Fort Myers Beach Management & Planning Session

Diamondhead Beach Resort
Citrine Room – 3rd Floor
2000 Estero Blvd.
Fort Myers Beach, FL 33931

Agenda **Thursday, November 9, 2023** **9:00 AM**

ORDER OF BUSINESS

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Presentation: Urban Land Institute (ULI)
ULI Advisory Services Program presented by Jackie Davis, Executive Director or ULI Southwest Florida and Lauren McKim Callaghan, Senior Director, Advisory Services.

B. Prioritizing Public Benefits
What is a public benefit?

C. Form 6 - Full and Public Disclosure of Financial Interests
Form 6; information only

IV. AGENDA MANAGEMENT

A. November 2023

V. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON FACEBOOK AND YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.

For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.

Town of Fort Myers Beach
Agenda Item Summary

Green Sheet Number: **2024-1298**

1. **Requested Motion**:

Meeting Date: November 9, 2023

ULI Advisory Services Program presented by Jackie Davis, Executive Director or ULI Southwest Florida and Lauren McKim Callaghan, Senior Director, Advisory Services.

Why the action is necessary:

What the action accomplishes:

2. **Agenda**:
ITEMS FOR DISCUSSION

3. **Requirement/Purpose**:

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5. **Background**:
Lauren McKim Callaghan, Senior Director, Advisory Services
Jackie Davis, Executive Director of ULI Southwest Florida

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations**:

8. **Recommended Approval**:

Town of Fort Myers Beach
Agenda Item Summary

Green Sheet Number: **2024-1300**

1. **Requested Motion:**

Meeting Date: November 9, 2023

What is a public benefit?

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**
ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

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5. **Background:**
Staff has been directed to provide some information regarding what the Town should qualify as a public benefit in a development. When development asks for more development intensity than is allowed by right, such as additional floor area ratio (FAR) or a higher density multiplier for the number of rooms or smaller setbacks or taller buildings, they will often propose public benefits as a way to compensate for the additional development they are requesting. The Town Council has to determine if the public benefit that is being proposed is commensurate with the request for additional development and in some instances, whether or not the proposed benefit is even desirable to the Town.

Attachments:
1. Public Benefit Memo
2. Exhibit A - Polk County Bonus Point Example
3. Exhibit B - Destin FL Bonus Tier Example Comp Plan Policy

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

______________________________ Date: October 27, 2023
Amy Baker, Town Clerk

______________________________ Date: October 27, 2023
Gretchen R.H. Vose, Town Attorney

______________________________ Date: October 27, 2023
Andy Hyatt, Town Manager

Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT

To: Town Council Management and Planning

From: Sarah Propst, Community Development

Date: November 9, 2023

Re: Development Public Benefit

BACKGROUND

Staff has been directed to provide some information regarding what the Town should qualify as a public benefit in a development. When development asks for more development intensity than is allowed by right, such as additional floor area ratio (FAR) or a higher density multiplier for the number of rooms or smaller setbacks or taller buildings, they will often propose public benefits as a way to compensate for the additional development they are requesting. The Town Council has to determine if the public benefit that is being proposed is commensurate with the request for additional development and in some instances, whether or not the proposed benefit is even desirable to the Town.

This was discussed previously and staff suggested that the Town could have a bonus point system that made it clear what could be offered to the Town in exchange for development potential. A copy of the code that two communities use for bonus systems is attached. However, this fairly complex option did not seem like the direction that Council was interested in, at the time it was discussed. It is important to note that this type of system would provide clarity for developers but is fairly rigid.

Another option is to develop a list of the items that the Town considers to be high value public benefits and a list of lower value public benefits. This may be helpful to categorize benefits that many developers will list but may be more of a benefit to the development, not the Town. For example, a beach access in a location where one doesn't exist would be a benefit for the Town but building a structure to meet flood and building code requirements is not a benefit to the Town, it is required. Having a list of what qualifies as a public benefit will help developers know what the Town cares about but this will not provide the clarity of a point system.

OPTIONS

At the previous hearing there were many items brought up as public benefits. The list below are the items that seemed to get the most discussion during the meeting.

