Charter and Code of Ordinance. I will meet with the City Manager to determine hot topics. I will begin evaluating the office and staff. I will begin to focus on the Redistricting of the City of Ft. Pierce and working with St. Lucie County.

**First 6 months:** I will continue to provide quality legal advice and services to the City Council, various boards and the City Staff. I will begin to evaluate any amendment/revisions to the City Codes. I will continue to provide regular updates to the City Council on changes to federal and state laws, as well as pending suit, settlements and legal cases. I will serve as the police legal advisor to the City of Ft. Pierce Police Department on Forfeiture, Risk Protective Orders, School Resource Officer Agreements, and other legal matters. I will continue to provide legal support on land use matters, including meeting and negotiating with staff, developers and their attorneys. I will provide legal support for all department heads, including Human Resource, Airport, Golf Course, Parks and others. I will maintain a professional network with local government attorneys from Indian River and St. Lucie Counties and other municipalities in the County. I will continue to advise and assist in reviewing and updating procurement documents and procedures; review significant legal claims and insurance settlements, as deemed necessary; coordinate and monitor the use of any outside council services; and draft and/or review proposed ordinances, resolutions, releases, orders and other legal documents, as needed.

**First year:** Continue all above. Additionally, I plan to attend the Florida Municipal Attorney Association; City, County and Local Government; and Land Use or Labor and Employed Law Annual Update Seminar. Hopefully prepare for and take the City, County and Local Government Certification Course and Examination. I will provide legal support on a City Election and the law, including being a member of the Canvassing Board. I will work on the City Attorney's Office Budget.

9. What experience do you have with organizational and/or performance analysis directed at identifying issues in need of change?

-My greatest strength is team building. I believe the best approach at solving complicated issues is collaborating and consensus with other lawyers or experts. In the City of Port St. Lucie, when tough legal issues come up, we met and brain stormed or had what I called a POW WOW. We described the issue, tried to ascertain the law or what governed, legally analyzed it and draw a rational conclusion. As to ongoing litigation we met with the Deputy City Attorney, Risk Management, outside counsel and formulated a strategy or discussed issues. As it pertained to Labor and Employment matters, I met with HR Director, Department Director and/or designees and evaluated the investigation and determined if there was just cause to discipline. If so, then we determined the just cause for the specific level of disciplines sought. I will bring this team building mentality of working with other departments and subject matter experts in coming up with the best solution. I will have weekly staff meetings, regular meetings and update with the City Manager meetings and as needed Department Head meetings.

Additionally, my strongest passion is sunshine law and ethics in government. I can assure Council that if appointed, as your City of Ft. Pierce City Attorney, you will get sound legal advice on Florida Ethics, F.S Ch. 286, and Sunshine law and F.S. Ch. 119, Public Records laws that will not be impacted by political games or improper influence. I will be as creative as possible to legally and ethically support the mission in getting to the "yes". I will tell Council what the law says and what risks are associated, if any. I will never attempt to usurp the executive function of the City Council or City Manager, nor will I ever jeopardized my professional or personal standards of ethics and professionalism.

10. Please describe your experience in dealing with intergovernmental entities. Specifically, how do you work with the City Manager and other sections/branches of the City government while maintaining your independence?
- As stated above, I maintain a professional network relationship with local government municipal attorneys from Indian River County and other municipalities in the County. We have monthly lunch meeting and bounce issues off of each other. Additionally, I currently meet and plan to continue the practice with the City Manager to discuss City matters and my legal opinion. I have never had a situation in the City of Sebastian where I could not maintain my legal independence and provide my legal opinion without interference.
11. Tell us how you communicate with your governing body and its individual members.
- What I do for one Council Member, I share with all. So when researching an issue or sharing something important (EO, FLC or a cases) I send to all. In order to avoid a sunshine violation, I preface the emails "Please Do Not Reply All, thank you". If I am addressing an individual member question, I will treat them with respect and will request that they put their issue in writing. Alternatively, I will send them an email confirming the issue in writing. This is to avoid any confusion as to exactly what I am researching for the member. Once completed, in a timely manner, I will forward my opinion, along with any supporting cases or statute to the member.
12. How would you handle situations where the Commissioners wish to take actions that you do not consider lawful?
- I do not like answering hypothetical questions like this. However, I can say that I will always do what is legal and ethical no matter the consequences. When advising council members I believe they truly want to do what is legal and right of the city. I would probably start by telling them that what they are proposing to do is not consistent with the law or the City Charter. I would tell them my advice is to do X instead. If they follow my advice, right or wrong, they are protected because they relied on my legal opinion. However, if they do not, they could be holding themselves out there and be subject to personal liability.
- Case in point my situation with the City of Sebastian when a majority of the board violated the sunshine law. I did what was legal, ethical and continued to represent the City of Sebastian to the best of my abilities. (See #21 below).
13. How would you handle questions of law, including issues relating to public safety that may be viewed differently by an ethnically and economically diverse community and Council?
- I would be respectful and sensitive to the affected community or council member. However, it should be noted that as the City Attorney for the City of Ft. Pierce, I could not assist and/or offer any legal advice to the community or residents. That being said, as stated above in #11, I will request that the Council Member puts their issue in writing. Alternatively, I will send them an email confirming the issue in writing. This is to avoid any confusion as to exactly what I am researching for the member. Once the legal research is completed, in a timely manner, I will forward my opinion, along with any supporting cases or statute to the member. One big public health issue now-a-days with the spike in COVID is the wearing of masks. Currently, the Governor's No Mask Mandate is being challenged in court by several school boards. Thus, by the time I come on board as City Attorney, the issue should be resolved or working its way through the courts. Bottom-line I will do what is legal and ethical.
14. Please provide a copy of a legal opinion that you have authored. (You may provide a redacted copy.)
- See attached three (3) Legal Opinions (A-C).

