

Sunshine Law, approval of minutes of prior meetings

Number: AGO 2002-51

Date: July 22, 2002

Subject:
Sunshine Law, approval of minutes of prior meetings

Mr. James W. Denhardt
Treasure Island City Attorney
2700 First Avenue North
St. Petersburg, Florida 33713

RE: GOVERNMENT IN THE SUNSHINE–MUNICIPALITIES– requirement that minutes of prior meeting be signed. s. 286.011, Fla. Stat.

Dear Mr. Denhardt:

As City Attorney for the City of Treasure Island, Florida, you have asked for my opinion on substantially the following question:

Is a municipality authorized pursuant to the Government in the Sunshine Law to adopt a rule of procedure for a method of approval of minutes of prior public meetings which does not require that these minutes be read or signed at a subsequent meeting?

In sum:

The City of Treasure Island may not adopt a rule of procedure which authorizes approval of minutes of prior public meetings which does not require that these minutes be read or signed at a subsequent meeting if no changes to the minutes are made. Rather, the Sunshine Law requires that a vote to accept or revise and adopt the minutes of city commission meetings be taken at a public meeting.

The City of Treasure Island currently has a rule of procedure, adopted pursuant to its charter, which states that "[u]nless a reading of the Minutes of a Commission meeting is requested by a member of the Commission, such Minutes shall be considered approved without reading if the City Clerk has previously furnished each member with a copy for reading and signature." It is the validity of this rule of procedure which is the basis of your question.

According to your letter, all meetings of the City Commission of Treasure Island are conducted as open public meetings. An official audio tape is made of each meeting, and all meetings are televised live on local cable television and rebroadcast several times throughout the week. Videotapes of the meetings are also maintained.

Minutes of the commission meetings are prepared by the deputy city clerk who places the minutes in a minute book for review by the city commission. These minutes are considered to be

public records as soon as they are prepared, although they may not have been read or signed by a commissioner at that time.[1] After the minutes are prepared, individual commissioners review and sign the minutes.

Under the city's procedure, if a commissioner has corrections or additions to suggest for the minutes, nothing is discussed with or circulated to any other commissioners until the following meeting. At each meeting, there is an agenda item pertaining to approval of the minutes, which indicates that the prior minutes on file are considered approved unless there are objections by any of the commissioners. In accordance with the rules of procedure adopted by the commission pursuant to the Treasure Island Charter, unless a commissioner wishes to suggest changes or additions to the minutes, the minutes are considered as approved without being read. If a commissioner does have suggested changes or additions, such matters are discussed during the meeting, and the commission votes to either approve the prior minutes, or approve the minutes as corrected.

Section 286.011, Florida Statutes, the Government in the Sunshine Law, requires all meetings of a public board or commission to be open to the public. Subsection (2) of that statute provides that "[t]he minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection."

In considering the application of section 286.011, Florida Statutes, the courts have held that it is the entire decision-making process which is covered, not merely those meetings where the final vote is taken.[2] As the court in *Times Publishing Company v. Williams* stated:

"Every step in the decision-making process, including the decision itself, is a necessary preliminary to formal action. It follows that each such step constitutes an "official act," an indispensable requisite to "formal action," within the meaning of the act." [3]

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 decision-making process in which the public would be interested.

While nothing in section 286.011, Florida Statutes, establishes a particular procedure for the adoption of minutes of public meetings, the purpose of the Government in the Sunshine Law is to insure that governmental action is taken at meetings open to the public. To allow the minutes of prior meetings to be adopted without official action which is observable by members of the public would appear to authorize official actions to be accomplished outside a public meeting.[4]

Thus, it is my opinion that the City of Treasure Island may not, pursuant to the Government in the Sunshine Law, adopt a rule of procedure establishing a method of approval of minutes of prior meetings which does not require that these minutes be read or signed at a subsequent meeting if no changes to the minutes are made. Rather, a vote on the concurrence and revisions of the members should be taken at an open meeting with the minutes and any changes or revisions also discussed during an open meeting at the time the board adopts the minutes.

Sincerely,

Robert A. Butterworth
Attorney General

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[1] *And see* Op. Att'y Gen. Fla. 91-26 (1991) (the minutes of city council meetings are public records when the clerk has performed his or her duty to prepare the minutes even though they have not yet been sent to the city council members and have not been officially approved by the city council).

[2] *See, e.g., City of Miami Beach v. Berns*, 245 So. 2d 38 (Fla. 1971); *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693 (Fla. 1969), *Hough v. Stembridge*, 278 So. 2d 288 (Fla. 3d DCA 1973).

[3] 222 So. 2d 470, 473 (Fla. 2d DCA 1969).

[4] *Cf.* Op. Att'y Gen. Fla. 74-294 (1974), in which this office concluded that a draft of minutes of a meeting could be circulated for concurrence and for individual members to make suggested corrections of the minutes for inclusion in the draft of minutes so long as the discussion and vote on the concurrence and revisions of the members occurred at an open meeting.