Potential Public Benefits:
- Giving the Town (local streets) or County (Estero Blvd) additional right of way width,
- Giving the Town beach access points, where desirable,
- Providing or cooperating with multi-modal transportation options (water taxi, airport shuttle, bus shelter, etc.)
- Pedestrian bridges over Estero Blvd,
- Right of way landscaping, where desirable,
- Views of the beach,
- Land for public parks,
- Land for public facilities,
- Public art,
- Affordable housing,
- Significant public infrastructure investment,
- Florida friendly plantings for the entire site, that do not require irrigation,
- Multi-use pathways and trails available to the public,
- Wildlife habitat/native plant community buffers

RECOMMENDATION

Staff asks that the Town Council provide input on the list of options provided and discuss any additional items that might be considered a public benefit. Please also advise staff of how or if you would like this incorporated into the Land Development Code and if there is any interest in a point system.

EXHIBITS

Exhibit A – Polk County Bonus System
Exhibit B – Destin Bonus System

Section 401.04 US Highway 98 Selected Area Plan (Revised 12/1/10 - Ord. 10-082; 5/18/05 - Ord. 05-18)

O. **Density and Dimensional Regulations**

Changes to the standards as listed in Section D of this SAP shall comply with the following:

1. Non-residential Development Floor Area Ratio (FAR) Range Table - The maximum FAR ranges for non-residential land use designations are provided in Table 4.13a below. The lowest number in the table for each Future Land Use designation is the maximum FAR permitted. However, FARs up to the highest shown in the table, for each Future Land Use designation, may be achieved through bonus points and/or a Planned Development (PD) pursuant to the Land Development Code. FAR standards will not apply to residential development;

Table 4.13a											
	Future Land Use Designations										
	CEX	**LCCX**	**NACX**	**ECX**	**INSTX**	**INDX**	**BPCX**	**TCX**	**LRX**	**OCX**	**CCX**
P	**0.30**	**0.35**	**0.35**	**0.70**	**0.50**	**0.65**	**0.60**	**0.50**	**0.50**	**0.35**	**0.25**
B	0.60	0.60	0.60	0.80	0.75	0.80	0.80	0.75	0.75	0.50	**0.50**
PD	0.75	0.75	0.70	1.50	1.00	1.50	1.50	1.0	1.0	0.70	**0.65**

Notes:
P = Permitted with a Level 2 Review in the US 98 SAP.
B = Density Bonus Points (Table 4.13d) are required and permitted with a Level 2 Review in the US 98 SAP.
PD = Planned Development with the necessary Density Bonus Points (Table 4.13d) are required and permitted with a Level 3 Review in the US 98 SAP.

2. Non Residential Ratio FAR Development - Table 4.13a shall be implemented as follows:

   a. The FAR shown in the row designated with a "P" will be reviewed through a Level 2, unless other requirements of this Code require a different Level of Review;

   b. Any FAR above those shown in the row designated as "P" and up to those shown in the row designated B, shall be reviewed through a Level 2, unless other requirements of this Code require a different Level of Review. However, to achieve a higher FAR than those shown in the row designated with a P, shall require 5 bonus points, using Table 4.13d, for an increase of .05 FAR. In addition, bonus points shall be used from at least three sections, even if the amount of bonus points achieved is more than needed. The purpose is to ensure variety of amenities for any development.

   c. Any FAR above those shown in the row designated as "B" and up to those shown in the row designated as PD, shall be reviewed through a PD. Applicants requesting to use this option shall specifically demonstrate the following in the Level 3 application:

      i. How the development is different and unique than other developments within the County either incorporated or unincorporated;

      ii. How the development would improve the area surrounding the proposed development; and,

iii. Residential development within non-residential districts is required to obtain five bonus points for every one dwelling unit per acre du/ac of density.

