



**AGENDA  
PARKS & RECREATION COMMITTEE  
MEETING  
DESTIN CITY HALL ANNEX COUNCIL CHAMBERS  
TUESDAY, JANUARY 26, 2021**

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL**
- 2. NOMINATION OF CHAIRMAN & VICE CHAIRMAN**
  - A) Chairman**
  - B) Vice Chairman**
- 3. APPROVAL OF MINUTES**
  - A) June 30, 2020**
  - B) October 27, 2020**
- 4. OLD BUSINESS**
- 5. NEW BUSINESS**
  - A) Sunshine & Public Records Law Training - Kyle Bauman**
  - B) Adopt A Street**
  - C) Adopt a Beach, Park, Benches, Trees**
- 6. COMMITTEE MEMBER COMMENTS/QUESTIONS**
  - A) Matthew Sweetser-Girl Scouts**
- 7. STAFF REPORTS**
- 8. COMMENTS FROM THE AUDIENCE**
- 9. NEXT MEETING DATE: February 23, 2021**
- 10. ADJOURNMENT**

If a person decides to appeal any decision made by the City Council, committee, board, panel, or agency with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she will may need to ensure that a record of the verbatim record of the proceedings is made, which record includes the testimony and evidence upon the appeal is to be based.

"Persons with disabilities who require assistance to participate in this meeting are requested to notify the Public Services Office 850/837-4242 at least 48 hours in advance".

**MINUTES OF THE  
PARKS & RECREATION COMMITTEE  
MEETING DESTIN CITY HALL BOARDROOM  
JUNE 29, 2020 - 4:00 PM**

**1. CALL TO ORDER:**

Chairwoman Hebert called the meeting to order at 4:00 p.m. on Tuesday, June 29, 2020 in the Destin City Hall Annex Chambers with the Pledge of Allegiance immediately following.

**2. ROLL CALL:**

**Members Present**

Teresa Hebert  
Myra Williams  
Matthew Sweetser  
Nikki Johnson  
Barbara Telford  
Brian Liesveld

**Staff Present**

Kim Montgomery, Deputy City Clerk  
Lisa Firth, Recreation Director  
Scott Berish, Deputy Recreation Director

**3. MINUTES:**

**February 25, 2019**

**Motion to approve the February 25, 2019 minutes as written was made by Committee member Williams with Committee member Johnson providing the second. A roll call vote of 6-0 was taken and the motion passed.**

**Motion to approve the May 26, 2020 minutes as written was made by Committee member Liesveld with Committee member Williams providing the second. A roll call vote of 6-0 was taken and the motion passed.**

**4. PUBLIC COMMENT:**

**None**

**5. OLD BUSINESS:**

**➤ Sunshine and Public Records Law Refresher Presentation – Kyle Bauman**

The City Attorney informed the members he will make this an annual presentation of the Sunshine and Public Records Laws starting in November after the new members are appointed. However, since its been a while and with the Covid issues, staff felt that a refresher would be a good idea. The three categories are:

- Emails
- Text Messages
- Social Media

He explained that in an effort to protect them and keep their private email accounts, private. The city has issued all board and committee members @cityofdestin.com email addresses. This way all city related business conducted through their city issued email will be captured. Additionally, any emails that may pertain to city business sent out or received through their personal accounts should be forwarded to their city email address to be captured and searchable through the city email server. Explaining further that they are subjected to the public records law and so any communication that deals with city business is a public record and includes text messages and social media comments.

➤ **Harbor Lane ROW Improvements – Sandy Trammell**

Mrs. Trammell handed out the original survey for the ROW showing the location of the step that go down to the little beach and water. She spoke of how a group of people met at her residence and discussed the things that they would like to see done to improve this ROW. She pointed out on the survey that there used to be a platform out in the water but it has long disappeared and all that is left now are the pilings which are covered with barnacles that they would like to see removed and replaced with new ones and a new platform.

- Remove and relocate the stairs to the water as far south as possible and have them built with the Trex deck material so they will not rot.
- Install signage to inform boater that they are not allowed to beach or tie up as this is a passive property for walker, bikers and kayakers
- Remove the large planters at the entrance
- Remove the bushes that are overgrown on Mr. Odom's side, remove the weeds if possible, and add muhly grass or something similar
- keep the grass mowed regularly
- Install a bike rack.
- Remove the Magnolia Tree that is located near the water's edge because, when it grows larger, its roots will eventually impact the seawall.
- Replace the removed Magnolia with a donated tree near the front entrance and dedicate it to the Harbor Lane residents of Moreno Acres.
- Have a streetlight installed on the street not in the ROW
- Widen the path to the water at the Cobb's Point ROW but keep as natural as possible
- Clear the sight path on the Jupiter Street water access ROW but keep as natural as possible
- Add benches or picnic tables to each
- Set a precedence for opening all ROW's to the public for enjoyment

Mrs. Joanne Brouhard 720 Planet Drive spoke of how Aubrey and Guy Santucci have agreed to donate the bike rack and any brush or tree removal services to the property. She also spoke of how she would like to have some planters or plantings along the wall and is waiting to hear back from the city regarding the newest survey, to know find out where they can be installed.

