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.