3. Residential Development - The US 98 Selected Area Plan is planned for compact, efficient growth. In order to determine how to achieve a certain density, refer to Table 4.13b. This table indicates the maximum average lot size, the density range required, and the steps needed to achieve them. The maximum average lot size describes how development in this SAP may contain a variety of lot sizes provided the average for the entire development does not exceed the maximum allowed in that district. Development exceeding the allowable maximum average size may be requested as part of a Planned Development which includes bonus points from at least three different categories of those listed in Table 4.13d. If a desired density requires bonus points (B) or a Planned Development (PD) approval, the following shall apply:

   a. FAR standards will not apply to residential development;

   b. Each request that is required to use bonus points shall, at a minimum, obtain bonus points from at least three different categories even if the points obtained is above the needed amount;

   c. Suburban Planned Developments within the RSX land use district shall require 10 points to achieve a maximum of two du/ac and then 10 points for each half unit per acre (or fraction thereof) increase up to three units per acre; and,

   d. Increases or decreases in density within the RLX land use districts as provided in table 4.13b, shall require five points for every half unit per acre (or fraction thereof) change;

   e. Bonus points for Increases in density for RMX and RHX land uses are provided in Table 4.13b.

Table 4.13b US 98 SAP Density Schedule (Revised 01/24/12 - Ord. 12-003)

Residential Land Use Districts (Maximum Density du/ac) Maximum Average Lot Size (Square Feet)(1)(2)							
Density (du/ac)	RL-1X 30,000(1)	RL-2X 15,000(1)	RL-3X 10,000(1)	RL-4X 8,000(1)	Density (du/ac)	RMX(3)	RHX(3)
#1	P	B			> 5 - 8	B	
> 1 - 2	B	P	B		> 8 - 10	B	B
> 2 - 3	B	B	P	B	> 10 - 12		B
> 3 - 4	PD	B	B	P	> 12 - 15		B
> 4 - 5	PD	PD	B	B			
> 5 - 6	D	D	PD	B			

Notes for Table 4.13b:
P = Permitted with a Level 2 Review in the US 98 SAP.
B = Density Bonus Points are required and permitted with a Level 2 Review in the US 98 SAP.
PD = Planned Development (a Level 3 Review) approval with the necessary Density Bonus Points is required in the US 98 SAP.
D = Maximum density in the RL-1X and RL-2X can only be achieved with the donation of a public school site.
(1) Maximum Average Lot Size - A development may contain a variety of lot sizes as long as the average for the entire development does not exceed the maximum allowed in that district.
(2) Each single-family attached unit (including each duplex unit) shall be placed upon an individual lot and shall be bound to the maximum average lot restrictions of this table.
(3) RMX and RHX do not have minimum lot sizes. The density requirements dictate land usage.

Table 4.13c Planned Development (PD) Density Bonus Points			
RM		RH	
Points Achieved	Maximum Density du/ac (#)	Points Achieved	Maximum Density du/ac (#)
35	#5.5	35	#8.0
30	6.0	33	8.5
25	6.5	31	9.0
20	7.0	29	9.5
15	7.5	27	10.0
10	8.0	25	10.5
15	8.5	23	11
18	9.0	21	11.5
21	9.5	19	12
24	10.0	17	12.5
		15	13
		13	13.5
		11	14
		9	14.5
		7	15

Table 4.13d Density and Floor Area Ratio Bonus Point Schedule(1)

Type of Amenity	Type of Bonus
INFRASTRUCTURE AND SERVICE CATEGORY	
Donation of usable land for public safety(2)	An increase in density of 5% for every acre donated. If an entire site is donated, accepted, and can be used for more than one services such as Fire and EMS, the maximum density or FAR of Table 4.13a and 4.13b can be used
Donation of usable land for schools (elementary, middle, or high)(2)	If the site is accepted by the School Board, the maximum density or FAR of Table 4.13a and 4.13b can be used. Only entire sites may be counted towards this density increase
Donation of usable land for community or regional parks(2)	2 pts per acre up to the amount needed by the County - If the site is accepted by the County, the maximum density or FAR can be used
Extending sidewalks beyond frontage	1 point for every 100 feet beyond the 100 additional feet required by the Chapter 7
Decorative Internal street lighting (historical, art deco, or neo-traditional street lighting). Binding lighting details required	1 pts
DESIGN	