15. Have you ever been found to have committed any acts of discrimination, sexual harassment, or creation a hostile work environment? If so, please explain.  
-No, never in 20 plus years in the military or almost 28 years practicing law in the State of Florida.
16. Do you have any unusual personal consideration(s) that would need to be resolved before you could accept this position? If so, please explain.  
-No, I would like to start working immediately after negotiating the terms and conditions of my contract with the City of Ft. Pierce City Council. I have no ties to law firms. However, I would only ask Ft. Pierce City Council to allow me to continue to work with City of Sebastian City Council on the side (advice, attend council meetings that do not conflict), until the City of Sebastian can find my replacement. Other than that, it is my intent to be a full time City of Ft. Pierce City Attorney, advising the city and running the City Attorney's Office and staff. I expect that is what the City Council desires and deserves from its City Attorney.
17. Should you become a finalist candidate, we will perform education, credit, civil, criminal and motor vehicle court records, internet search and reference checks on you. In doing so, will we find anything that you need to explain in advance?  
-No. However, TC Palm ran several articles of an old investigation of which I was not the subject of the investigation in Port St. Lucie. There was an ancillary allegation that I made a "term of endearment", i.e., sweetie, which I denied. As a result, I was never the subject of an investigation and was never written up or discipline in any manner. I thought it died until I was seeking the City of Sebastian job when it re-surfaced. Again, as I told the TC Palm, I was not the subject, all was denied, and I was never discipline in any fashion [PERIOD]. In fact the current City of Port St. Lucie City Attorney, James Stokes, my old boss, corroborated that I was never discipline and in fact continued working with the city for over 1 -1/2 years until I left on my own.
18. Is the resume you submitted accurate and current? If not, please explain any discrepancies  
-Yes, to the best of my knowledge my resume is accurate and current.
19. Are you currently employed?  
-Yes, I am currently the City of Sebastian City Attorney. Also, I am a Reservist with the United States Army JAG Corp.
20. Have you ever been fired or resigned under pressure from a job? If so, please explain.  
-No, never.
21. Have you ever sued an employer or been sued by an employer or employee? If so, please explain.  
-Yes, in order to defend the City of Sebastian against three (3) rogue city council members that violated the Sunshine Law and the City of Sebastian Charter, the Mayor, City Manager and I successfully filed an injunctive relief in order to render the April 23, 2020 Illegal Meeting as *void ab initio* and to maintain the status quo.
22. What are your compensation expectations?  
-I believe the current salary of the outgoing City Attorney is a fair compensation at \$164,800.

## CITY OF FT. PIERCE ATTORNEY'S OFFICE

In addition to #8 above, as City Attorney, I will address and implement the following:

