

AGENDA
ESCAMBIA COUNTY PLANNING BOARD
April 2, 2019–8:35 a.m.
Escambia County Central Office Complex
3363 West Park Place, Room 104

1. Call to Order.
2. Pledge of Allegiance to the Flag.
3. Proof of Publication and Waive the Reading of the Legal Advertisement.
4. Approval of Minutes.
 - A.
 - A. **RECOMMENDATION:** That the Planning Board review and approve the Meeting Resume' Minutes of the March 5, 2019 Planning Board Meeting.
 - B. Planning Board Monthly Action Follow-up Report for March 2019.
 - C. Planning Board 6-Month Outlook for April 2019.
5. Acceptance of Planning Board Meeting Packet.
6. Public Hearings.
 - A. A Public Hearing Concerning the Review of an Ordinance Amending, Comprehensive Plan 2030, Chapter 8, "Mobility Element", Removing Reference to Navy Outlying Landing Field Site 8

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Escambia County Comprehensive Plan, removing reference to Navy Outlying Landing Field (NOLF) Site 8.

B. A Public Hearing Concerning the Review of an Land Development Code Ordinance Amending Chapter 4, "Location And Use Regulations", Section 4-4.2 and 4-4.5 to Remove References to Navy Outlying Landing Field Site 8

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 4, "Location And Use Regulations", Section 4-4.2 and Section 4-4.5, to remove references to Navy Outlying Landing Field (NOLF) Site 8.

7. Action/Discussion/Info Items.

8. Public Forum.

9. Director's Review.

10. County Attorney's Report.

A. Sunshine Law Training.

11. Scheduling of Future Meetings.

The next Regular Planning Board meeting is scheduled for **Tuesday, May 7, 2019, at 8:30 a.m.**, in the Escambia County Central Office Complex, Room 104, First Floor, 3363 West Park Place, Pensacola, Florida.

12. Announcements/Communications.

13. Adjournment.



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular

4. A.

Meeting Date: 04/02/2019

Agenda Item:

A. **RECOMMENDATION:** That the Planning Board review and approve the Meeting Resume' Minutes of the March 5, 2019 Planning Board Meeting.

B. Planning Board Monthly Action Follow-up Report for March 2019.

C. Planning Board 6-Month Outlook for April 2019.

Attachments

Meeting minutes for March 5, 2019

Monthly follow-up

6 Month Outlook

DRAFT

MINUTES OF THE ESCAMBIA COUNTY PLANNING BOARD March 5, 2019

CENTRAL OFFICE COMPLEX
3363 WEST PARK PLACE, BOARD CHAMBERS
PENSACOLA, FLORIDA
(10:15 A.M. – 12:28 P.M.)

Present: Reid Rushing
Jay Ingwell
Wayne Briske, Chairman
Timothy Pyle
Patty Hightower
Alan Gray
Eric Fears
William Clay
Stephen Opalenik

Staff Present: Horace Jones, Director, Development Services
John Fisher, Senior Urban Planner, Planning & Zoning
Kayla Meador, Administrative Assistant
Meredith Crawford, Assistant County Attorney

1. Call to Order.
2. Proof of Publication and Waive the Reading of the Legal Advertisement.
3. Approval of Minutes.
 - A. **RECOMMENDATION:** That the Planning Board review and approve the Meeting Resume' Minutes of the February 5, 2019 Planning Board Meeting.
 - B. Planning Board Monthly Action Follow-up Report for February 2019.
 - C. Planning Board 6-Month Outlook for March 2019.

Motion by Eric Fears, Seconded by Reid Rushing

Motion was made to approve the Rezoning Planning Board meeting minutes from February 5, 2019.

Vote: 7 - 0 Approved

4. Acceptance of Planning Board Meeting Packet.

5. Action/Discussion/Info Items.

A. Tree Ordinance Discussion.

Board Members, Staff, and members of the public discussed the Tree Ordinance. Board Members directed Staff to plan a workshop for more discussion.