Public Art (murals and sculptures)	2 pts
Open space (beyond requirements)	2 pts per 5% (up to 12 pts)
Vertical development for mixed use buildings (does not include single unit residential development)	2 pts per story above 1 (up to 10 pts)
Traffic calming	1 point
(1) On street parking outside the TCX	
(2) Crosswalks with cobblestone or other similar pavers	2 points
(3) Intersections with cobblestone or other similar pavers	3 points
(4) Internal Tree lined roads with sidewalks	3 points
(5) Tree lined medians	3 points
(6) Roundabouts	3 points
(7) Others approved by DRC	3 points
Alternative driveways (alleys)	3 pts per phase
Garage entrance to side or recessed garage	1 pt for each 50% of development
Zero lot line/cluster development	2 pts
Village design (See definition)	5 pts
If not part of open space, landscaping the perimeter of storm water ponds with at least a type "A" buffer	2 pts
If not part of open space, shaping wet or dry retention ponds in a natural shape that exists in nature	2 pts per pond
Picnic areas, trails, open space, and natural areas connecting to adjacent offsite land	3 pts
Landscape on all sides of external wall	2 pts
TRANSPORTATION	
Open space with pedestrian use area or corridors to break up parking areas	2 pts
Sidewalks in divider median of parking lots to separate pedestrian and vehicular traffic provided at least every other drive isle	5 pts
Curb and gutter for internal roads (less than 3 du/ac)	1 pts
Mass transit stop including shelter and benches (if on a planned or committed route)	3 pts
Parking Structure (exempt from FAR calculation)	6 pts
RECREATION	
More than one active recreation site with amenities	5 pts
Publicly accessible passive recreation (walking paths/trails, bikeway, nature/hiking trail)	5 pts
CONSERVATION	
Florida Friendly, water-wise landscaping (does not need supplemental irrigation) for the entire project	6 pts
Restoration/creation of wildlife habitat that FFWCC certifies is capable of supporting wildlife	6 pts
Greenway Corridor (land area containing a multi-use paved trail that connects to proposed, committed, or existing greenway facility)	1 pt per 1/5 acre
Upland conservation, existing vegetation retained for (add 3 pts when adjacent to an off-site conservation area):	
15% of site	3 pts (6 pts)
20% of site	4 pts (7 pts)

25% of site	5 pts (8 pts)
Existing Wildlife habitat or native plant community open space	5 pts per whole acre
Wetland/Waterbody buffer (in addition to the required vegetative buffer) averages an additional:	
25 feet upland	2 pt
50 feet upland	3 pts
75 feet upland	4 pts
Wildlife habitat/Native plant community buffer	
15 feet upland	1 pt
30 feet upland	2 pts
50 feet upland	3 pts
Land reserved for active agricultural production (platted)	4 pts per acre
Land planted as wildflower field (platted)	3 pts per 5000 square feet (may be linear)
DEVELOPMENT	
Affordable housing (based on HUD standards)	10% of project = 0.5 du/ac increase 5% of project = 0.25 du/ac increase
Notes: (1) At a minimum, all development required to provide Density Bonus Points shall select points from at least three of the categories from this table. (2) An agreement must be made with the service provider prior to any approvals/acceptance that the site will be used by the public safety provider. Applicant may use property adjoining the proposed facility site, not within the proposed development, to ensure the total amount of acreage needed by the service provider for the service is secured. Commitment letter will be required by the adjoining land owner with a legal description attached, and final dedication prior to any construction.	

(Ord. No. 19-055 , § 2, 8-20-2019)

3. Count I properly includes the Tier 3 development bonuses because the City cannot lawfully refuse to grant such development bonuses.

a. DFF is entitled to the Tier 3 development bonuses as a matter of right upon providing or paying for sufficient "public benefit."

The City's 2010 Plan provided bonuses for height, intensity, and density ("development bonuses") for the DFF's Property if DFF provided "public benefits." The 2010 Plan specifically provides in pertinent part as follows:

> **Policy 1-2.1.8: Height, Intensity, and Density Bonus Provisions.** Height, intensity, and density bonus provisions are provided in the HDR, CMU, SHMU, NHMU, TCMU, GRMU, BRMU, HIMU and CBR Land Use Designations. These provisions shall be initiated to stimulate reinvestment in high standards of design through implementation of a tiered regulatory system that grants incentives for actions that are consistent with design criteria that cannot otherwise be mandated. The outcome shall result in high quality, innovative development that enhances site and building design, achieves land use compatibility, promotes non-motorized mobility, and provides the opportunities for achieving extraordinary public benefit. Height, intensity, and density provisions are provided in three levels or "Tiers" of development criteria. The tiered system of regulatory measures shall not be interpreted as establishing a guarantee of an increase in density or intensity. The tiered system simply promotes public-private partnerships, allows for equitable use of land, assists in avoidance of takings and promotes design initiatives that assist in Comprehensive Plan objectives, especially within major activity centers contributing potential transit ridership. Tiers 2 and 3 provide height, intensity and density bonus provisions.
>
> ***
>
> Tier 3: Allows the highest building height and density thresholds based on compliance with a planned unit development regulatory procedure that places special emphasis on attaining a heightened level of amenities beyond Tier 2 levels. The additional height and density will be achievable if the development meets all requirements of a Planned Unit Development (PUD) with special emphasis on providing a specified "public benefit." The Tier 3 development review procedures shall require adherence to Tier 2 development standards and submittal of engineered three-dimensional models, virtual computer images, architectural renderings, shadow analysis and/or other analyses that are appropriate to the character of development proposed. Such submittals shall demonstrate the

Tier System

- But "reasonable" expectation.
- City cannot keep requiring more + more
- limits to the measure of public benefit it's being applied to the desired height, density and/or intensity

Analogy: Vending Machine

Tier 1 vs Tier 2 vs Tier 3

impact of the project on access to light, impact on airflow dynamics, as well as other visual impacts that may be deleterious to adjacent properties, motorists, pedestrians, or segments of the population. Specific examples of "public benefit" promoted by Tier 3 thresholds include the following:

1. **Beach Access Improvements**. For improved access to the Beaches, this objective shall be carried forth within the GRMU, CBR and HIMU designated areas through private investment in the form of dedicating pedestrian easements to the public for access from public areas to the beach (public beach access points), the design, permitting and construction of beach/dune walkovers facilities that include public showers, and access to that portion of the beach from the mean high water line to a reasonable distance to the (public beach).
2. **Off-Site Public Parking Garage.** Within one year from Plan adoption, the LDC shall be amended to allow an additional percentage of the parking spaces required for non-residential uses to be located "off-site." The "additional percentage" shall be greater than the percentage allowed in the LDC provision that implements Policy 2-1.3.7. However, the LDC shall be amended to require that a certain percentage of the total parking garage spaces built in the previously mentioned off-site parking garage shall be dedicated to the City for public use.
3. **Preserve Significant View of the Gulf and Harbor.** Preserve coastal water views that would clearly be imperiled without the provision of incentives. This incentive is applicable to sites with exceptional waterfront views. Applicants for such incentive must submit scaled three-dimensional models demonstrating the preservation of a valuable view corridor and vista is a public benefit.
4. **Develop Work Force Housing in the North Harbor Mixed Use Area.** The City shall develop a market sensitive affordable housing incentive program for the local low wage work force that generally cannot achieve access to the housing market. The affordable housing program shall include innovative approaches that address both demand and supply issues. The affordable housing program shall incorporate non-conventional housing options designed to meet the basic housing and service needs of the local low wage work force.
5. **Relocation and Conversion of Above Ground Utilities to Below Ground Locations.** Encourage private investment in relocation and converting above ground utilities both on and off site.
6. **Construct Open Space Malls and Arcades Equipped with Pedestrian-Oriented Furniture and Streetscape that Serve**

as Gathering Spaces for the General Public. Encourage private investment in public gathering places. Site plans must demonstrate architecturally designed open space malls and arcades equipped with pedestrian-oriented furniture streetscape.

7. **Create and/or Reinforce a Pedestrian Friendly Transit System.** Encourage private investment in creating and/or reinforcing a pedestrian friendly transit system. Such programs must demonstrate a transit friendly environment consistent with an adopted public plan for public transit. The plan shall include transit stops with dedicated area for safe and convenient off-street transit access and passenger shelters equipped with appropriate furnishings, architecturally design lighting and streetscape.
8. **Significant Improvements to Public Infrastructure.** Encourage private investment in off-site infrastructure improvements located anywhere within the city. Examples of such improvements include: purchase and/or dedication of land for rights-of-way, median landscaping,; public parking located within city rights-of-way; construction of sidewalks identified in city wide sidewalk improvement plan; recreational improvements identified in Policy 7-1.4.3; contributions, either in monetary or real property, that will hasten the implementation of any project identified in the most recently adopted five-year capital improvement plan; and any other significant public benefit that enhances public infrastructure throughout the city.
9. **Annexation into the City Limits.** Unincorporated properties seeking annexation shall be eligible for Tier 3 status within the Future Land Use Category established pursuant to an annexation agreement where Tier 3 heights or densities are necessary to maintain equality with the heights or densities achievable through applicable County plans and ordinances.