- Outstanding Litigation cases. I will coordinate and work with the outgoing City Attorney to do a proper hand off on all pending litigation cases (including potential Annexation), agreements, contracts and issues facing the city. I will work with Code Enforcement Officer and represent the city at all future Special Magistrate Code Enforcement Hearing. I will work with the Code Enforcement Department, figure out any outstanding liens and when necessary, file Surplus Funds Complaints in order to protect the city's liens and recover any surplus funds from foreclosure cases.
- Outside Counsel. Related to the issue above are any monies being spent on outside counsel? I need to understand what work is outsourced, i.e., HR and PD. I understand using outside counsel on certain areas of expertise/litigation is common and within the City Attorney's purview. This is not a new concept for most municipalities; especially one like the City of Ft. Pierce where the City Attorney's Office is small. I believe the City of Ft. Pierce outsources all labor & employment Forfeiture Complaints and Risk Protective Orders. However, due to my knowledge and years of experience in these areas, I would be able to immediately begin bringing all Labor and Employment and PD forfeiture and RPO matters back in-house at a significant savings to the city. Finally, it is my understanding that the City is self-insured and this company handles most of the Tort Litigation, Worker's Comp and Discrimination matters. Thus, I would be able to work closely with Risk Management and actively monitor these cases. Like in City of Sebastian, I will proactively inject myself in all litigation strategy, settlement discussion and meetings of all outstanding Tort, WC and Employment matters being handled by outside counsel.
- Reinstate confidence and commitment in the City Attorney's Office. In order to develop confidence, commitment and a better efficient City Attorney's Office, I will establish the following: 1. Bi-weekly one-on-one meeting with each Council Member to discuss any legal matters or concern they might have, if necessary. My Policy will be what I do for one Council Member, I will share with all. Also, I will have an open door policy. 2. I will meet and coordinate with the City Manager and City Clerk on any legal matters. Also, monthly meetings or as needed with Department Heads. 3. Provide my City Cell to Council Members, City Manager, Clerk and City Department Heads for 24/7 availability. 4. I would like to work with IT Manager to see if they can develop a Legal Tracking System whereby Department Heads can log on, submit and track legal issues to the City Attorney's Office. Also, VPN access so I can take my laptop home and work over the weekend and evenings, when necessary. 5. Continue to network with other City Attorney's from the Treasure Coast area. Specifically, I would like to meet for lunch, network and discuss legal issues facing municipalities in the State of Florida with other City Attorneys in the St. Lucie and Indian River Counties including Indian River County, St. Lucie County, Port St. Lucie, Vero Beach, Fellsmere, Indian River Shores, and the Town of Orchids. 6. Be a member of the City, County and Local Government Law Section and Labor and Employment law Section; thus, attend at least two (2) Florida Bar Seminars a year in order to stay up with any changes in both State and Federal law. Finally, get Florida Bar Board Certification in City, County and Local Government Law.
- Review and Revision of all HR Policies and Procedure. One plan to assist HR Manager, in legally reviewing and revising all of the HR Policies and Procedure to be in compliance with all state and federal law. These include Social Media, Telecommunication, Sexual Harassment, Substance and Drug Abuse (Medical Marijuana), Smoking and the Bargaining/Non-bargaining Policies and Procedures. Also, to review all Collective Bargaining Agreements. Additionally, I will work with the Planning Director and staff in legally reviewing and revising the City Codes.

**Florida Attorney General**

**Advisory Legal Opinion**

**Number: AGO 92-05**

**Date: January 8, 1992**

**Subject: Sunshine Law, candidates' night/political forum**

Mr. Paul R. Gogleman, III

Attorney for Town of Melbourne Beach

RE: GOVERNMENT IN THE SUNSHINE LAW—PUBLIC MEETINGS—ELECTIONS—CANDIDATES—COUNTIES—applicability of Sunshine Law to candidates' rights or political forum attended by incumbent candidates and commissioners. s. 286.011, F.S.

QUESTION:

1. Does the Government in the Sunshine Law apply to two non-incumbent candidates for the town commission who have not been elected attending a political function at which they express their positions on matters which may foreseeably come before the commission?
2. If not, does the Sunshine Law apply to a non-incumbent commission candidate attending a political forum or candidate's night to express his or her views on matters which may foreseeably come before the commission and a current commissioner is in attendance?
3. Does the Sunshine Law apply to a political forum or candidate's night at which a non-incumbent candidate and an incumbent candidate each express positions on matters which foreseeably may come before the commission and at least one other incumbent commissioner, not a candidate, is present, but not a participant?
4. If the Sunshine Law applies in Question One, would it apply when a non-incumbent candidate and an incumbent candidate express their positions on a matter which may foreseeably come before the commission and at least one other incumbent commissioner, not a candidate, is present, but not a participant?

SUMMARY:

1. The Government in the Sunshine Law does not apply to meetings of non-incumbent candidates for political office who have not been elected.
2. In light of the answer to Question One, the attendance of a currently serving commissioner who does not participate in a political forum does not subject the forum to the requirements of the Sunshine Law.

3. The expression of an incumbent candidate's position on a matter which may foreseeably come before a commission, absent an interchange between an attending commissioner, would not subject the meeting to the Sunshine Law.

4. In light of the answer to Question One, no response to Question Four is required.

You state that the Town of Melbourne Beach has a town commission composed of the Mayor and four commissioners elected at large. The terms of the commissioners' offices are staggered such that two seats are up for reelection at any one time. All candidates seeking a seat on the commission run against each other in an at large election, with the two candidates receiving the most votes winning the election.

