

On Monday, November 5, 2018 at 4:00 p.m., the City of Wauchula Commission met for its annually scheduled Ethics Training in the Train Depot at 135 East Main Street, Wauchula.

Wauchula City Commissioners present were Mayor Pro-Tem Neda Cobb, Russell Smith, Mayor Keith Nadaskay, and Gary Smith. Commissioner Kenneth Lambert was absent.

Also, present were City of Wauchula Manager Terry Atchley, Assistant City Manager Olivia Minshew, Finance Director Sandee Braxton, Accountant Martha Felix, Community Redevelopment Agency Director Jessica Newman, Purchasing Manager Ward Grimes, Director of Support Services & Internal Auditing James Braddock, Community Development Coordinator Kyle Long, Chief John Eason, Lt. Matthew Whatley, Human Resource Manager Terri Svendsen and City Clerk Holly Smith.

Hardee County Commissioners present were Rick Knight, Colon Lambert, Russell Melendy, Sue Birge and Mike Thompson.

Fellow attendees included Scott Black of Dade City; James Barnard of Avon Park; Mayor Judy Wertz-Strickland, Deputy Mayor Jaccarie Simons, Robert Heine, Jr. and Keith Keene all of Arcadia.

Ms. Lynn Tipton the Ethics Training Facilitator with the Florida League of Cities introduced herself and explained that the training would be conducted in 50-minute blocks with 10-minute breaks in between. Next, she discussed how the Ethics Class came to be law in the State of Florida.

Chapter 112, Florida Statutes – The Florida Ethics Law

“A Public Office is a Public Trust” – A public office is a public trust; public servants should avoid any situation that may tempt to dishonor; and no one can serve two masters. The principles which the Ethics Law declares were reviewed (F.S. Chapter 112, Part III).

The Statutory Subjects, Chapter 112, Part III, was reviewed.

The acceptance of illegal gifts, “bribes”, which are anything of value that could have influence; the solicitation or acceptance of such gifts, is unauthorized compensation for public officers.

Highlighted Sections:

- Solicitation or acceptance of gifts (bribes)
- Doing business with one’s own agency
- Unauthorized compensation (gifts for influence)
- Misuse of public position
- Conflicting employment or contractual relationship
- Disclosure or use of certain information
- Voting conflicts
- Restriction on employment of relatives (nepotism)

Gifts should:

- Not be given to influence an official’s action in their public capacity
- Not be given by a political committee
- Not be given by a vendor
- Or have a value of less than \$25

However, gifts with a value greater than \$25 have to be reported except in the case of a gift from a lobbyist or someone who hires a lobbyist; they may be valued at \$100 or less.

The Misuse of Public Position:

No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or

perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others.

Conflicting employment or contractual relationship:

Doing Business with One's Agency –

No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest.

Tipton reviewed an example of poor business decisions made by an elected official.

General Exemptions were reviewed and included:

- Rotation System
- Competitive Bidding (needs to meet certain criteria)
- Legal Advertising
- Emergency Purchase or Contract
- Sole Source within the city
- Does not exceed \$500 per calendar year
- Banks - - - - without favor
- Private Purchase at terms available to the public

Restriction on Employment of Relatives:

Public officials may not appoint, employ, promote, etc. any individual who is a relative of said official if the official exercises jurisdiction or control over the position to which the relative would be appointed. The definitions of a relative per Florida Statutes were discussed as were the minor exceptions to the rule. There was discussion on the public's perception of officials' behavior was discussed.

Disclosure or Use of Certain Information by a public officer, employee or attorney, current or former, of any local government or agency for personal gain or benefit to themselves or any other person or business entity is prohibited. Only information which relates exclusively to governmental practices may be disclosed. Examples of disclosing information which is prohibited were reviewed.

Voting Conflicts –

Any measure that would inure to an official's private gain or loss personally, to any principal they retain, the parent organization of corporate principal to which they are retained or to any relative or business associate is a voting conflict. The two tests which should be done to determine if there is a voting conflict is the remote and speculative test. You must vote unless you can prove you have a conflict.

