

COPY

IN THE CIRCUIT COURT, EIGHTH JUDICIAL CIRCUIT
IN AND FOR LEVY COUNTY, FLORIDA.

SUNSHINE BAYNARD,

Plaintiff,

CASE NO.: 38-2002-CA-00078

vs.

CITY OF CHIEFLAND, FLORIDA,

Defendant.

AMENDED FINAL ORDER FOR PLAINTIFF

SUNSHINE BAYNARD, a Commissioner of the City of Chiefland, brings this action for declaratory relief against the City of Chiefland, Florida. To assist the Court in reaching its decision in this case, the Plaintiff, SUNSHINE BAYNARD, and the Defendant, CITY OF CHIEFLAND, FLORIDA, stipulated to certain facts and evidence which the Court now adopts in toto as a true and accurate statement of the events occurring on January 16 and 17, 2002, and of the events complained of by the Plaintiff, a copy of which are attached as Exhibit "A".

This case is governed by the requirement that the public be given "reasonable notice" of all meetings of public bodies, such as the City Commission at which official actions are to be taken. The Florida "Sunshine" Statute provides:

"(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 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, or formal action shall be considered binding except as taken or made at such meeting. Section 286.011, Florida Statutes."

The Florida Constitutional "Sunshine" provision provides:

"(b) All meetings of any collegial public body of the elective branch of State Government or of any collegial public body of a County municipality...at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be opened and noticed to the public..." Article I, Section 24(b), Florida Constitution.

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The term "reasonable notice" has not been defined by the Florida Supreme Court nor by any District Court of Appeal. In Rhea v. City of Gainesville, 574 So.2d 221 (Fla.1st DCA 1991), the District Court found that one and a half hours afforded to the news media was sufficient to plead a prima facie case that Section 286.011, Florida Statutes had been violated. Rhea was decided before Section 286.011, Florida Statutes was amended to add the explicit requirement of "reasonable notice" and before Article I, Section 24, Florida Constitution was adopted.

The Court finds that the City Commission of Chiefland, Florida, failed to give adequate "reasonable notice" of its public meeting held on January 17, 2002, at 10:00 A.M. The Court further finds that the meeting was not an "emergency meeting," and if it were a "special meeting" that Commissioners were not given adequate written notice of the "special meeting."

The City contends that the issue before the Court is moot because the meeting has already taken place, and nothing is to be gained by nullifying the meeting. The Court disagrees with this position because, as in Rhea, the First District Court of Appeal considered a case which was raised after a public meeting of the Alachua County School Board. The public meeting was a workshop for the School Board that occurred out of the limits of Alachua County. Even though the meeting had already occurred, and even though the School Board could not undo or redo the events that occurred during the public workshop, the Court rendered a declaratory judgment that the notice given to the public, was inadequate for an out-of County meeting. The Court's opinion was notice that future meetings of similar nature would be outside "government in the Sunshine Law."

The Plaintiff asserts that the Court should order the Commission of the City Chiefland, Florida, to abide by the Statutes, Constitution, and Ordinances and Charter of the City of Chiefland. The Court deems such an Order to be unnecessary because all citizens as well as all public bodies are aware that they must comply with existing laws.

The defense asserts that subject of the meeting was relatively unimportant and thus only minimal notice was required. First, the Court holds that in the absence of an express exception, which City has not claimed in this case, the statutory and constitutional open-meeting provisions require that all public meetings be properly noticed without regard to the importance of the subject of the meetings. Second, the Court finds the notice given by the City was not reasonable under the circumstances.

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NOW THEREFORE it is hereby ORDERED AND ADJUDGED as follows:

1. The action taken by the City of Chiefland, Florida, and its City Commission in conducting the meeting of January 17, 2002, was in violation of Article I, Section 24, of the Florida Constitution and Section 286.011 of Florida Statutes, because of the failure to provide the public reasonable notice of the meeting.
2. All official action taken by the City of Chiefland and by the City Commission of the City of Chiefland, Florida, in the meeting of January 17, 2002, is null and void and the City shall taken appropriate steps to note that the actions taken at the meeting of January 17, 2002 at 10:00 A.M. were null and void.
3. This Court retains jurisdiction to consider a motion for attorney's fees and costs.

DONE AND ORDERED this 8 day of ^{July}~~March~~, 2003.

ORIGINAL SIGNED BY
ROBERT P. CATES
CIRCUIT JUDGE

ROBERT P. CATES
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order has been furnished by U.S. Mail, on this 8 day of ~~March~~^{July} 2003, to the following:

Joseph W. Little, Esquire
Attorney for Plaintiff
3731 NW 13th Place
Gainesville, FL 32605

Norm D. Fugate, Esquire
Attorney for Defendant
P.O. Box 98
Williston, FL 32696

Original Signed by
N. Catherine Eiland
Judicial Assistant

N. Catherine Eiland
Judicial Assistant