Various groups sponsor candidates' forums in conjunction with each election. Candidates for seats, including incumbents, are invited to speak and are asked to express their positions on matters which may foreseeably come before the town commission. Incumbent commissioners who are not seeking reelection may also be in attendance.

AS TO QUESTION 1:

The Government in the Sunshine Law, s. 286.011, F.S. (Sunshine Law) has been interpreted by the courts to apply to any gathering between two or more members of a board or commission to discuss some matter on which foreseeable action may be taken by the board or commission.[1] In *Hough v. Stembridge*,[2] the court interpreted the Sunshine Law to hold that "members-elect of boards, commissions, agencies, etc. are within the scope of the Government in the Sunshine Law." [3]

Thus, those candidates who have been elected to membership on a board or commission, but have yet to assume the office, are subject to the Sunshine Law as any other member of the board or commission would be. There is no judicial decision or interpretation of the Sunshine Law, however, which has extended its application to candidates for office, unless the candidate is an incumbent seeking reelection.

Accordingly, I cannot say that the Sunshine Law applies to a candidates' forum in which the participants are non-incumbent candidates who are not members-elect of the board or commission.

AS TO QUESTION 2:

This office in an informal letter to The Honorable Kathryn Cox, stated that the expression by an incumbent council member at a meeting such as a political forum of his or her position on a matter which may foreseeably come before the council would not necessarily subject the meeting to the Sunshine Law.[4] In that letter, it was observed that previously this office stated that it was not a violation of the Sunshine Law for one commissioner to send a report to another commissioner for informational purposes, so long as there is no interaction between the commissioners.[5] Similarly, this office has concluded that the Sunshine Law is not violated by a board member expressing his or her views or voting intent on an upcoming matter to a news reporter who the member knows will publish the account in a local newspaper prior to the meeting, so long as the member is not using the reporter

as an intermediary to communicate with other members to circumvent or evade the requirements of the Sunshine Law.[6]

Accordingly, as long as there is no discussion between the incumbent and another member of the commission on matters which will foreseeably come before the commission, the forum or candidate's right at which a non-incumbent candidate expresses his or her views would not be subject to the Sunshine Law.

AS TO QUESTION 3:

As noted above, discussions between an incumbent candidate and a non-incumbent candidate are not subject to the Sunshine Law, as long as the incumbent is not using the non-incumbent candidate as a conduit to communicate with other members of the board or commission. The mere expression of an incumbent candidate's position at a political forum attended by another member of the commission could be likened to the circumstance in AGO 89-23, if there is no interchange between the incumbent and the other commissioner attending the forum.

Thus, if the council members avoid discussion among themselves of issues which may come before the council, the forum would not be subject to the Sunshine Law.

AS TO QUESTION 4:

In light of the answer to Question One, no answer to this question is necessary.

Sincerely,

Robert A. Butterworth

Attorney General

RAB/t

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[1] See Board of Public Instruction of Broward County v. Doran, 224 So.2d 693, 698 (Fla. 1969) (intent of the Sunshine Law is to "cover any gathering of the members where the members deal with some matter on which foreseeable action will be taken by the board").

[2] 278 So.2d 288, 289 (3 D.C.A. Fla., 1973).

[3] 278 So.2d at 289.

[4] Informal Letter to The Honorable Kathryn Cox, February 7, 1991.

[5] See AGO 89-23.

[6] Attorney General Opinion 81-42.

296 So.2d 473

Supreme Court of Florida.

**TOWN OF PALM BEACH et al., Petitioners,**

**v.**

**Jules T. GRADISON, Respondent.**

**TOWN OF PALM BEACH et al., Petitioners,**

**v.**

**Fred GLADSTONE, Respondent.**

**TOWN OF PALM BEACH et al., Petitioners,**

**v.**

**FAIRMONT CONVERTING CO., INC., Respondent.**

**TOWN OF PALM BEACH et al., Petitioners,**

**v.**

**Morris LANSBURGH, Respondent.**

**TOWN OF PALM BEACH et al., Petitioners,**

**v.**

**Perry KAYE, Respondent.**

**TOWN OF PALM BEACH et al., Petitioners,**

**v.**

**Ralph H. SHERE et al., Respondents.**

**TOWN OF PALM BEACH et al., Petitioners,**

**v.**

**Walter PORANSKI et ux., Respondents.**

**TOWN OF PALM BEACH et al., Petitioners,**

**v.**

**FIRST BANK AND TRUST CO. OF BOCA RATON, etc., Respondents.**

Nos. 44099 to 44106.

May 1, 1974. Rehearing Denied July 10, 1974.