➤ **Clement Taylor Park/Destin Fire Control District – Mike Buckingham**

Mr. Mike Buckingham provided a survey of the park and the area that the DFCD would like to lease from the city if this is something that can be saved. He spoke of how the plan is to have state of the

art bathrooms installed at the location. Which is a lot better than the modular bathrooms that are proposed in the redevelopment plan. Adding that they could use the proposed restroom area for another pavilion or play area. And pointed out the area they are asking for asked the members if there is anyway to move forward with the plan. He spoke of the need to have service over on this side of town and was asked to come speak to them to see if they would make a recommendation to Council get this plan to move forward.

According to Committee member Johnson, this park is designated as a passive recreation area for adults and children that spoke of a time when Council had the good sense to call this park out by name in the Land Development Code. Adding that it's meant to be a passive recreation park to be enjoyed and regardless of size of this plan, she does not feel that this fits the definition. She spoke of the amount of passive park property in the city is so small, but understands the need since she lives on this side of town in this zone but is willing to take the chance of not having service to save this park from this plan. Pointing out that right now it's a small part, but what happens when there is a need to grow. Or what happens to the sea grasses that are present that won't be protected because of the boat. There is just not enough land left for this one piece to be singled out and the history of this town and that property should stay untouched.

Committee member Sweetser stated that he agrees with her sentiments. And spoke of how honestly, he thought that they were being presented with other location options since no one in the city wants a fire station at that location. And spoke of how everyone wants that last piece of land to remain exactly as it is. And even though there is a need for a fire station on that side of town, not at this park.

Committee member Liesveld spoke of the beauty of a Democratic processes is that can agree or disagree. However, he spoke of how he understands that the process was followed poorly but on a safety aspect something is needed on that side of town. And this place seems to be a logical place and if not here then where?

Committee member Telford understands the passion of the citizen for this park and feels that there are other locations better suited for their needs than Clement Taylor Park. And asked about the property that the city purchased last year and currently at this time is not even being used for parking. Adding that they could lease a slip from Dewey Destin just a block away.

Committee member Williams spoke of how this committee was not in the know of when the decision was made to move forward with the fire department taking a portion of the park and the public was certainly not aware of it either until after the first reading of the ordinance.

The Chairman spoke of how she is hoping at the upcoming workshop the property that the city bought on Sibert Avenue, that is not being utilized, will be chosen as an alternate solution to build the Fire Departments building and will be nowhere near this park.

Mrs. Marcie Bell, 3 Gulf Breeze Ct. spoke of how Mr. Buckingham contacted her and asked that she set up a meeting with the public at the park so that he could answer any questions the citizens may have regarding the subject. She mentioned how she did some investigating and the subject was first brought up to Council the DFCD was told no and then at a later time how past Council member Dixon suggested earmarking the plan as tourist related so that they could get it funded through the Deepwater Horizon grant

funds. She spoke of how this park is one of the prettiest parks in the County and questions what is going to prevent them from wanting more of it when they outgrow the current plan. Adding that the way the roads are built, at this location there is no way that the fire truck can safely and effectively get to the southside of Highway 98 in the busy summertime with all of the traffic trying to get in and out of the Emerald Grande and surrounding locations.

➤ **Beach Advisory Partners Meeting**

Mrs. Firth explained the meeting the meeting was very productive.

➤ **Annual Park Inspections**

Mrs. Firth informed the members to just hold on to their park inspections if they have already finished them.

➤ **Leonard Destin Park Dedication**

Mrs. Firth informed the members that sometime mid-July the City should be accepting the key to the park.

Mr. Bauman informed the members that City Council may consider accepting the deed to the property at the July 20<sup>th</sup> Council meeting.

Chairwoman Hebert suggested scheduling the ribbon cutting sometime around the beginning of August. Mrs. Firth stated that she has spoken with the City Manager and they will let City Council direct staff on when to have the ribbon cutting.

Committee member Williams suggested the dedication should be attended by the Destin Family and have something special similar to what is done for Founders Day.

Mrs. Firth stated she would get with Parker Destin and find out what he and his family would like and bring those suggestions back at their next meeting.

**6. COMMITTEE MEMBER/STAFF COMMENTS:**

- **Committee member Johnson** questioned why there are rainbow flags at the Mattie Kelly Park. According to Mrs. Firth, she put them up to draw attention to the fact that the park is for people to enjoy. Adding that on Memorial Day Holiday, the park was full of people parking their trucks and boat trailers and that is not what this park is to be used for. She also spoke of how there is 68 spaces for overflow parking at the property at the old cement plant. She also explained the reason the property is closed off is to keep people out until a staff member is on the property to keep people from parking in there and not utilizing the space properly as well as keeping people from parking their cars in there without boat trailers since space is such a commodity and it is strictly to be used for those.