6. Public Forum.

7. Director's Review.

8. County Attorney's Report.

9. Scheduling of Future Meetings.

The next Regular Planning Board meeting is scheduled for **Tuesday, April 2, 2019, at 8:30 a.m.**, in the Escambia County Central Office Complex, Room 104, First Floor, 3363 West Park Place, Pensacola, Florida.

10. Announcements/Communications.

11. Adjournment.

**BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA**

DEVELOPMENT SERVICES DEPARTMENT
3363 WEST PARK PLACE
PENSACOLA, FLORIDA 32505
PHONE: 850-595-3475
FAX: 850-595-3481
www.myescambia.com

Memorandum

TO: Planning Board
FROM: Kayla Meador, Board Clerk
DATE: February 22, 2019
RE: Monthly Action Follow-Up Report for February 2019

The following is a status report of Planning Board (PB) agenda items for the prior month of February. Some items include information from previous months in cases where final disposition has not yet been determined. Post-monthly actions are included (when known) as of report preparation date. Items are listed in chronological order, beginning with the PB initial hearing on the topic.

PROJECTS, PLANS, & PROGRAMS

COMMITTEES & WORKING GROUP MEETINGS

COMPREHENSIVE PLAN AMENDMENTS

• **Text Amendments:**

CPA-2018-02

10-01-18 PB recommended denial
11-01-18 BCC transmitted to DEO
02-07-19 BCC approved

• **Map Amendments:**

LSA-2018-01

07-10-18 Applicant requested continuance to next PB
08-07-18 PB recommended denial
09-06-18 BCC remanded case back to PB (*ON HOLD for comp plan change CPA-2018-02*)

LAND DEVELOPMENT CODE ORDINANCES

CIP

01-08-19 PB recommended approval
02-07-19 BCC approved

Temp Auto Sales

01-08-19 PB recommended denial
02-07-19 BCC reviewed
03-07-19 BCC meeting (2of2)

Accessory Structures on Pensacola Beach

02-05-19 PB recommended approval
03-07-19 BCC meeting

REZONING CASES

1. Rezoning Case Z-2018-08 (*on HOLD with LSA-2018-01*)
 - 07-10-18 Applicant requested continuance to next PB meeting
 - 08-07-18 PB meeting ended before hearing
 - 09-04-18 No quorum at PB mtg

2. Rezoning Case Z-2018-17
 - 11-08-18 PB recommended approval
 - 12-06-18 BCC remanded back to PB
 - 01-08-19 PB recommended approval
 - 02-07-19 BCC approved

3. Rezoning Case Z-2019-01
 - 01-08-19 PB recommended approval
 - 02-07-19 BCC approved

4. Rezoning Case Z-2019-02
 - 02-05-19 PB recommended approval
 - 03-07-19 BCC meeting

5. Rezoning Case Z-2019-03
 - 02-05-19 PB recommended approval
 - 03-07-19 BCC meeting

PLANNING BOARD MONTHLY SCHEDULE SIX MONTH OUTLOOK FOR APRIL 2019

(Revised 3/22/19)

A.H. = Adoption Hearing T.H. = Transmittal Hearing P.H. = Public Hearing

* Indicates topic/date is estimated—subject to staff availability for project completion and/or citizen liaison

Meeting Date	LDC Changes and/or Public Hearings	Comprehensive Plan Amendments	Rezoning	Reports, Discussion and/or Action Items
Tuesday, April 2, 2019	<ul style="list-style-type: none"> • Removing OLF 8 ref. from LDC 	<ul style="list-style-type: none"> • CPA-2019-01 	<ul style="list-style-type: none"> • Z-2019-04 	<ul style="list-style-type: none"> • Location Criteria
Tuesday, May 7, 2019			<ul style="list-style-type: none"> • Z-2019-05 • Z-2019-06 • Z-2019-07 	
Tuesday, June 4, 2019				
Tuesday, July 2, 2019				
Tuesday, August 6, 2019				
Tuesday, September 3, 2019				

Disclaimer: This document is provided for informational purposes only. Schedule is subject to change. Verify all topics on the current meeting agenda one week prior to the meeting date.