## **Synopsis**

Action challenging **town** zoning ordinance. The Circuit Court, **Palm Beach** County, James C. Downey, J., upheld the ordinance, and the challengers variously appealed. The District Court of Appeal, 279 So.2d 353, reversed the order but certified the question. The Supreme Court, Adkins, C.J., held that a citizens' planning commission composed of private citizens, established by the **town** council, which appointed the members, was subject to the government in the sunshine law.

Certified question answered, and cause remanded.

Dekle, J., dissented and filed opinion in which Roberts, J., joined.

**Procedural Posture(s):** On Appeal.

## **West Headnotes (7)**

### **1Municipal Corporations**

Though legislature would have no right to require meetings of civic organizations, unconnected with municipal government, to conform to government in the sunshine law, a subordinate group or committee selected by governmental authorities should not feel free to meet in private. West's F.S.A. § 286.011.

### **2Municipal Corporations**

Citizens' planning commission, composed of private citizens, and established by **town** council, which appointed its members, was subject to government in the sunshine law. West's F.S.A. § 286.011.

### **3Municipal Corporations**

One purpose of government in the sunshine law was to prevent at nonpublic meetings the crystallization of secret decisions to point just short of ceremonial acceptance. West's F.S.A. § 286.011.

### **4Municipal Corporations**

Government in the sunshine law should be construed so as to frustrate all evasive devices. West's F.S.A. § 286.011.

### **5Municipal Corporations**

Under government in the sunshine law, when in doubt, members of any board, agency, authority or commission should follow the open-meeting policy of the state. West's F.S.A. § 286.011.

### **6Municipal Corporations**

Mere showing that government in the sunshine law has been violated constitutes irreparable public injury so that ordinance is void ab initio. West's F.S.A. § 286.011.

## 7Municipal Corporations

Although criminal prosecution requires proof of scienter, unintended violation of government in the sunshine law will negate any action taken by a **town** council. West's F.S.A. § 286.011.

### **Attorneys and Law Firms**

\*474 Chester Bedell and John A. DeVault, III, Bedell, Bedell, Dittmar, Smith & Zehmer, Jacksonville, and Burns, Middleton, Farrell & Faust, **Palm Beach**, for petitioners.

H. L. Cooper, Jr., O'Connell & Cooper, West **Palm Beach**, for Jules T. **Gradison**, Morris Lansburgh, Perry Kaye, Ralph H. Shere and Walter Poranski.

Larry B. Alexander, Jones, Paine & Foster, West **Palm Beach**, for Fred Gladstone and Fairmont Converting Co., Inc.

Ross, Hardies, O'Keefe, Babcock, McDugald & Parsons, Chicago, Ill., and Fisher, Prior, Pruitt & Schulle, West **Palm Beach**, for First Bank and Trust Co. of Boca Raton.

### **Opinion**

ADKINS, Chief Justice.

By petition for writ of certiorari, we have for review the consolidated cases arising out of a decision of the District Court of Appeal, Fourth District (IDS Properties, Inc. v. Town of Palm Beach, 279 So.2d 353), which is accompanied by a certificate of the District Court of Appeal that its decision had passed upon a question of great public interest, to-wit:

'Whether a zoning ordinance adopted by zoning authorities and the **Town** Council after public hearings is rendered invalid under the § 286.011, F.S.1971, (F.S.A.), Government in the Sunshine Law, because of the nonpublic activities of a citizen's planning committee which committee was established by the **town** council and acting on behalf of the council in an advisory capacity participated in the formulation of the zoning plan.'

We have jurisdiction. Fla.Stat., art. V, s 3(b)(3), F.S.A.

The **Town** Council of the **Town of Palm Beach**, hereinafter referred to as '**Town** Council,' passed a resolution providing that the Council would undertake the updating and revision of the **town** zoning ordinances. Interviews were held with a planning firm, hereinafter called 'Planners,' and, at a public meeting, the **Town** Council authorized a contract with the Planners. A citizens' planning commission was decided upon and chosen by the **Town** Council at a nonpublic administrative meeting. The nominees were told that the **Town** Council had nominated each one to serve on the **town** planning committee for the purpose of guiding the Planners in their efforts to assure that the plan produced would be consistent with the character, image and land-use controls intended by the citizens. Changes in the plan during its formulation were made by the Planners to reflect the decisions of the planning committee.

The planning committee, a lay group of citizens, were not regularly employed personnel of the **Town**. The members of the committee were not landscape or civil engineers nor expert vocational zoning planners performing their work outside the scope of the sunshine law. Neither were they contractors engaged by the **Town** for making zoning studies, surveys or plans. To the contrary, they were a buffer lay group of citizens to serve part-time as the alter egos of the **Town** Councilmen to make tentative decisions guiding the zoning planners and advising the Council as to their ultimate zoning ordinances. In other words, the Council delegated to the committee much of their administrative and legislative decisional zoning formulation \*475 authority which is ordinarily exercised by a city-governing body itself—and particularly the position of the process where the affected citizens expect to be officially heard. Thus, the nature of the committee and its function reached the status of a board or commission that to act legally must comply with the sunshine law.