- **Committee member Sweetser** spoke of how embarrassed he was at the last City Council meeting regarding the way the Chairwoman handled the Clement Taylor Park discussion with the Destin Fire Control District. Adding that what was spoken at the meeting is not what this committee agreed upon and is why he shouted Point of Order. Adding that this was not the first time she misspoke at a Council meeting and what upset him the most was the meeting prior to that meeting is that she told Mr. Buckingham that she supported the plan for the Fire Department to have the substation the Clement Taylor Park. 1:07:41

➤ **STAFF REPORTS:**

Mrs. Firth provided the following updates

- **Clement Taylor Park Seawall Replacement –**
- **Capt. Royal Melvin Park**
- **Capt. Leonard Destin Park** – Punch List items are still being worked out and she will be going to the location for an inventory of what’s been done and what may need to still be done. She also spoke of concern over people using the parking lot for going out to Crab Island and spoke of how there is going to have to be some kind of parking limit as well as the need for a full time staff member to prevent this concern.
- **Concrete Plant Property/Joe’s Bayou Boat Ramp –**
- **Norriego Point Park** – Waiting on the final permits before they can begin construction and it’ll most likely be after Labor Day before they start.

➤ **Public Comment** – None

**ADJOURNMENT:**

Having no further discussions, the meeting adjourned at 5:30 PM.

Adopted and approved \_\_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
Teresa Hebert, Chairwoman

\_\_\_\_\_  
Kim Montgomery, Deputy City Clerk

**MINUTES OF THE  
PARKS & RECREATION COMMITTEE  
MEETING DESTIN CITY HALL BOARDROOM  
OCTOBER 27, 2020 MEETING - 4:00 PM**

**1. CALL TO ORDER:**

Chairwoman Hebert called the meeting to order at 4:00 p.m. on Tuesday, October 27, 2020 in the Destin City Hall Annex Chambers with the Pledge of Allegiance immediately following.

**2. ROLL CALL:**

**Members Present**

Teresa Hebert  
Myra Williams  
Matthew Sweetser  
Barbara Telford  
Nikki Johnson  
Brian Liesveld

**Staff Present**

Kim Montgomery, Deputy City Clerk  
Lisa Firth, Recreation Director  
Traci Goodhart, Planner/Stormwater-Floodplain  
Coordinator

**3. APPROVAL OF MINUTES:**

**February 25, 2019**

**Motion to approve the February 25, 2019 minutes as written was made by Committee member Williams with Committee member Johnson providing the second. A roll call vote of 6-0 was taken and the motion passed.**

**Motion to approve the May 26, 2020 minutes as written was made by Committee member Liesveld with Committee member Williams providing the second. A roll call vote of 6-0 was taken and the motion passed.**

Mrs. Firth informed the members that she has two presentations that need to be added to the agenda.

**Motion to set aside the order of the day was made by Committee member Johnson with Committee member Liesveld providing the second. The motion passed with a 6-0 vote for approval.**

The following items were added to the top of the agenda:

- ADA Ramps for Beach Accesses
- Gulf Power Easement Linear Park
- DFCD/Clement Taylor Park
- **ADA Compliance Presentation**

The Executive Director of the Center for Independent Living of NW Florida, Carolyn Grawly and Joanne Peterson, Walton County Coordinator, for Independent Living Specialists presented to the members

how they are working with the State to get the mobility mats available for beach access to the water's edge for persons who are in wheel chairs. As well as ensuring that all signage is printed in large font and has brail for the sight impaired. She spoke of how typically ADA standards are just at the minimum standards required by law and how they want people with disabilities to be able to have full access to everything just as everyone without disabilities do. And their goal is to make that task a reality.

Mrs. Firth spoke of what all the city currently has available at the June White Decker Park. And spoke of how all new park projects in the city will have upgraded ADA facilities.

Committee member Liesveld spoke of how much behind the initiative he is and spoke of how great this plan is. Adding how he never thought of the inconvenience it must be for people with disabilities to not be able to enjoy the beaches and parks without the proper assistance that is needed.

The Chairwoman thanked the ladies for their presentation and insight and spoke of how hard Mrs. Firth has been working to get the parks made available for everyone.

- **Gulf Power Easement Linear Park**

Mrs. Goodhart provided the members with the information on the proposed preliminary scope of work for the Linear Park along the Gulf Power Easement. Explaining this park has been of interest at the council level for many years and it has finally been able to be identified in the city's Capital Improvement Program and budgeted for implementation.

She explained how the Gulf Power Easement Linear Park is essentially an extension of 98 Palms Boulevard. And the Linear Park will provide a multi-use trail and connect from Main Street to Airport Road. Additionally, the project objective has been identified in the Town Center CRA's Work Plan for 2021, and moved forward from 2020 because of Covid. Mrs. Goodhart explained that staff is essentially asking for a recommendation to City Council to utilize the \$55k that was identified in the FY-2019 budget for the Architectural and Design Enhancements in order to create an RFB to be taken out for bid to get this project moving forward. She then provided the members with handout with the Capital Improvement Projects, showing how it is outlined in the budget, and what has been identified. As well as a FDOT Long-Range Transportation Planning Sheet so they can see the two directional 12-foot shared multi-use trail, which is a one mile trail and the cost for FDOT would cost approximately \$287,393.