The height, intensity, and density limits of each of these Tiers is set forth within the "General Development Standards" tables of the respective Future Land Use Designation to which this policy applies. Some of the future land use designations, HDR, BRMU, and the HIMU in particular, have height bonus standards in Tier 2 and Tier 3, but do not have density bonus standards in Tier 2 or Tier 3 or either. The SHMU, NHMU, and TCMU future land use designations have floor area ratio bonus standards in Tier 2 and Tier 3.

See Policy 1-2.1.8, 2010 Plan. (underlined emphasis added)

Town of Fort Myers Beach
Agenda Item Summary

Green Sheet Number: **2024-1301**

1. **Requested Motion:**

Meeting Date: November 9, 2023

Form 6; information only

Why the action is necessary:
Beginning in 2024, Town Council members are required to file (online) Form 6 - Full and Public Disclosure of Financial Interests, rather than the previously required Form 1.

What the action accomplishes:
Compliance with newly enacted ethics requirement.

2. **Agenda:** ITEMS FOR DISCUSSION

3. **Requirement/Purpose:** Other

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5. **Background:**
Beginning in 2024 Town Council members must file by July 1, Ethics Form 6. Formerly, Town Council members were required to file Ethics Form 1.

Attachments:
1. form-6-presentation - FLC
2. Form 6_2021i
3. Sunshine Law, Public Records, and Ethics Training for Town Council Members - 2023
4. 2022 Form 6 Instructions - Electronic Financial Disclosure Management System

Financial Impact:
None

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

______________________ Gretchen R.H. Vose, Town Attorney	Date: October 30, 2023
______________________ Amy Baker, Town Clerk	Date: October 30, 2023
______________________ Andy Hyatt, Town Manager	Date: October 30, 2023

Let The Sunshine In:

Everything you need to know about Form 6

Florida League of Cities
August 11, 2023

Kerrie Stillman
Executive Director
State of Florida Commission on Ethics

Steven Zuilkowski
Deputy Executive Director & General Counsel
State of Florida Commission on Ethics

Today's Agenda

1 **Introduction**
About the Florida Commission on Ethics.

2 **SB 774 & E-filing**
How did we get here and what to expect.

3 **Form 1 vs. Form 6**
Comparing the forms and disclosing on a Form 6.

4 **Questions**
We have answers!

Introduction

About the Florida Commission on Ethics

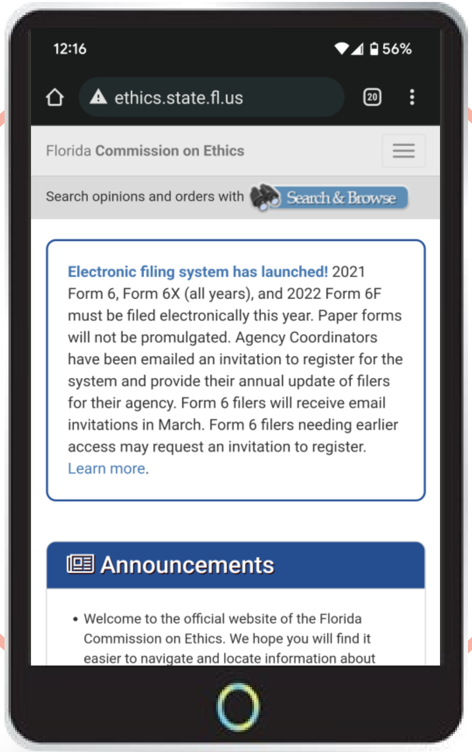
About the Commission on Ethics

...