The trial court specifically found that the Planning Advisory Committee meetings with the Planners were not open to the public, nor were minutes taken. These meetings were numerous and detailed.

At a joint meeting of the **Town** Council and the planning committee the role of the committee was explained. The **Town** Council was of the opinion the committee should work as an 'element' of the zoning commission, and further, that the **Town** Council had the authority to override any changes induced by the zoning commission and 'would do so without timidity.' This joint meeting was held without notice, without members of the public or press present, and no official minutes were taken or recorded.

Thereafter, the President of the **Town** Council and various members of the zoning commission met with the **town** manager and were finally advised as to the operation of the committee. An agenda was prepared for presentation of the tentative comprehensive plan to a meeting of the **Town** Council. At that meeting the plan was discussed. Further executive sessions of the zoning commission were held.

Thereafter, full public meetings and hearings of the zoning commission and of the **Town** Council were conducted and proper procedure followed. The comprehensive zoning plan was approved in essentially the same form as that which had been produced by the consultants and the planning advisory committee.

The government in the sunshine law contains the following:

'(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation or any political subdivision, except as otherwise provided in the constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, regulation or formal action shall be considered binding except as taken or made at such meeting.' Fla.Stat. s 286.011, F.S.A.

The only question to be determined is whether the citizens planning commission composed of private citizens, which was established by the **Town** Council and the members thereof appointed by the **Town** Council, was subject to the government in the sunshine law.

Every meeting of any board, commission, agency or authority of a municipality should be a marketplace of ideas, so that the governmental agency may have sufficient input from the citizens who are going to be affected by the subsequent action of the municipality. The ordinary taxpayer can no longer be led blindly down the path of government, for the news media, by constantly reporting community affairs, has made the taxpayer aware of governmental problems. Government, more so now than ever before, should be responsive to the wishes of the public. These wishes could never be known in nonpublic meetings, and the governmental agencies would be deprived of the benefit of suggestions and ideas which may be advanced by the knowledgeable public.

Also, such open meetings instill confidence in government. The taxpayer deserves an opportunity to express his views and have them considered in the decisionmaking process.

Those who do not attend public meetings are given ample opportunity to participate in government by securing information of governmental activities from the news media. Responsible reporting of governmental activities results in letters or telephone calls from interested citizens so that governmental officials are given the benefit of \*476 both sides of the question. No governmental board is infallible and it is foolish to assume that those who are elected or appointed to office have any superior knowledge concerning any governmental problem. Every person charged with the administration of any governmental activity must rely upon suggestions and ideas advanced by other knowledgeable and interested persons. As more people participate in governmental activities, the decisionmaking process will be improved.

Few, if any, governmental boards or agencies deliberately attempt to circumvent the government in the sunshine law.

We feel that the **Town** Council of **Palm Beach** acted in good faith, but any committee established by the **Town** Council to act in any type of advisory capacity would be subject to the provisions of the government in the sunshine law.

The citizens' planning committee was not an organization formed by any civic group such as a taxpayer's league, better government league, civic association, etc. It was conceived and formed by the **Town** Council for the purpose of working with the planning consultant so that the plan produced would be consistent with the land-use controls intended by the citizens. The citizens' planning committee was an arm of the **Town** Council.

12The Legislature would have no right to require meetings of civil organizations, unconnected with municipal government, to conform to the government in the sunshine law. However, a subordinate group or committee selected by the governmental authorities should not feel free to meet in private. The preponderant interest of allowing the public to participate in the conception of a proposed zoning ordinance is sufficient to justify the inclusion of this selected subordinate group, within the provisions of the government in the sunshine law.

Cases from other jurisdictions dealing with the scope of similar statutes compel the conclusion that bodies such as the **Palm Beach** Planning Committee selected by the **Town Council** are governed by Fla.Stat. s 286.011, F.S.A.

In Raton Public Service Co. v. Hobbes, 76 N.M. 535, 417 P.2d 32 (1966), the Board of Directors of a city-owned electric utility were held to be within the scope of a statute governing 'all other governmental boards and commissions.'

In Glick v. Trustees of Free Public Library, 2 N.J. 579, 67 A.2d 463 (1949), trustees of the Library were held to be within the purview of a statute requiring the 'governing body' to advertise for bids.