Chairwoman Hebert asked where the funds are coming from. According to Mrs. Goodhart, the funds have been identified in the city budget and there are also opportunities for grants. As well as the fact that this project is in the Town Center CRA and with new projects being built it will get funded from those Impact Fees. And lastly, staff is asking for a recommendation to Council to get a conceptional design with the funds that are currently set aside for this park.

**Committee member Liesveld made the motion to recommend City Council utilize the \$55k set aside in the FY2019 budget to take out for bid for an RFB for the initial Architectural & Design Enhancements for the Linear Park, with Committee member Telford providing the second. A roll call vote of 6-0 was taken and the motion passed.**

- **DFCD/Clement Taylor Park Miscommunication**

According to Chairwoman Hebert, she wanted to clarify for the public that when she spoke to City Council at their co-workshop and made comments on behalf of the committee. The way she worded her comments at that workshop may have been interpreted by some members of the public that some of the members of this committee got together, outside of a normal public meeting, which was not case and not what she meant. Therefore, in order to clarify that for the record she is asking for each member to publicly say into the record that they have not met with other members to discuss the subject of the DFCD and Clement Taylor Park outside of a public meeting.

The City Attorney then asked each member to state for the record if they have or have not met outside of a public meeting to discuss the Destin Fire Control District's interest in the Clement Taylor Park property.

Matthew Sweetser – No I have not.

Nikki Johnson – No I have not.

Teresa Hebert – No I have not.

Brian Liesveld – No I have not.

Myra Williams – No I have not.

Barbara Telford – No I have not.

**4. OLD BUSINESS:**

- **Welcome to Destin Sign**

According to Mrs. Firth they have already been told that the Colonel Osborne of EAFB denied the request due to vehicular and safety reasons.

Mr. Bobby Wagner 4222 Anderson Drive and Trees on the Coast Director spoke to the members how he would be willing to give this initiative one last chance to get approval by going before the Board. And spoke of how going this direction may get them the necessary approval to update the looks of the Welcome to Destin sign. The Recreation Director informed him that he would have to go before City Council to get their approval before this could go any further.

**5. COMMITTEE MEMBER/STAFF COMMENTS:**

- **Committee member Sweetser** - Mentioned how this committee should have been included, at the very least, an email, on the results of the Archeological Survey for Clement Taylor Park. And asked for a better effort by staff to disclose any information pertaining to all parks going forward.

- **Committee member Brian Liesveld** – Spoke of his concern regarding the amount of beach chair rentals that are set up at the beach accesses. He provided the O’Steen Beach Access as an example. Where if someone is not at the access before 7 a.m. the beach vendors are going to fill the entire area up with beach chair & umbrella rentals. Which is not fair for citizens accessing the beach.

According to Mrs. Firth, this is an issue that is currently being addressed with the Beach Committee, staff member and the County.

➤ **STAFF REPORTS:**

Mrs. Firth provided the following updates:

- **Clement Taylor Park** – Reported that after the work was finally repaired from Hurricane Michael, the park lost 10-truck loads of sand from Hurricane Sally. So once the sand is replaced and spread out, the park will reopen again.
- **Capt. Royal Melvin Park** – Contractor has been hired. However, the funds have still not been released by the Treasury Department with the Federal Government.
- **Capt. Leonard Destin Park** – Closed from Hurricane Sally. Staff is working to determine what needs to be mitigated at the beach area and steps that washed away. Adding that this is not an easy fix and she is working with the State to determine what needs to be done.
- **June White Decker Park** – Is now open.
- **Children’s Park** – Is now open. And just the playground module is the only item left to be replaced.
- **Concrete Plant Property/Joe’s Bayou Boat Ramp/Mattie Kelly Pier** – Still waiting on FEMA personnel and may have to hire someone to survey the pilings and the pier. The contractor for the cement plant has been hired and it will be designed to the specifics of the grant for the property. Once the plans are created, they will come before them for their review.
- **Norriego Point Park** – Waiting on the final permits from FDEP, who are not issuing permits at this time.

➤ **Public Comment –**

Marcie Bell – 3 Gulf Breeze Ct. provided kudos to the Recreation Dept. and how much work Mrs. Firth puts out. She spoke of the need to work with the County and the Gulf Islands National Park to get the trail connection on Okaloosa Island. She then mentioned a step system for the waterside parks similar to one in Metairie, LA that helps keep the land from washing out on Lake Pontchartrain. She also spoke of the pooling of water from all the rain is what happened after Hurricane Sally on Norriego Point. And lastly, she spoke of how she has all the information for O’Steen Beach Access/Parcel B property and willing how willing she is to help provide the information for anyone who needs it.