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular

6. A.

Meeting Date: 04/02/2019

Issue: A Public Hearing Concerning the Review of an Ordinance Amending, Comprehensive Plan 2030, Chapter 8, "Mobility Element", Removing Reference to NOLF 8

From: HORACE JONES, Director

Organization: Development Services

RECOMMENDATION:

A Public Hearing Concerning the Review of an Ordinance Amending, Comprehensive Plan 2030, Chapter 8, "Mobility Element", Removing Reference to Navy Outlying Landing Field Site 8

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Escambia County Comprehensive Plan, removing reference to Navy Outlying Landing Field (NOLF) Site 8.

BACKGROUND:

On January 30, 2019, Escambia County took possession of Navy Outlying Landing Field (NOLF) Site 8 and as such, it no longer operates as an airfield and the Board directed staff to remove references to the Navy Outlying Landing Field Site 8 from the Mobility Element.

BUDGETARY IMPACT:

No budgetary impact is anticipated by the adoption of this Ordinance.

LEGAL CONSIDERATIONS/SIGN-OFF:

The attached Ordinance has been reviewed and approved for legal sufficiency by Meredith D. Crawford, Assistant County Attorney. Any recommended legal comments are attached herein.

PERSONNEL:

No additional personnel are required for implementation of this Ordinance.

POLICY/REQUIREMENT FOR BOARD ACTION:

The proposed Ordinance is consistent with the Board's goal "to increase citizen involvement in, access to, and approval of, County government activities."

IMPLEMENTATION/COORDINATION:

This Ordinance, amending the Comprehensive Plan, will be filed with the Department of State following adoption by the board.

The proposed Ordinance was prepared by the Development Services Department, in cooperation with the County Attorney's Office and all interested citizens. The Development Services Department will ensure proper advertisement.

Attachments

Draft Ordinance

LEGAL REVIEW

(COUNTY DEPARTMENT USE ONLY)

Document: CPA 2019-01- OLF 8 Removal

Date: 2/7/19

Date requested back by: 3/7/19

Requested by: Allyson Cain

Phone Number: _____

.....
(LEGAL USE ONLY)

Legal Review by M Crawford

Date Received: 3/7/19

Approved as to form and legal sufficiency.

Not approved.

Make subject to legal signoff.

Additional comments:

ORDINANCE NUMBER 2019-____

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA, AMENDING PART II OF THE ESCAMBIA COUNTY CODE OF ORDINANCES, THE ESCAMBIA COUNTY COMPREHENSIVE PLAN: 2030, AS AMENDED; AMENDING CHAPTER 8, MOBILITY ELEMENT”, POLICY MOB 4.2.6 “ENCROACHMENT CONTROL PLANNING”; TO REMOVE REFERENCES TO NAVY OUTLYING LANDING FIELD SITE 8; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety and welfare of its citizenry; and

WHEREAS, through its Land Development Code and Comprehensive Plan, the Escambia County Board of County Commissioners desires to preserve the county as a desirable community in which to live, vacation and do business; and

WHEREAS, on January 30, 2019 the Escambia County took possession of Outlying Landing Field (OLF) Site 8 and as such, it no longer operates as an airfield; and

WHEREAS, the Board of County Commissioners directed staff to remove references to the Navy outlying landing field 8 from the Mobility Element; and

WHEREAS, the Escambia County Planning Board conducted a public hearing and forwarded a recommendation to the Board of County Commissioners to approve this amendment to its Land Development Code;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. The above recitals are true and correct and are incorporated herein by reference.

Section 2. Title of Comprehensive Plan Amendment

This Comprehensive Plan Amendment shall be entitled- “CPA 2019-01.”