In the case of Bogert v. Allentown Housing Authority, 426 Pa. 151, 231 A.2d 147 (1967), the Pennsylvania Supreme Court, interpreting that State's 'right to know' statute, stated:

'Within the past several decades we have witnessed the creation of these public bodies called 'authorities' which have been granted the power to, and do, perform important governmental functions which vitally affect the public. Unlike other public bodies, the members of the 'authorities' are appointed and not elected and are not Directly responsible for their actions to the electorate. If the elected members of public bodies are to be subjected to public disclosure of their actions, how much more important that the appointed members of public bodies be required to make such disclosure.' (p. 151)

In Beacon Journal Publishing Co. v. City of Akron, 3 Ohio St.2d 191, 209 N.E. 399, 404 (1965), it was held that a city planning commission created by the city charter with 'such other powers and duties as the council may confer upon the planning commission,' was subject to the open meeting provision of the Akron City Code which applied to 'any board or commission . . . created by the charter or by action of council.'

\*477 In Lhormer v. Bowen, 410 Pa. 508, 188 A.2d 747, 749 (1963), proposed rezoning ordinance was held ineffectual to restrict the issuance of a building permit, one of the reasons being the failure of the planning commission to hold a public hearing on its preliminary report before submitting a final report to the borough council for action, as required by the zoning enabling legislation.

In Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, 263 Cal.App.2d 41, 47, 69 Cal.Rptr. 480, 485 (1968), California's Third District Court of Appeal upheld an injunction restraining the Sacramento County Board of Supervisors, and its committees, from holding informal meetings in violation of the Brown (California) Act. It held that there was nothing in the new Brown Act 'to demarcate a narrower application than the range of governmental functions performed by the agency.' It further held the Act applied not only to 'action' but also to 'deliberative gatherings . . . however confined to investigation and discussion.' Noting the widespread evasion of pre-Brown Act open-meeting statutes 'through unannounced 'sneak' meetings and through indulgence in euphemisms such as executive session, conference, caucus, study or work session, and meeting of the committee of the whole,' the court concluded that the statute could be pushed 'beyond debatable limits' to block such evasive techniques. The court continued:

'An informal conference or caucus permits crystallization of secret decisions to a point just short of ceremonial acceptance. There is rarely any purpose to a nonpublic pre-meeting conference except to conduct some part of the decisional process behind closed doors. Only by embracing the collective inquiry and discussion stages, as well as the ultimate step of official action, can an open meeting regulation frustrate these evasive devices. As operative criteria, formality and informality are alien to the law's design, exposing it to the very evasions it was designed to prevent. Construed in the light of the Brown Act's objectives, the term 'meeting' extends to informal sessions or conferences of the board members designed for the discussion of public business.' (p. 487)

34One purpose of the government in the sunshine law was to prevent at nonpublic meetings the crystallization of secret decisions to a point just short of ceremonial acceptance. Rarely could there be any purpose to a nonpublic pre-meeting conference except to conduct some part of the decisional process behind closed doors. The statute should be construed so as to frustrate all evasive devices. This can be accomplished only by embracing the collective inquiry and discussion stages within the terms of the statute, as long as such inquiry and discussion is conducted by any committee or other authority appointed and established by a governmental agency, and relates to any matter on which foreseeable action will be taken.

5The principle to be followed is very simple: When in doubt, the members of any board, agency, authority or commission should follow the open-meeting policy of the State. See Florida Law Review, Government in the Sunshine by Ruth Mayes Barnes, Vol. XXIII, 361, 365 (Winter 1971).

6Mere showing that the government in the sunshine law has been violated constitutes an irreparable public injury so that the ordinance is void *Ab initio*. Times Publishing Co. v. Williams, 222 So.2d 470 (Fla.App.2d 1969). Florida Law Review, Government in the Sunshine by Ruth Mayes Barnes, Vol. XXIII, p. 369 (Winter 1971).

7Although a criminal prosecution requires proof of scienter (Board of Public Instruction of Broward County v. Doran, 224 So.2d 693, 699 (Fla.1969)), an unintended violation of the government in the **\*478** sunshine law will negate any action taken by the **Town Council**. Fla.Stat. s 286.011, F.S.A.

The Superior Court of New Jersey in Wolf v. Zoning Board of Adjustment of the Borough of Park Ridge, 79 N.J.Super. 546, 192 A.2d 305 (1963), held that the proper implementation of their 'Right to Know Law' requires the court upon proper application to set aside any official action taken without compliance, even in the absence of bad faith, saying:

'The trial judge noted, and the defendant officials stress, that the act states that 'official action taken in violation of the requirements of this act shall be Voidable (Emphasis theirs.) in a proceeding in the Superior Court,' thereby supposedly indicating a legislative intent that the voiding of such action should rest in the discretion of the judge. The court concluded that since no impropriety or bad faith on the part of the board was indicated, it should exercise its discretion to permit the action to stand. We think the court took too narrow a view of the intent and underlying policy of the statute. The purpose of the act, as reflected in N.J.S.A. 10:4-1, is to implement the declaration therein that it is 'the public policy

of this State to insure the right of the citizens of this State to attend meetings of public bodies \* \* \* for the protection of the public interest.' In other words, the object of the act is primarily prophylactic, and not necessarily restricted to creation of a remedy for illegalities at particular public meetings from which the public is excluded. Appropriate implementation of that object and policy calls, as a general rule, for the Superior Court upon proper application to set aside any official action, as defined by the act, which is taken without compliance with the prescriptions of the statute, as here. We need not now decide that no discretion is ever to be reserved to the court to save the validity of official action taken in contravention of the statute. That question may be left to await a case where a sufficiently impelling counter-interest may be argued to bespeak sustaining the action impugned. It suffices here to say that mere absence of bad faith or other impropriety on the part of the public body should not ordinarily move the court to stay its hand in voiding official action taken contrary to the statute upon proper application therefor.' (Emphasis supplied.) (pp. 308—309)

Fla.Stat. s 286.011(1), F.S.A., specifically provides that 'no resolution, rule, regulation or formal action shall be considered binding' where the government in the sunshine law is violated. We follow the reasoning of the New Jersey court in *Wolf v. Zoning Board of Adjustment of the Borough of Park Ridge*, *Supra*.

Answering the question presented by the District Court of Appeal in the case *Sub judice*, we hold that the zoning ordinance adopted by the zoning authorities and the **Town** Council after public hearing was rendered invalid because of the non-public activities of the citizens planning committee, which committee was established by the **Town** Council, active on behalf of the Council in an advisory capacity and participated in the formulation of the zoning plan. We approve the decision of the District Court of Appeal.

Having answered the certified question, this cause is remanded to the District Court of Appeal for further proceedings in accordance with the views expressed herein.

It is so ordered.

ERVIN, BOYD and McCAIN, JJ., concur.

DEKLE, J., dissenting with opinion.

ROBERTS, J., dissents and concurs with DEKLE, J.

**From:** Manon@cityofsebastian.org <Manon@cityofsebastian.org>  
**Sent:** Friday, September 17, 2021 12:03 PM  
**To:** 'slavin@bellsouth.net' <slavin@bellsouth.net>; DAVID KRINGS <david@kringsconsulting.com>  
**Subject:** Update information

Gentlemen, I wanted to share the some good news with all of you. First, yesterday I got notified by my commander that the United States Army has promoted me to the rank of Lieutenant Colonel (LTC) in the United States Army Judge Advocate General Corp (USA JAGC). The list was approved by United States Senate back in July of 2021. I hope to pin on next month. I well definitely mention this during the interviews.

Also, my wife and I are at Cleveland Hospital in Tradition. She is being induced due to some high blood pressure at 39 ½ weeks, but mommy and baby are doing great. Hopefully sometime today we will be blessed with Sophia Isabella Anon. Keep my ladies in your thoughts and prayers.

MANNY

**MANNY ANON, JR., ESQ**

**CITY ATTORNEY**

**CITY OF SEBASTIAN**

**1225 MAIN STREET**

**SEBASTIAN, FL. 32958**

**772-388-8201 (OFFICE)**

**772-388-4420 (FAX)**

***Reference Summary***

IN PROGRESS - AWAITING RETURN REFERENCE CALLS.

**QUALIFICATIONS APPRAISAL GUIDE**

**Manny Anon, Jr.**

Very strong evidence that skill is present (5 Points)      Strong evidence that skill is present (4 Points)      Some evidence that skill is present (3 Points)      Strong evidence that skill is not present (1-2 Points)      Very strong evidence that skill is not present (0 Points)      Insufficient evidence for or against skill (0 Points)

<b>GENERAL IMPRESSIONS:</b> Behavior and appearance appropriate to the job; poise, tact, neatness and grooming and professional maturity.						
<b>BACKGROUND:</b> Type of and quality of experience, appropriate education and reasons for job changes.						
<b>PRESENTATION:</b> Communication skills; ability to understand implications of questions and to make clear and direct replies; ability to select, organize and present ideas; clarity of speech and appropriate use of language.						
<b>JOB EFFECTIVENESS:</b> Ability to perform the duties of the job; industrious, dependable and properly assertive; ability to deal effectively with practical problems of the job; interpersonal skills appropriate for the job.						
<b>ADMINISTRATION:</b> Ability to perform in an administrative capacity; understanding of the principles and practices of management and leadership; ability to lead, direct, and coordinate the work of others; understanding of the political process and ability and willingness to work within it.						

Total Points \_\_\_\_\_

**Comments**

Interviewer Signature: \_\_\_\_\_

Date: \_\_\_\_\_