Sandy Trammell – Requested for a member of this committee to come to one of the Harbor CRA-AC meetings to address the Linear Park as well as the Town Center CRA-AC. She also warned to tread easy with EAFB and the Welcome to Destin Sign and to not overstep boundaries with the Commander. And suggested considering the view corridor on the Destin side of the Marler Bridger for a Welcome to Destin sign. She also suggested staff get in touch with Mr. Shane Cannon who is developing property off Mountain Drive and will have white sand that he will have to remove that the city may be able to use to shore up what was lost at the parks from the hurricane.

Bobby Wagner, 4222 Anderson Drive – Spoke of how he is the Board of Director for Trees on the Coast and all the partnership they will be providing. He spoke of the Honor Tree Program they have created the program for donor trees and fund raisings for the purchase of the trees as well as landowners allowing them to plant saplings on their property so they can grow. The Chairman spoke of how interesting the plan sounds and asked that he get placed on the agenda to come back at their next meeting and make formal presentation to the committee.

**ADJOURNMENT:**

Having no further discussions, the meeting adjourned at 5:30 PM.

Adopted and approved day of 2020.

\_\_\_\_\_  
Teresa Hebert, Chairwoman

\_\_\_\_\_  
Kim Montgomery, Deputy City Clerk

# RESOLUTION 19-27

The City of Destin's Enhanced Public Records  
Policy

# BRIEF HISTORY OF THE CITY'S PUBLIC RECORDS POLICIES

- ④ In addition requirements set forth in Florida Statutes, the City has had in place additional, internal requirements and protocols since 2009 relating to public records and how to handle public record requests. These policies help ensure that the law is adhered to and that the City's goal of full transparency is met.
- ④ See, Operating Instruction ADM-05; Operating Instruction ADM-35; Operating Instruction ADM-56.
- ④ These policies were legally sufficient and represented more stringent requirements than those in place at most state agencies and local governments. In fact, most state agencies and local governments do not have any written policy in place and rely strictly on Chapter 119, Florida Statute. See, The Florida Public Records Act in the Era of Modern Technology, Ralph A. DeMeo and Lauren M. DeWeil (Florida Bar Journal, Vol. 92, No. 9).

# BRIEF HISTORY OF THE CITY'S PUBLIC RECORDS POLICIES

- ④ While legally sufficient, the City's internal Public Records Policies were disjointed and located in separate locations, making compliance more difficult than necessary.
- ④ The attorneys and City staff identified this as an area that could be strengthened and made more efficient by adopting a new policy containing all internal requirements in a single location and strengthening mechanisms already in place beyond those found in Chapter 119, Florida Statutes.
- ④ On November 4, 2019, the attorneys and City staff presented Resolution 19-27 for Council's consideration and Council adopted the Resolution in its entirety.
- ④ Resolution 19-27 is substantially similar to the City of Tallahassee's policy, which legal scholars believe is the "model template for other agencies and local governments to adapt and apply." The Florida Public Records Act in the Era of Modern Technology, Ralph A. DeMeo and Lauren M. DeWeil (Florida Bar Journal, Vol. 92, No. 9)

# EMAILS -- DO'S AND DON'TS FOR ELECTED OFFICIALS

## Do's

- ④ Use your @cityofdestin email address for all correspondence relating to City business. (D.05).
- ④ If you receive an email at your private email address, then immediately transfer it to your @cityofdestinemail address. (D.05)

## Don'ts

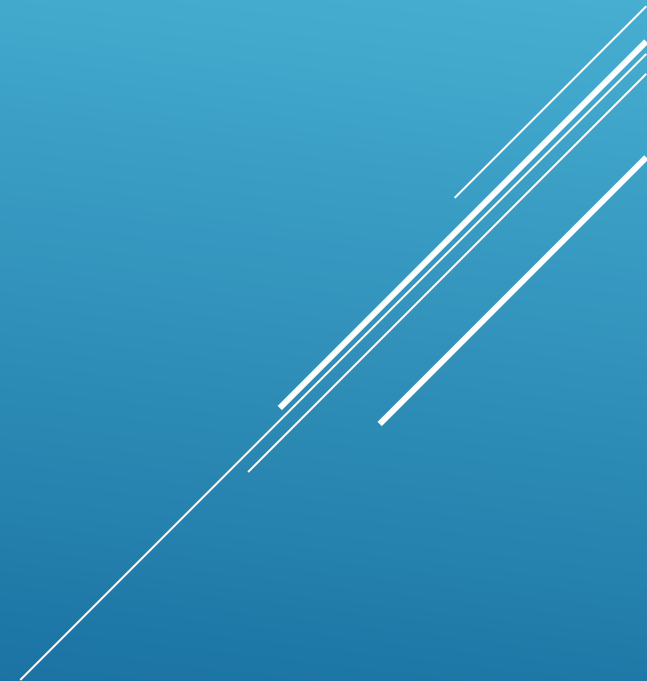
- ④ Use any other email address for any correspondence relating to City business. (D.05)