Section 3. Part II of the Escambia County Code of Ordinances, the Comprehensive Plan 2030, Chapter 8, “Mobility Element”, Policy MOB 4.2.6 “Encroachment Control Planning” is hereby amended as follows (words underlined are additions and words ~~stricken~~ are deletions):

1 MOB 4.2.6 **Encroachment Control Planning.** Escambia County will utilize information
2 provided by the Navy, such as the AICUZ Study Program Procedures and Guidelines
3 (OPNAVINST 11010.36C) or approved successor and Aircraft Noise Survey, together
4 with the recommendations of the JLUS when developing plans to control the
5 encroachment of incompatible development in the vicinity of Naval Air Station
6 Pensacola and ~~Navy Outlying Landing Field Site 8~~, to ensure protection of each
7 installation's aviation mission.

8 **Section 4. Severability.**

9 If any section, sentence, clause or phrase of this Ordinance is held to be invalid or
10 unconstitutional by any Court of competent jurisdiction, then said holding shall in no way
11 affect the validity of the remaining portions of this Ordinance.
12

13 **Section 5. Inclusion in Code.**

14
15 It is the intention of the Board of County Commissioners that the provisions of this
16 Ordinance shall be codified as required by F.S. § 125.68 (2018); and that the sections,
17 subsections and other provisions of this Ordinance may be renumbered or re-lettered and
18 the word "ordinance" may be changed to "section," "article," or such other appropriate
19 word or phrase in order to accomplish such intentions.
20

21 **Section 6. Effective Date.**

22
23 Pursuant to Section 163.3184(3)(c) 4, Florida Statutes, this Ordinance shall not become
24 effective until 31 days after the Department of Economic Opportunity notifies Escambia
25 County that the plan amendment package is complete. If timely challenged, this
26 Ordinance shall not become effective until the Department of Economic Opportunity or
27 the Administration Commission enters a final order determining the Ordinance to be in
28 compliance.

29
30 **DONE AND ENACTED** this _____ day of _____, 2019.

31
32 **BOARD OF COUNTY COMMISSIONERS**
33 **OF ESCAMBIA COUNTY, FLORIDA**

34
35 **By:** _____
36 **Lumon J. May, Chairman**

37
38
39
40 **ATTEST: PAM CHILDERS**

41

1 Clerk of the Circuit Court

2
3 By: _____
4 Deputy Clerk

5
6 (SEAL)

7
8
9 ENACTED:

10
11 FILED WITH THE DEPARTMENT OF STATE:

12
13 EFFECTIVE DATE:
14

DRAFT



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular

6. B.

Meeting Date: 04/02/2019

Issue: A Public Hearing Concerning the Review of an LDC Ordinance Amending Ch. 4, "Location And Use Regulations", Sect.4-4.2 and 4-4.5

From: HORACE JONES, Director

Organization: Development Services

RECOMMENDATION:

A Public Hearing Concerning the Review of an Land Development Code Ordinance Amending Chapter 4, "Location And Use Regulations", Section 4-4.2 and 4-4.5 to Remove References to Navy Outlying Landing Field Site 8

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 4, "Location And Use Regulations", Section 4-4.2 and Section 4-4.5, to remove references to Navy Outlying Landing Field (NOLF) Site 8.

BACKGROUND:

On January 30, 2019, Escambia County took possession of Navy Outlying Landing Field (NOLF) Site 8 and as such, it no longer operates as an airfield and the Board of County Commissioners directed staff to remove references to the Navy Outlying Landing Field Site 8 from Chapter 4 Location and Use Regulations of the Land Development Code.

BUDGETARY IMPACT:

No budgetary impact is anticipated by the adoption of this Ordinance.

LEGAL CONSIDERATIONS/SIGN-OFF:

The attached Ordinance has been reviewed and approved for legal sufficiency by Meredith D. Crawford, Assistant County Attorney. Any recommended legal comments are attached herein.