- There are nine seats on the Commission
  - Appointments by the Governor (5), Senate President (2), and Speaker of the House (2)
  - Appointments are split between the two political parties
- The Commission is charged with administering:
  - The Sunshine Amendment
    (Article II, Section 8, Florida Constitution)
  - The Code of Ethics for Public Officers and Employees
    (Part III of Chapter 112, Florida Statutes)

About the Commission's Website

http://ethics.state.fl.us



Search for Formal Opinions
Keyword search to perform research.

Download Forms
All forms and instructions available to download and print.

Ethics Training
View videos on various ethics topics.

View Form 6 Submissions
Search and view all Form 6 filings by public officers and candidates.

Commission Meeting Materials
View agenda and meeting materials.

Complaint Process Info
Review information about filing a complaint.

SB 774 & E-filing

How did we get here and what to expect.

How did we get here?

- Commission legislative recommendations since 2015.

- Various bills over the years have contained some version of municipal officials filing Form 6.

- SB 774 passed in the 2023 session requiring Mayors and Elected members of the governing body of a municipality to file the Form 6.

- Members of the Florida Commission on Ethics will also file Form 6 beginning in 2024.

E-Filing for CE Form 6

Screenshots of the E-Filing System

- Beginning January 1, 2024, access EFDMS
- Helpful tools for filers in EFDMS
    - Dashboard, Instructions, FAQ's
- 4 Ways to complete the electronic form
    - Fill-in, CPA/Attorney, Excel/CSV import, PDF

Florida Commission on Ethics

Electronic Financial Disclosure Management System

Login

Please tell us what type of user you are:

I am a Form 6 Filer
How to Video
Do you currently hold a public position that requires you to file financial disclosure? If yes, click here.

I am a Candidate
How to Video
Are you a non-incumbent candidate who is attempting to qualify for office, but do not currently hold a public position that requires financial disclosure? If yes, click here.

I am an Organization Coordinator

I am a CPA or Attorney who is assisting a filer

I am a Form 1 Filer

In 2022, Form 1 Statement of Financial Interest will still be filed on paper. Click here to download a Form 1 and instructions.

If you are a Form 1 filer but are qualifying to run for an office with a Form 6 filing requirement, call (850) 488-7864 to request access to the e-filing system.

Electronic filing for Form 1 will launch January 1, 2023.

Public Search

Frequently Asked Questions

SCROLL DOWN

CLICK

Login

Please tell us what type of user you are:

How to Video

I am a Form 6 Filer

Do you currently hold a public position that requires you to file financial disclosure? If yes, click here.

How to Video

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Public Search

Search for Financial Disclosure Filers

Frequently Asked Questions

View Frequently Asked Questions

Instructions

- Form 6 - Full and Public Disclosure of Financial Interests - Instructions
- Form 6X - Amendment to Full and Public Disclosure of Financial Interests - Instructions
- Form 6F - Final Full and Public Disclosure of Financial Interests - Instructions

Announcements

- WELCOME to the new Electronic Financial Disclosure Management System (EFDMS)! Pursuant to statute, beginning January 1, 2022, **ALL FULL AND PUBLIC DISCLOSURE OF FINANCIAL INTERESTS (Form 6, Form 6X, and Form 6F) must be filed utilizing this system. The Commission will promulgate paper forms when the Governor signs HB 5003. Upon his signature, access to the electronic filing system will be paused until January 1, 2023.**
- Instructions, FAQs, and tutorials are available from the dashboard within EFDMS. Additional assistance can be obtained Monday-Friday from 8:00 a.m. until 5:00 p.m. by contacting the Commission.

Florida Commission on Ethics
Electronic Financial Disclosure Management System (EFDMS)

01/01/2023

HOME FAQ Form Filer
Filer - PID 298528

Filer Dashboard

Filing and Forms

View Previous Filing

If you are looking for a form that is not currently shown, whether to satisfy your filing requirement or to qualify as a candidate, visit the Forms and Filing Information page to access all available forms.

