

Sunshine Law-courtesy meeting of town council

Number: INFORMAL

Date: January 31, 2003

Subject:
Sunshine Law-courtesy meeting of town council

The Honorable Richard E. Gerstein
State Attorney
Eleventh Judicial Circuit
Metropolitan Dade County
Justice Building
Sixth Floor
1351 N.W. 12th Street
Miami, Florida 33125

Attention: Mr. David I. Gilbert, Assistant State Attorney

Re: SUNSHINE LAW—applicability to "courtesy meeting" of town council. Section 286.011, F.S.

Dear Mr. Gerstein:

This is in response to your recent request for an opinion on whether the factual situation outlined in your letter of October 13, 1975, could be found to constitute a violation of Florida's Government in the Sunshine Law.

This office has consistently taken the position that all meetings of two or more members of a covered board or commission must at all times be open to the public and minutes recorded unless exempted from section 286.011, F.S., by statute. I am unaware of any statute which permits a town council to hold private meetings under the circumstances outlined in your letter. To the contrary, the Supreme Court has ruled that all phases of a public meeting, including deliberations, are subject to Section 286.011, F.S. See *Canney v. Board of Public Instruction of Alachua County*, 278 So.2d 260 (Fla. 1973).

Therefore, I am of the view that the facts outlined within your letter constitute a violation of section 286.011, F.S. I would add, however, that a criminal conviction under the Sunshine Law requires a charge and proof of *scienter*. *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 470 (Fla. 1969).

With all good wishes, I remain.

Sincerely,

Robert L. Shevin
Attorney General

Sharyn L. Smith
Assistant Attorney General

RLS/Swd