PERSONNEL:

No additional personnel are required for implementation of this Ordinance.

POLICY/REQUIREMENT FOR BOARD ACTION:

The proposed Ordinance is consistent with the Board's goal "to increase citizen involvement in, access to, and approval of, County government activities."

IMPLEMENTATION/COORDINATION:

This Ordinance, amending the LDC, will be filed with the Department of State following adoption by the board.

Implementation of this Ordinance will consist of an amendment to the LDC and distribution of a copy of the adopted Ordinance to interested citizens and staff.

The proposed Ordinance was prepared by the Development Services Department, in cooperation with the County Attorney's Office and all interested citizens. The Development Services Department will ensure proper advertisement.

Attachments

Draft Ordinance

LEGAL REVIEW

(COUNTY DEPARTMENT USE ONLY)

Document: CPA 2019-01- OLF 8 Removal

Date: 2/7/19

Date requested back by: 3/7/19

Requested by: Allyson Cain

Phone Number: _____

.....
(LEGAL USE ONLY)

Legal Review by M Crawford

Date Received: 3/7/19

Approved as to form and legal sufficiency.

Not approved.

Make subject to legal signoff.

Additional comments:

1 regulations of this article unless the use or activity is specifically identified in the LDC
2 as exempt from these regulations. The regulations include both obstruction
3 limitations for flight safety and land use restrictions for areas exposed to noise and
4 accident risk.

5 **(b) Modification of regulations.** Variances to the strict application of the regulations of
6 this article may only be granted as specifically allowed by the variance provisions of
7 this article and the compliance review processes of Chapter 2.

8 **(c) Applicable airports and airfields.** The following facilities, each with an established
9 elevation of the highest point above mean sea level of its runways or landing areas,
10 are protected by the provisions of this article:

11 Pensacola International Airport: 121 feet

12 Ferguson Airport: 27 feet

13 Naval Air Station (NAS) Pensacola, Sherman Field: 28 feet

14 ~~Navy Outlying Landing Field (NOLF) Site 8: 110 feet~~

15 Any new airport as may be developed within the County.

16
17 **Sec. 4-4.5 Airport and airfield planning districts.**

18 **(a) Pensacola International Airport Planning District.** The Pensacola International
19 Airport Planning District (PNSPD) is established to provide enhanced protection in
20 support of the continued operation of the Pensacola International Airport for areas that
21 are close enough to the airport to influence or be influenced by its activities. The
22 PNSPD imposes additional restrictions on surrounding development that primarily
23 address noise and safety concerns created by flight operations and potential
24 interferences with those operations.

25 **(1) Establishment.** The PNSPD is established through its definition and
26 adoption within the LDC. The Pensacola International Airport Influence
27 Planning District Overlay maps for noise zones and educational facility
28 restrictions are specifically adopted here by reference and declared to be part
29 of the LDC, with the information shown on the maps having the same force
30 and effect as the text of the LDC. The PNSPD maps are maintained digitally in
31 the county's "Geographic Information System" (GIS).

32 **(2) Real estate disclosure.** All real estate transactions for property within
33 the *Pensacola International Airport Real Estate Disclosure Area* shall include a
34 form disclosing the proximity of the site to the airport. The disclosure is
35 intended to inform a potential property owner or occupant of the nearby airport
36 and alert them to possible incompatibilities of the intended property use with
37 airport operations. The disclosure form shall be attached to all listing
38 agreements, sales and rental contracts, subdivision plats, and marketing
39 materials provided to prospective buyers, renters and lessees. The form need

1 not be included in advertisements directed to the public at large. Disclosure is
2 required as soon as practicable, but shall occur before the making or acceptance of
3 an offer to buy, rent or lease.

