



THE SCHOOL BOARD OF LEE COUNTY

School Board Workshop
Friday, March 19, 2010 - 10:00 a.m.
Board Annex Room, Training Room "D"

Attending

Steven K. Teuber, J.D., Board Chair
Elinor C. Scricca, Ph.D., Vice Chair
Robert D. Chilmonik, Member
Jeanne S. Dozier, Member

James W. Browder, Ed.D., Superintendent
Keith Martin, School Board Attorney
Sharon Hartsell, Presenter, FSBA
Brenda Wall, Recording Secretary

Absent

Jane E. Kuckel, Ph.D., Member

I. Welcome/Call to Order

Mr. Steven Teuber, Board Chair, called the workshop to order at 10:25 a.m. Ms. Sharon Hartsell, from the Florida School Board Association (FSBA), was the presenter at the workshop to discuss the Sunshine Law. She introduced herself and gave background information on her past experience.

II. Discussion:

Ms. Hartsell asked the Board what information they needed from her. Mr. Teuber stated that the Board needed a refresher to help them to understand the history of the Sunshine Law, i.e., why it was established, what it pertains to, when it is and is not applicable. Mr. Chilmonik requested that Ms. Hartsell provide clarification on the following issue; if two (2) Board Members are having a discussion in public, would that discussion be in violation of the Sunshine Law? Also, what conversations are acceptable for Board Members to have with each other?

Ms. Hartsell handed out a packet of information regarding the Sunshine Law to all Board Members. Copies of the information are attached and available for viewing in the Office of the Superintendent. Ms. Hartsell began with a Power Point presentation, (Power Point presentation contained the same information as the hand-outs distributed by Ms. Hartsell.) Ms. Hartsell began with providing general background information on the Sunshine Law and how and why it was established.

Dr. Elinor Scricca asked Ms. Hartsell to further explain what constitutes a meeting. Ms. Hartsell explained that if you are discussing an issue on which it is foreseeable future action may be taken by the Board, that would be considered a meeting. Mrs. Dozier made the statement that two (2) Board Members are allowed to talk with each other without being in violation of the Sunshine Law. Ms. Hartsell agreed and stated that the Supreme Court has ruled that Board Members have the ability to discuss philosophies or "conduct at the table" as long as it does not involve a matter on which it is foreseeable the Board will take action. Ms. Hartsell cautioned Board Members about sending out information to fellow Board Members via memorandums or emails. Care must be taken to include a statement on the memorandum or email not to respond. It is acceptable to

share information, but not to expect or anticipate a response. This could be construed as having a dialogue with another Board Member and that is a violation of the Sunshine Law, especially if it concerns a matter the Board may vote on. Mr. Tueber stated that the Board is very careful about this and always includes a statement on the memorandums or email to not respond to fellow Board Members. It is important to share information with other Board Members, especially when that information could be critical in decision-making, however, discussion with fellow Board Members must be avoided regarding the information shared. Ms. Hartsell stressed that it is very important to maintain archives of any memorandum or emails that are sent to fellow Board Members to ensure that they are available as a public record. Mr. Chilmonik questioned how long these records should be kept and Ms. Hartsell explained that it varies, depending upon the record. Mr. Chilmonik also questioned whether information contained on his personal computer could be considered public record. Ms. Hartsell stated that there is a fairly recent court decision which begins to clarify this issue, stating; the fact that if it is on a computer or cell phone owned by the public, does not necessarily mean that it is public record. Also, if it is on a privately owned computer or cell phone that does not necessarily mean it cannot be public record. Her suggestion is that if something is received on a personal computer that could be considered a public record, the best practice is to forward the document to your District email account, it can then be archived and saved by the District. With regard to Facebook and Twitter accounts, they can be problematic. Facebook specifically can cause problems, since the topics discussed are very broad in nature and it is possible that the Sunshine Law could be violated by having a dialogue with the public or a person who may serve on a committee that reports to the Board.

Ms. Hartsell explained the role of the Superintendent as it relates to the Board. The court ruling is clear in that the role of the Superintendent is to talk with the Board Members and he has a legal obligation to advise School Board Members so that they can make their best decision. However, the Superintendent cannot act as a liaison between Board Members. It is acceptable for the Superintendent to meet with one (1) member of the Board before a Board Meeting to review what is on the agenda. Mr. Chilmonik informed the Board that one can request an opinion from the Commission on Ethics concerning a Conflict of Interest. You can request an advisory opinion or a formal opinion, depending upon the circumstance. Ms. Hartsell then reviewed the three (3) exceptions to the Sunshine Law which permit a School Board to meet in a closed or executive session (see handout for detail). She also discussed the following; quasi-judicial capacity and attorney-client privilege, as it relates to Board Members. (See handout for detail). Ms. Hartsell next brought up the topic of application of the Sunshine Law to someone who has been elected as a Board Member, but has not yet taken office (refer to handout for detail). Mrs. Dozier presented a question regarding speaking to a candidate who is running to become a School Board Member, but has not yet been elected, would that a violation of the Sunshine Law? Ms. Hartsell stated that in this case, it would not be a violation, since the person had not yet been elected. It would be like speaking to someone in the general public. It is also acceptable to give your opinion at a meeting which you were invited to attend (such as the Rotary Club) when another Board Member is also present. She cautioned the Board Members to be careful to not have a dialogue about a specific topic with a fellow Board Member at this type of meeting. Comments should be directed to the group being addressed, rather than other School Board Members who may also be in attendance at the meeting.

Mr. Chilmonik raised the question of whether internet advertising would suffice as official notice of meetings. Ms. Hartsell explained that the law now states that the agenda and any back up materials for a regular meeting must be available on-line on the website seven (7) days in advance of the meeting. The next topics discussed were; abstaining from voting and advisory boards or special board committees complying with the requirements of the Sunshine Law (see handout for detail). Ms. Hartsell asked the Board to keep in mind that a private organization may be subject

to the Sunshine Law if they are making a recommendation to the Board and the Board is acting on that recommendation. Restrictions regarding the location of a Board Meeting were also discussed (see handout for detail). Mr. Teuber raised the question of whether notes could be passed between Board Members at a meeting. Ms. Hartsell stated that this is acceptable, as long as the notes are not regarding any action to be taken. It is good policy to always retain the notes, in the event the Board is asked to produce them.

Ms. Hartsell concluded her presentation. She informed the Board that all of the Attorney General Opinions that she spoke of are referenced in the back of the book that was given to the Board Members as a hand out.

III. Good of the Order

None

IV. Adjournment

The meeting adjourned at 11:45 a.m.

Steven K. Teuber, J.D., Board Chair

ATTEST:

James W. Browder, Ed.D. Superintendent

An audio/visual tape of this meeting has been produced to provide a verbatim record of the proceedings. Members of the public may obtain a copy of the tape of any meeting by making a request for such through the Communications Department and paying the actual cost of copying the tape. Members of the public may view any Board meeting tape at the Communications Department at no cost. Anyone wishing to view a Board meeting tape should contact the Communications Department at 337-8327 to make such a request.