

THE TOC AND THE FLORIDA SUNSHINE LAW

In a 9/10/96 informal opinion to Barbara Markham, SFWMD General Counsel, The TOC created in the settlement agreement was determined by the Florida Attorney General to be a body that is subject to the Florida Sunshine Law. The Attorney General opined:

“. . . the creation of the Technical Oversight Committee by the Department of Environmental Protection and the South Florida Water Management District to perform an integral function in the decision-making process regarding the restoration, preservation, and protection of the Everglades by these agencies *makes it subject to the open meeting requirements* of section 286.011, Florida Statutes”.

- This law governs meetings and activities of public bodies and committees that make and recommend decisions or rank or evaluate options that eliminate opportunities for alternative choices by a decision maker.
- Staff activities that focus on implementation of policy (not the formulation of policy) and that perform technical staff functions such as information and fact-finding consultation, identification of alternatives, evaluation and comparison of alternatives through identification of positive, neutral and negative impacts of each alternative are **not** subject to the Sunshine Law.

WHAT IS AN “OPEN MEETING” PURSUANT TO THE SUNSHINE LAW?

A District “**open meeting**” covered by the Sunshine Law is a meeting:

For which reasonable advance public notice has been provided. Specific requirements for the District and other state agencies – Sec. 120.525, FS – Except for emergencies, publication in Florida Administrative Weekly (7 days prior to meeting).

For which an agenda was made available at least 7 days prior to the date of the meeting; this is not required by the Sunshine Law, but by Sec. 120.525, FS, which applies to the District.

That occurs at a publicly accessible facility.

At which minutes are kept (audio or video recording is not required).

- Any discussion (in person, by phone or by e-mail) between or among 2 or more members of a committee about any matter (such as a recommendation, report, update, motion) upon which foreseeable action will be taken by the committee or by the agency that created or appointed the committee **must** occur at an open meeting.