4 **(a) Military Airfield Influence Planning Districts.** Airfield Influence Planning Districts
5 (AIPDs) are established to provide enhanced protection in support of the continued
6 operation of military airfields for areas that are close enough to those airfields to
7 influence or be influenced by their activities. AIPDs impose additional restrictions
8 on surrounding development that primarily address noise and safety concerns
9 created by flight operations and potential interferences with those operations. If
10 military operations permanently cease at an airfield, the supplemental
11 requirements of its AIPDs will no longer apply to surrounding lands.
12

13 **(1) General characteristics.** Airfield Influence Planning Districts are combinations
14 of noise zones, clear zones, accident potential zones, and other areas of
15 influence that overlap and combine to define a broad range of airfield
16 influences on surrounding land use. The range of influences is divided
17 between two planning districts: AIPD-1 composed of areas closest to an airfield
18 and, therefore, with highest noise exposure and accident risk; and AIPD-2
19 composed of areas further from the airfield than AIPD-1, but that still may
20 influence or be influenced by airfield operations.

21 **(2) Clear zones and accident potential zones.** Clear zones and accident
22 potential zones identify areas near airfield runways where aircraft accidents are
23 most likely, if they do occur. The zones are defined by the type of aircraft for
24 which the runway is primarily used. Clear zones extend immediately beyond
25 the ends of runways and designate areas of high accident potential. Accident
26 potential zones (APZs) generally extend beyond clear zones and designate
27 areas that remain impacted by accident potential. APZ-1 identifies areas
28 that retain a significant potential for accidents. APZ-2 identifies areas beyond
29 APZ-1 that retain lower but measurable potential for accidents.

30 **(3) Establishment.** AIPDs and their constituent zones and areas are established
31 through their definition and adoption within the LDC. The Airfield Influence
32 Planning District Overlay maps for NAS Pensacola and ~~NOLF 8~~ are specifically
33 adopted here by reference and declared to be part of the LDC, with the
34 information shown on the maps having the same force and effect as the text of
35 the LDC. The AIPD maps are maintained digitally in the county's "Geographic
36 Information System" (GIS).
37

38 **Section 3. Severability.**

39 If any section, sentence, clause or phrase of this Ordinance is held to be invalid or
40 unconstitutional by any Court of competent jurisdiction, then said holding shall in no way
41 affect the validity of the remaining portions of this Ordinance.
42
43

1 **Section 4. Inclusion in Code.**

2
3 It is the intention of the Board of County Commissioners that the provisions of this
4 Ordinance shall be codified as required by F.S. § 125.68 (2018); and that the sections,
5 subsections and other provisions of this Ordinance may be renumbered or re-lettered and
6 the word "ordinance" may be changed to "section," "article," or such other appropriate
7 word or phrase in order to accomplish such intentions.

8
9 **Section 5. Effective Date.**

10
11 This Ordinance shall become effective upon filing with the Department of State.

12
13 **DONE AND ENACTED** this _____ day of _____, 2019.

14
15 **BOARD OF COUNTY COMMISSIONERS**
16 **OF ESCAMBIA COUNTY, FLORIDA**

17
18 By: _____
19 **Lumon J. May, Chairman**

20
21
22
23 **ATTEST: PAM CHILDERS**
24
25 **Clerk of the Circuit Court**

26
27 By: _____
28 **Deputy Clerk**

29
30 **(SEAL)**

31
32
33 **ENACTED:**

34
35
36 **FILED WITH THE DEPARTMENT OF STATE:**

37
38 **EFFECTIVE DATE:**



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular
Meeting Date: 04/02/2019

10. A.

Agenda Item:

Sunshine Law Training.

Attachments

Sunshine Presentation - April 2019

Florida's Government in the Sunshine Law

Article I, Section 24, Florida Constitution
Section 286.011, Florida Statutes

1. What is the purpose of Florida's Sunshine Law?

To give citizens a right of access to governmental proceedings

2. How does the Sunshine Law accomplish its purpose?

The Sunshine Law gives citizens access to governmental proceedings through the following requirements:

- a. Meetings of public boards or commissions must be *open* to the public;
- b. Reasonable *notice* of such meetings must be given; and
- c. *Minutes* must be taken and promptly recorded.

