

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, September 21, 2016 2:10 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: Adam Old, Member, El Portal Tree Advisory Board (Sunshine Law) INQ 16-213 (addendum)

Please pdf and add to INQ 16-213 as an addendum.

From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, September 20, 2016 2:12 PM
To: Sanchez, Rodzandra (COE) <Rodzandra.Sanchez@miamidade.gov>
Subject: Adam Old, Member, El Portal Tree Advisory Board (Sunshine Law) INQ 16-213

INQ 16-213 Old

From: Ethics (COE)
Sent: Tuesday, September 20, 2016 2:11 PM
To: 'Adam Old' <adamold@gmail.com>
Cc: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>
Subject: INQ 16-213 Adam Old, Member, El Portal Tree Advisory Board (Sunshine Law)

Mr. Old:

You have inquired in your capacity as a member of the "Tree Advisory Board" in the Village of El Portal regarding whether the Sunshine Law will apply to volunteer staff persons who conduct, on behalf of the board, a tree survey in the Village to provide information to the board that will assist it in performing its public duties. Your board is purely an advisory board in the Village, and has no formal decision-making authority or power, other than to advise and provide recommendations to the Village Council. It intends to utilize volunteers (which may include board members) to go out and conduct a survey of existing trees and to use the information gathered by these volunteers in its work advising the Village Council. It is my understanding that, in this role they are acting at the direction of the board, but have not been delegated any of the actual powers or duties of the board.

As an advisory board formed by local government, the Tree Board is subject to the Florida Sunshine Law (Section 286.011, Florida Statutes), which you have acknowledged. In general, where a board or any other public decision-making authority uses staff to carry out its functions, those staff members are considered to be individuals, rather than a board or committee subject to the Sunshine Law, provided that the staff members do not themselves act as a board, i.e., conduct meetings, take votes and provide recommendations as a board to the government. From what you have described, these individuals will be going around the Village and gathering and compiling factual information for your board. Assuming that they do not act as a board in making governmental decisions or formulating recommendations, then they are not considered to be a public board subject to the Sunshine Law.

Additionally, a public advisory board that has no ultimate decision-making authority, while engaged in fact-finding and not operating as a board making recommendations to government, is not required to conduct such fact-finding activities under the Sunshine Law. See *Sarasota Citizens For Responsible Government vs. City of Sarasota, Florida*, 48 So.3d 755 (Fla. 2010). Therefore, it would not be improper for members of your board to engage in such fact gathering activity outside of the Sunshine. However, I would caution that while doing so they still are members of the "Tree" advisory board and should refrain from any conversations with fellow board members concerning issues that may be coming before that board.

If you have any further questions, please feel free to contact us.

Sincerely,

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 579-2594
Fax: (305) 579-0273
ethics.miamidade.gov



From: Adam Old [<mailto:adamold@gmail.com>]
Sent: Tuesday, September 20, 2016 1:00 PM
To: Ethics (COE) <ethics@miamidade.gov>
Subject: Re: Advisory/working board sunlight question

Village of El Portal

On Sep 20, 2016, at 12:18 PM, Ethics (COE) <ethics@miamidade.gov> wrote:

Mr. Old,

I will be happy to respond to your inquiry. Please inform us of which municipality you are associated with.

Joseph M. Centorino

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<image001.jpg>

From: Adam Old [<mailto:adamold@gmail.com>]
Sent: Tuesday, September 20, 2016 10:03 AM
To: Ethics (COE) <ethics@miamidade.gov>
Subject: Advisory/working board sunlight question

Hello, I am sitting on a council-appointed 3-person "Tree Board" with broad advisory role to the City Council about municipal trees. We understand that we are required to keep public records, notice meetings and generally avoid talking to each other about board-responsibilities outside of noticed sunshine meetings. Since some of the recommendations to the City Council we would like to give will need work to come up with (for example, we would like to conduct a survey of existing trees) we are interested in recruiting volunteers to help with certain aspects, and possibly to act as our informal and ad-hoc "staff." My question is, do those people then fall under sunshine, even though they are not appointed, only serve in ad hoc roles, and have no advisory power to the City Council?

If we as the Tree Board recommend to the Council that a tree survey be conducted by volunteers possibly including members of the Tree Board, will that survey then be subject to sunshine in the sense that volunteers can't meet or talk with each other about the survey without prior notice, minutes, etc. Or are they treated more like staff where they would simply keep public records and report back to the Tree Board who would then make presentations to the council when appropriate?

Thank you,

Adam Old

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