# TEXT MESSAGING & OTHER FORMS OF INSTANT, WRITTEN COMMUNICATION (E.G., DIRECT MESSAGES ON FACEBOOK, TWITTER, INSTAGRAM, SKYPE, ETC.) -- DO'S AND DON'TS FOR APPOINTED OFFICIALS

## Do's

- ④ If you receive or send a text message from your private phone, then you must transmit the text message to your City issued phone or @cityofdestin email address. (D.06)

## Don'ts



# SOCIAL MEDIA ACCOUNTS -- DO'S AND DON'TS FOR APPOINTED OFFICIALS

## Do's

- ④ If you maintain social media accounts, then you must maintain all public records relating to your board or committee on such accounts. (D.07).
- ④ If you maintain accounts and the City receives a public records request, then you must thoroughly search your account and produce any responsive material to the City Clerk. (D.07)

## Don'ts

- ④ Delete any social media account relating to the business of your board or committee. (D.07, E.01)
- ④ Delete any public or private message that you may have created or received from any individual or entity relating to the business of your board or committee. (D.07, E.01).

COMMENTS/QUESTIONS

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## Sunshine Law Handout

**Anchors Smith Grimsley, PLC**  
**Kyle S. Bauman, Esq.**  
**City of Destin City Attorney**

Office #: (850) 863-4064  
Cell #: (850) 585-4775  
email: kbauman@asglegal.com

**Last Updated: November 2020**

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***\*\*\* This Handout is intended to be used as a basic overview of the Sunshine Law and no Board or Council Member should rely on it when taking specific actions which may be impacted by the Sunshine Law. Please contact me and City staff if you have specific questions before taking action and we will respond to you as quickly as possible. \*\*\****

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**The 2018 Government in the Sunshine Manual can be found at:**

[http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AXJGEU/\\$file/2018+Government+in+the+Sunshine+Manual.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AXJGEU/$file/2018+Government+in+the+Sunshine+Manual.pdf)

**Laws can be found at:**

<http://leg.state.fl.us/>

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### WHAT IS THE SUNSHINE LAW?

- Two interrelated but separate laws are colloquially referred to as the “Sunshine Law”:
  - **(1) Public Records Act** – Chapter 119, Fla. Stat. (2018)
    - Primary Purpose: Provide the public “a right to access to the records of the state and local governments as well as to private entities acting on their behalf.”
    - [http://leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0100-0199/0119/0119ContentsIndex.html&StatuteYear=2018&Title=%2D%3E2018%2D%3EChapter%20119](http://leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0119/0119ContentsIndex.html&StatuteYear=2018&Title=%2D%3E2018%2D%3EChapter%20119)
  - **(2) Government in the Sunshine Law** – § 286.011, Fla. Stat. (2018); Art. I, § 24, Fla. Const.
    - Primary Purpose: Provide the “public a right of access to governmental proceedings of public boards or commissions at both the state and local levels.”
    - [http://leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0200-0299/0286/Sections/0286.011.html](http://leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0200-0299/0286/Sections/0286.011.html)
- Florida has arguably the broadest, most “public-friendly,” laws in the entire country and you immediately became subject to these laws the second you were appointed to this Board.

## THE PUBLIC RECORDS ACT

- Lengthy statute, but application to advisory boards is relatively simple.
- General Rule: Any record you generate or receive in connection with your role on a City board is a public record and any member of the public has the right to request to view these records at any time. See Inf. Op. to Nicoletti, November 18, 1987.
- What is a “public record”?
  - “All materials used or received in connection with official business *used to perpetuate, communicate, or formalize knowledge.*”
  - “Public Records” are very broad, essentially including *any* written document and most non-written material. For example:
    - Physical documents such as: “papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software.” § 119.011(12), Fla. Stat. (2018).
    - Electronic documents such as: emails, documents generated in word processing software (including this Handout!), text messages, etc.
- Are there any exemptions?
  - Yes, there are lengthy exemptions listed in the statute, however, most of these will **not** apply to advisory boards. These exemptions are sometimes complex and heavily litigated.
  - Therefore, if the City receives a public records request and City staff asks you to turn over public records related to the particular subject contained in that request, do **not** try to determine by yourself whether the document is (a) a public record; and (b) whether an exemption is applicable. Instead, contact my office and City staff and allow us the opportunity to review the record.
  - **If the “public record” is located on my personal device is it exempted?**
    - **NO! This is a common misconception. Just because something is located only on your personal device does not mean that it is exempt.** The inquiry is whether the item is “used to perpetuate, communicate, or formalize knowledge” relating to City business, and where this information is located is irrelevant.
- What happens if I violate the Public Records Act?
  - **Knowing Violations** are a first degree misdemeanor, punishable by removal from office, up to one year in prison, and/or a \$1000 fine.
  - “Non-knowing Violations” are non-criminal but still subject to a \$500 fine.
- Rules of Thumb: When you generate or receive any document relating to your position, always presume that the document is a “public record” that will eventually be subject to the public’s view. Also, if you generate receive a “public record,” retain it and **do not** destroy it to ensure compliance with the Public Records Act.

