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CITY OF DELRAY BEACH

City Attorney's Office



200 NW 1ST AVENUE, DELRAY BEACH, FLORIDA 33444 • (561) 243-7090

MEMORANDUM

TO: Mayor and City Commission

FROM: Lynn Gelin, City Attorney 

DATE: April 11, 2025

SUBJECT: AGENDA ITEM - SPECIAL MEETING OF APRIL 11, 2025
CLOSED ATTORNEY/CLIENT SESSION

The purpose of this memorandum is to call for a closed attorney-client session pursuant to Florida Statutes §286.011(8) for the April 11, 2025, City Commission Special Meeting to discuss case status and strategy related to litigation.

Law requires strict compliance with Florida Statutes §286.011(8). Therefore, prior to the commencement of the closed attorney-client session, the Mayor should read the following:

"The City has scheduled a closed attorney-client session pursuant to Florida Statutes §286.011(8) in the case of Alison Genco v. City of Delray Beach, a political subdivision of the State of Florida, No. 50-2023-CA-007528. The estimated length of the closed session shall be approximately 60 minutes. The following persons will be attending: Mayor Thomas F. Carney Jr., Vice-Mayor Rob Long, Deputy Vice-Mayor Angela Burns, Commissioner Thomas Markert, Commissioner Juli Casale, Assistant City Manager Jeff Oris, City Attorney Lynn Gelin, Outside Counsel Jonathan Midwall and Outside Counsel Olga Butkevich, and a certified court reporter."

After the closed session is over, the Mayor should announce that the Special Meeting is reopened, and the closed session is terminated.

By copy of this memorandum to Terrence Moore, City Manager, our office requests that the agenda be prepared giving reasonable public notice of the time and date of the closed attorney-client session for April 11, 2025, at 12:00 p.m. and that the agenda item include the name of the case, the names set forth above of those persons attending the session, and identify the item as a closed door session pursuant to Florida Statutes §286.011. Our office will arrange for a court reporter to be present as required by statute. Attached is a copy of Fla. Stat. §286.011.

LG:ci

Attachment

cc: Terrence Moore, City Manager
Alexis Givings, City Clerk

The 2024 Florida Statutes (including 2025 Special Session C)

[Title XIX](#)

[Chapter 286](#)

[View Entire Chapter](#)

PUBLIC BUSINESS

PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS

286.011 Public meetings and records; public inspection; criminal and civil penalties. –

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(4) Whenever an action has been filed against any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision to enforce the provisions of this section or to invalidate the actions of any such board, commission, agency, or authority, which action was taken in violation of this section, and the court determines that the defendant or defendants to such action acted in violation of this section, the court shall assess a reasonable attorney's fee against such agency, and may assess a reasonable attorney's fee against the individual filing such an action if the court finds it was filed in bad faith or was frivolous. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission. However, this subsection shall not apply to a state attorney or his or her duly authorized assistants or any officer charged with enforcing the provisions of this section.

(5) Whenever any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision appeals any court order which has found said board, commission, agency, or authority to have violated this section, and such order is affirmed, the court shall assess a reasonable attorney's fee for the appeal against such board, commission, agency, or authority. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission.

(6) All persons subject to subsection (1) are prohibited from holding meetings at any facility or location which discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in such a

manner as to unreasonably restrict public access to such a facility.

(7) Whenever any member of any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision is charged with a violation of this section and is subsequently acquitted, the board or commission is authorized to reimburse said member for any portion of his or her reasonable attorney's fees.

(8) Notwithstanding the provisions of subsection (1), any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision, and the chief administrative or executive officer of the governmental entity, may meet in private with the entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency, provided that the following conditions are met:

(a) The entity's attorney shall advise the entity at a public meeting that he or she desires advice concerning the litigation.

(b) The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.

(c) The entire session shall be recorded by a certified court reporter. The reporter shall record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting.

(d) The entity shall give reasonable public notice of the time and date of the attorney-client session and the names of persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney-client session and the names of the persons attending. At the conclusion of the attorney-client session, the meeting shall be reopened, and the person chairing the meeting shall announce the termination of the session.

(e) The transcript shall be made part of the public record upon conclusion of the litigation.

(9)(a) Notwithstanding any law to the contrary, a regional citizen volunteer advisory committee, created to provide technical expertise and support to the National Estuary Program established by Congress under s. 320 of the Clean Water Act, whose membership is composed of representatives from four or more counties may conduct public meetings and workshops by means of communications media technology as defined in s. 120.54(5)(b)2. An advisory committee member who participates in a public meeting or workshop by communications media technology is deemed to be present at the meeting or workshop. The use of communications media technology must allow for all persons attending the meeting or workshop to audibly communicate as if the person is physically present.

(b) The notice for a public meeting or workshop must state whether the meeting or workshop will be conducted using communications media technology, how an interested person may participate, and the location of facilities where communications media technology will be available during the meeting or workshop.

History.—s. 1, ch. 67-356; s. 159, ch. 71-136; s. 1, ch. 78-365; s. 6, ch. 85-301; s. 33, ch. 91-224; s. 1, ch. 93-232; s. 210, ch. 95-148; s. 1, ch. 95-353; s. 2, ch. 2012-25; s. 1, ch. 2024-17.