3. What is a "meeting" subject to the Sunshine Law?

- a. Any gathering or *interaction*
- b. Between *two or more members* of the *same* public board, commission or committee communicating
- c. About a *matter on which foreseeable action will be taken* by such public board, commission, or committee.

4. Does the Sunshine Law apply to staff?

Not unless the staff member has been delegated *decision-making functions* outside of normal staff functions.

The focus is on the *nature of the act* performed:

- a. A staff committee making non-binding recommendations or assisting in evaluating proposals would be subject to the Sunshine Law.
- b. A staff committee relaying facts would not be subject to the Sunshine Law.

5. Are telephone conversations subject to the Sunshine Law?

Yes, if the phone call concerns a matter on which foreseeable action will be taken by the board, commission, or committee.

Phone calls are *interactions* between *two or more members*.

6. Are emails and text messages subject to the Sunshine Law?

Yes, if an email or text message concerns a matter on which foreseeable action will be taken by the board, commission, or committee.

Emails and text messages are *interactions between two or more members*.

7. What are the potential pitfalls of group emails and "Reply All" responses?

- a. As with other emails on issues likely to come before the board/committee, a group email from a board/committee member to all other board/committee members – absent a response – is itself innocuous.
- b. A response, however, creates a "meeting" (*interaction* between two or more members) between the sender and the responder, thereby violating the Sunshine Law.
- c. A "Reply All" response creates a "meeting" not only between the sender and the responder but also between the sender, responder, and all other board/committee members on the group email.
- d. Staff Alert: although staff may exchange emails with board/committee members without violating the Sunshine Law, if staff sends a *group* email to board/committee members and a member responds with "Reply All," the "Reply All" response creates a "meeting" between the responder and all other board/committee members to whom the group email was sent.
- e. Suggestion: Staff can reduce the possibility of inadvertently creating a "meeting" via group email by including within the email a statement cautioning the group email recipients to "Not Respond to this Email" but to call the staff member individually with questions or comments.

8. What are the consequences for noncompliance?

- a. A *knowing* violation is a second-degree misdemeanor, punishable by imprisonment up to 60 days and/or fine up to \$500;
- b. Noncriminal infraction punishable by fine up to \$500;
- c. Violator may be removed from office;
- d. Attorney's fees assessed against board, committee, commission;
- e. Attorney's fees assessed against individual member(s) (unless action taken on advice of legal counsel);
- f. Declaration that the actions taken in violation of the Sunshine Law are void *ab initio*. A full, open, and properly noticed meeting will cure defect; perfunctory ratification of action will not.

"The Sunshine Law should be construed so as to frustrate all evasive devices."

9. What are the guidelines for complying with the notice requirement?

The notice must be "reasonable." According to Florida's Attorney General, "reasonable notice" should:

- a. Be provided at least 7 days prior to a regularly-scheduled meeting;
- b. Contain the time, date and place of the meeting and if available, an agenda or subject matter summation;
- c. Comply with the federal Americans With Disabilities Act;
- d. Where applicable, comply with F.S. Sec. 286.0105 requiring notices to advise that a record of the proceedings is required to appeal a decision made by the board, agency, or commission;
- e. Be prominently displayed in the area the County sets aside for that purpose, including physical locations and websites; and
- f. Otherwise made public through local newspapers of general circulation, press releases, and/or phone calls to the wire services.

For special meetings, reasonable notice should be given at least 24 hours prior to the meeting.

For emergency sessions, notice should be the most appropriate and effective under the circumstances.

10. What entities are subject to the Sunshine Law?

Any board, commission, agency, authority, or advisory committee of the County (or other governmental body).

- a. Includes both elected officials and appointed members.
- b. Includes permanent, temporary, and ad hoc committees (such as a task force).