## GOVERNMENT IN THE SUNSHINE LAW

- Shorter statute, but it has generate tons of litigation and its application to advisory boards is more impactful than the Public Records Law.
- Basic Sunshine Law Requirements:
  - (1) “Meetings” of public boards or commissions must be open to the public;
  - (2) Reasonable notice of these meetings must be given to the public; and
  - (3) Minutes of the meetings must be taken, promptly recorded, and open to public inspection.
  - Most of these you do not need to worry about because City staff ensures compliance. Your primary concern is making sure that “meetings” do not take place outside publicly noticed meetings.
- What is a “meeting”?
  - The Sunshine Law defines “meeting” very broadly to include:
    - (a) informal meetings of two or more members; and
    - (b) electronic communications between two or more members regarding any foreseeable matter which could come before the board.
- Examples of specific scenarios:
  - One member sends a text message to another board member saying he is “against agenda item 2(b).”
    - This is an obvious but important example of strictly forbidden actions.
  - One board member sends an email to another board member’s husband stating that he is “against agenda item 2(b).”
    - Also likely a violation. You cannot use an intermediary to do indirectly what you cannot do directly.
  - One board member sends an email to City staff explaining why they are “against agenda item 2(b).”
    - Because staff are not elected or appointed officials, this communication is likely ok. If, however, you have reason to believe staff might disclose this information to other board members, then it is a violation.
  - One board members emails strictly factual information regarding item 2(b) to other board members.
    - Likely, it is technically ok to share strictly factual information directly with each other, however, because of how the information could be interpreted it is strongly discouraged. The better practice is to ask staff to include the information in the Agenda material.
  - Two board members carpool to a meeting.
    - This is ok, so long as you do not discuss any matter which foreseeably could come before the board.
    - However, because of the possible appearance of impropriety, these types of actions are discouraged.
  - Two board members are at the same charity event.
    - This is ok, so long as you do not discuss any matter which foreseeably could come before the board with the other board member.
  - The board took official action on agenda item 2(b) at a publicly noticed meeting. After the meeting, two board members discuss agenda item 2(b).

- Because boards have the inherent authority to change their positions on items at any time it is “reasonably foreseeable” that the item might come before the board again and, therefore, this type of action is strongly discouraged.
- What happens if I violate the Government in the Sunshine Law?
  - **Knowing Violations** can result in 2<sup>nd</sup> degree misdemeanor charges, with penalties up to 60 days in jail and up to a \$500 fine.
  - **“Not-knowing” Violations** are non-criminal but still subject to a fine of up to \$500.
  - Also, failure to comply could **void the board’s actions** relating to the subject matter of the violation.
- **Rules of Thumb:** Always err on the side of caution and, outside of publicly noticed meetings, do not engage in any discussions or communications with other elected or appointed officials regarding pending matters before your board or any reasonably foreseeable matter that might come before your board. Also, generally it is ok for you to privately communicate with City staff and City attorneys regarding such matters provided there are no other elected or appointed city officials present or copied on the communication.

## STANDARDS OF CONDUCT FOR PUBLIC OFFICERS

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Last Updated: November 2020

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**\*\*\* This Handout is intended to be used as a basic overview of the Standards of Conduct for Public Officials and no Board or Council Member should rely on it when taking specific actions which may be impacted by the Chapter 112, Florida Statutes. Please contact me and City staff if you have specific questions before taking action and we will respond to you as quickly as possible. \*\*\***

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Laws can be found at:  
<http://leg.state.fl.us/>

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### WHAT ARE THE STANDARDS OF CONDUCT FOR PUBLIC OFFICERS?

***“A public office is a public trust.”***  
***– Article II, Section 8, Florida Constitution***

- **Chapter 112.313, Florida Statutes**, describes a series of “standards of conduct” public officers must adhere to. Essentially, the standards of conduct are the basic statutory principles of ethics public officials are legally obligated to adhere to.

#### GIFTS

- **Solicitation or Acceptance of Gifts (Bribery):** You are not allowed to solicit or accept anything of value, including a gift, loan, reward, promise of future employment, favor or service, based upon any understanding that your vote, official action, or judgment would be influenced by the gift or promise. § 112.313(2), *Fla. Stat.*
- **Unauthorized Compensation:** You cannot accept anything of value when you know or should know that the item is being given to influence your vote or other action. § 112.313(4), *Fla. Stat.*
  - Also applies to your spouse and minor children.
- You are always prohibited from soliciting any gift and from accepting any gift when the gift is intended to influence your actions as an elected official.

### **BUSINESS PROHIBITIONS**

- **Doing Business with the City:** You are not allowed to purchase, rent, or lease any realty, goods, or services for the City from any business entity of which you are an officer, partner, director, or proprietor or in which the officer has a material interest. § 112.313(3), *Fla. Stat.*
  - Also applies to your spouse and children.
- **Conflicting Employment or Contractual Relationships:** You cannot hold any employment or contractual relationship with any entity which is subject to the regulation of or is doing business with the City. § 112.313(7), *Fla. Stat.*
  - Legal tests to determine whether there is a conflict:
    - Is the conflict frequently recurring?
    - Does the conflict impede the full and faithful discharge of public duties?

