



27 November 2012

The Honorable Sarah "Sam" Seevers
City of Destin
4200 Indian Bayou Trail
Destin, FL 32541

Re: Sunshine Law Issues/City of Destin Economic Development Working Group

Dear Mayor Seevers:

I read with interest and some alarm the article in Sunday's *The Destin Log* about the Destin City Council's plan to create a "working group" tasked with the job of creating an economic development plan for the City. <http://www.nwfdailynews.com/local-news/destin-councilman-leery-of-closed-door-planning-meetings-1.54740?tc=cr>

According to the article, the group, comprised of representatives from the Destin Area Chamber of Commerce, the Economic Development Council of Okaloosa, and the city, will be meeting behind closed doors to formulate the plan which must then be approved by the City Council. Shane Moody, President and CEO of the Chamber, is quoted as saying that the policy would not "be written outside of the Sunshine Law because the group's recommendations must be approved by the City Council." It is precisely for this reason – that the recommendations must be approved by the City Council – that the working group *must* comply with the requirements of the Sunshine Law, Mayor Seevers.

It is well-settled under Florida law that advisory boards and committees – in this case, a working group – created by a public agency for the purpose of making recommendations to the public agency will be subject to the requirements of s. 286.011, F.S., Florida's Sunshine Law. *See, e.g., Town of Palm Beach v. Gradison*, 296 So. 2d 473, 476 (Fla. 1974) ("any committee established by the Town Council to act in any type of advisory capacity would be subject to the provisions of the government in the sunshine law"). Sunshine requirements will apply even if the recommendations of the working group are not binding on the Council. *Spillis Candela & Partners, Inc. v. Centrust Savings Bank*, 535 So. 2d 694, 695 (Fla. 3d DCA 1988) (an "ad hoc advisory board, even if its power is limited to making recommendations to a public agency and even if it possess no authority to bind the agency in any way, is subject to the Sunshine Law").

Additionally, members of the economic development working group are subject to the same sunshine requirements as are the members of the Destin City Council. *See Monroe County Pigeon Key Historical Park, Inc.*, 647 So. 2d. 857, 869 (Fla. 3d DCA 1994) ("[T]he Sunshine Law equally binds all members of governmental bodies, be they advisory committee members or elected officials.")

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Thus, in the absence of a specific exemption, any discussion between two or more members of the working group about the economic development plan to be submitted to the Destin City Council for its approval “must be open to the public, noticed to the public, and minutes” of such meeting must be kept. *2012 Government-in-the-Sunshine Manual*, p. 4.

I fully realize that it might be “quicker” to work outside the Sunshine, Mayor, but when the City is spending large sums of public money in support of economic development projects which are frequently of great interest and concern to area residents, the public should be allowed the opportunity to assure itself that the City is working in its best interests.

I appreciate your attention to our concerns, and sincerely hope that the Destin City Council will take the necessary action to ensure that the economic development working group transacts its business in the most open and transparent manner possible. If we at the First Amendment Foundation can be of any assistance, please don't hesitate to contact me.

Sincerely,

Barbara A. Petersen

Barbara A. Petersen, President

Cc: Jon Kaney, FAF General Counsel