Tipton reviewed Voting Conflicts in further detail by giving examples of potential conflicts officials may face and the best practices of dealing with them.

Chapter 119, Florida Statutes – Public Records Law

Highlighted Sections:

- Definition of a record
- Custodian of records
- Policies regarding public records, records requests and fulfilling requests
- Work with records custodians and attorney on exemptions – they are frequently amended and added to

- Charging for copies and/or work related to records requests
- Exceptions to the law

Public Records Florida Statute 119.011(12) was summarized for the audience. If a record perpetuates, communicates or formalizes information, you are looking at a Public Record. Texting and social media is the big question in public records.

What personal information is Public Record and who is exempt from it? It all depends on the nature of the record; it must pertain to government business. All government agencies in Florida are subject to Public Records Laws and any person can inspect and copy records. Records must be disclosed and made available for inspection in its original format. Unless the document, material, or item does not exist; do not create a document that does not exist. Acknowledge requests promptly. You cannot ask someone why they want the record nor can you ask his/her name or personal information.

Section 119.07(1) (a) covers Public Record Request Exemptions and includes social security numbers, personal information of Police, Fire, Code Enforcement and Human Resources. Also exempt is information pertaining to active criminal investigations, medical information, pending internal investigation records and security information and plans.

Chapter 286, Florida Statutes – Public Meetings Law

Highlighted Sections:

- What constitutes a meeting?
- What is proper notice, and for which type of meeting?
- When and where can a government body meet outside of the public's attendance?
- Understand quasi-judicial proceedings fully, and how to keep from prejudicing the city's actions
- Curing a violation of this chapter: it can be done, but cannot be a rubberstamp action; must be a full, thorough meeting

Tipton then reviewed the Purpose and Intent of Public Meeting Laws which were passed in 1974. Florida has the strongest Public Records Laws in the nation which mandate the noticing of public meeting, the location, minutes kept and the public's invitation to participate. According to the Florida Constitution, a Public Meeting is a meeting of a collegial public body at which official acts are taken or business discussed.

Who is covered under Public Records Laws, any gathering of the members of a public body within the state where the members deal with some matter on which foreseeable action may be taken, was reviewed according to Chapter 286.011(1) of the Florida Statutes. Some aspects explained were: you cannot do indirectly what you can do directly; exemptions shall be narrowly constructed; behind closed doors is only allowed for pending litigation, labor negotiations with bargaining teams; risk management, security system meetings and negotiations with vendors.

What constitutes a meeting as well as the decision-making process were reviewed and discussed. Reasonable notice of meetings is required as are minutes to be taken; draft minutes are Public Record. However, summary minutes are all that are required but recording the meeting is not a requirement. The meeting notice must state the location at which it will be held and participation by the public is encouraged with public access available to everyone, per 286.0114, Florida Statutes of 2013.

The public has the right to hear all comments made to or by members of any public body. Private conversations and sidebars should be avoided during public meetings.

Violations – Impact on Action Taken – Leek – Wells of Bradenton: Florida Statute 286.011(1) states action taken at a meeting that was not open to the public, whether intentional or not, is void.

Curative measures can be taken. A full open hearing and not a ceremonial simple ratification of the action will cure the defect and validate the action. It is not enough to simply re-notice the action and seek public comment on the matter at a subsequent public meeting.

Quasi-Judicial Proceedings – are for the purpose of securing evidence of fact. Decisions made must be based on competent and substantial evidence and not merely matters of opinion or preference. Land Use and Zoning Hearings are classic cases. Interested parties have the right to hear all testimony and refute all testimony.

Ex-parte communications, those held with decision makers outside the hearing and not shared with relevant parties, are presumed to be prejudicial. However, Florida Statute 286.0115 allows a city to eliminate the presumption by adopting a resolution or ordinance establishing a process to address ex-parte communications. A city must make sure everyone has disclosed everything in ex-parte. Additional aspects of quasi-judicial proceedings were discussed.

When in doubt, ask your City Attorney.

Workshop concluded at 7:25pm.

Mayor Richard K. Nadaskay, Jr.

City Clerk Holly Smith, CMC