### **GENERAL PROHIBITIONS**

- **Misuse of Public Position:** You cannot corruptly use or attempt to use your position or any property or resource within your trust to secure special privilege, benefit, or exemption for yourself. § 112.313(6), *Fla. Stat.*
- **Disclosure or Use of Certain Information:** You cannot disclose or use information not available to members of the general public and gained by reason of your official position for your personal gain or benefit or the personal gain or benefit of any other person or business entity. § 112.313(8), *Fla. Stat.*

### **REQUIRED ETHICS TRAINING & FINANCIAL DISCLOSURE**

- All elected municipal officials must complete at least 4 hours of ethics training each year. § 112.3142, *Fla. Stat.*
- All elected municipal officials must file a financial disclosure with the Florida Commission on Ethics no later than July 1 each year. § 112.3144, *Fla. Stat.*

### **CONSEQUENCES**

- Generally, this statute is policed by the Florida Commission on Ethics and violation of the statute can lead to punishments including impeachment, removal from office, suspension from office, public censure and reprimand, a civil penalty not to exceed \$10,000, and restitution of any pecuniary benefits received because of the violation committed. § 112.317, *Fla. Stat.*
- Can also carry criminal penalties in some instances.

## VOTING CONFLICTS

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**Last Updated: November 2020**

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***\*\*\* This Handout is intended to be used as a basic overview of the Voting Conflicts and no Board or Council Member should rely on it when taking specific actions which may be impacted by the Chapter 112, Florida Statutes. Please contact me and City staff if you have specific questions before the meeting at which the conflict will arise and we will respond to you as quickly as possible. \*\*\****

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**Laws can be found at:**

<http://leg.state.fl.us/>

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### **WHAT IS A VOTING CONFLICT?**

#### ***§ 112.3143, Florida Statutes***

- A voting conflict arises when you are prohibited from voting on a specific matter coming before your board. In instances in which you do not have a conflict, you must vote. § 286.012, Fla. Stat.
- Designed to avoid situation where a public officer is tempted to exercise the powers of his or her office to promote the interest of someone other than the public because of that someone's relationship to the officer.

#### **Statutory Language:**

- You cannot vote on any measure which would
  - inure to your "special private gain or loss,"
  - which you know would inure to the special private gain or loss of any "principal by whom you are retained" or to the parent organization or subsidiary of a corporate principal by which you are retained, or
  - which you know would inure to the special private gain or loss of your "relative" or business associate.

#### **Definitions:**

- **"Principal by whom retained"** – means an individual or entity that has permitted or directed another to act on behalf of the principal for compensation, salary, pay, or consideration. E.g., your client or employer. Also, the parent, subsidiary, or sibling organization of your client or employer.
- **"Relative"** – means your father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

- **“Business associate”** – means any person or entity engaged in or carrying out a business enterprise with a public officer, public employee, or candidate as a partner, joint venture, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or co-owner of property. § 112.312(4), Fla. Stat.
- **“Special private gain or loss”** – means an economic benefit or harm that would inure to you, your relative, your business associate, or principal.

### **WHO IS PROHIBITED FROM BENEFITTING?**

- Four classes of people are prohibited from benefiting from the public officer’s vote:
  - (1) The public officer;
  - (2) A relative;
  - (3) A business associate;
  - (4) A principal, subsidiary, or parent corporation of a principal.

### **WHAT KIND OF BENEFITS ARE PROHIBITED?**

#### **“Special Private Gain or Loss”**

- This is the test by which voting conflicts are determined. There are four factors to look for:
  - (1) The size of the class affected by the vote;
  - (2) The nature of the interests involved;
  - (3) The degree to which the interests of all members of the class are affected by the vote;
  - (4) The degree to which the officer, relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.
- Standards – Depending on the type of special gain or loss, three different “standards” are considered:
  - *Special private gain or loss* – the gain or loss must be *special* and *private* to the officer, relative, business associate, or principal. Cannot be general.
  - *Size of the class test* – typically, the Commission on Ethics applies the “1% Rule” which means that if the special gain or loss of people prohibited from benefitting is less than 1% of the total class affected, then there is no voting conflict.
  - *Remote and speculative test* – generally, the special private gain or loss must be somewhat concrete and certain in order to rise to the level of a voting conflict.

### **WHAT TO DO WHEN YOU HAVE A CONFLICT**

- Four steps are required:
  - (1) *Announce* the conflict at the meeting;
  - (2) *Abstain* from voting on the matter;
  - (3) *Disclose* the conflict on the Conflict Form provided to you by the City Clerk;
  - (4) *File* the completed version of the Conflict Form with the City Clerk, who will properly file it and include it in the minutes of the meeting.
- You are also prohibited from participating in discussion on the matter.