File Form

2021 Full and Public Disclosure of Financial Interests (Form 6)
Instructions - Opinions

CLICK

In Progress

Messages

No Messages

Organizations

Commission On Ethics (Year 2022)

Kimberly R. Holmes
disclosure@leg.state.fl.us
(850) 488-7864

Governing Board

Amendments

View Past Amendments

No Amendments found

File Amendment

Quick Links

- Forms and Filing Information
- Notice to Filers
- Public Records Exemption Request
- Request Filing Extension
- Public Search

Florida Commission on Ethics
Electronic Financial Disclosure Management System (EFDMS)

01/01/2023
HOME FAQ Form Filer
Filer - PID 298528

CLICK

Share with CPA or Attorney | ...nt Form | Delete Filing

Resources

- View Past Filings
- Print Instructions
- Financial Disclosure Opinions

Instructions

Instructions for Completing Form 6

Assets Worth More Than $1,000:

[Required by Art. II, s. 8, Fla. Const.; s. 112.3144, F.S.]

Household Goods and Personal Effects:

The value of your household goods and personal effects may be aggregated and reported as a lump sum, if their aggregate value exceeds $1,000. The types of assets that can be reported in this manner are described on the form.

Assets Individually Values at More Than $1,000:

Describe, and state the value of, each asset you had on the reporting date you selected for your net worth, if the asset was worth more than $1,000 and if you have not already included that asset in the aggregate value of your household goods and personal effects. Assets include, but are not limited to, things like interests in real property; cash; stocks; bonds; certificates of deposit; interests in businesses; beneficial interests in trusts; money owed you (including, but not limited to, loans made as a candidate to your own campaign); bank accounts in which you have an ownership interest;

Instructions

EXPANDS

Name: 298528 - Form Six Filer **Filing Status:** In Progress

2021 Form 6-Full and Public Disclosure of Financial Interests

General Information | Net Worth | **Assets** | Liabilities | Income | Interests in Specified Businesses | Training | Review | Sign & Print

Household Goods > Household Goods Amount > Real Property > Real Property Amount > Intangible Assets

You must disclose certain assets.

First, add together the total of your household goods and personal effects.

Is the total value of your household goods and personal effects more than $1,000?

Yes | No

BACK | NEXT

Need help? Most questions about how to complete the disclosure, as well as questions related to features of the e-filing system are answered in the FAQs. Search by key word or navigate by topic.

Didn't find what you were looking for? Contact the Florida Commission on Ethics at disclosure@leg.state.fl.us or (850) 488-7864.

Frequently Asked Questions

Search

FORM 6

- Assets (10)
- Liabilities (1)
- Sources of Income (5)
- Training/Miscellaneous (2)

ACCOUNT

- Financial Disclosure (9)
- My Profile (5)

Assets

+ **How do I value jointly-owned assets?**
+ **How do I disclose assets I own in an investment account, individual retirement account (IRA), or 401(k)?**
+ **How do I disclose my interest in a mutual fund?**
+ **How should I disclose my interest in a business?**
+ **What reporting obligations do I have concerning a vehicle lease?**
+ **Do I disclose funds invested in the FRS Pension Plan or in a Deferred Retirement Option Program (DROP) account?**
+ **How do I disclose my interest in the Florida Prepaid College Plan or the Florida College Investment Plan?**
+ **How should I value my interest in real property, such as my home?**
+ **I own a rental property. How do I disclose it?**
+ **How do I disclose my bank accounts?**

Form 1 vs. Form 6

Comparing the forms and disclosing on a Form 6.

Comparing Form 1 and Form 6

In General

Form 1	Form 6
File electronically in 2024	File electronically in 2024
Due on July 1	Due on July 1
$25/day for being late	$25/day for being late
>35,000 filers	About 5,000 filers
Lots of help available • Instructions • FAQs • On-screen pop-up windows • Commission on Ethics Attorney of the Day hotline	Lots of help available • Instructions • FAQs • On-screen pop-up windows • Commission on Ethics Attorney of the Day hotline
CPA/Attorney can assist filers	CPA/Attorney can assist filers

Comparing Form 1 and Form 6

Disclosure of Net Worth

Form 1	Form 6
A review of your finances over the course of the year	A snapshot of your finances on 12/31 or a more recent day of your choosing
There is no net worth disclosure, but filers did calculate it for the Comparative Threshold	Filers will disclose their net worth on 12/31 or a more recent day

How to Disclose: Net Worth

Please indicate your Net Worth as of the date you selected, even if it is a negative number. Your Net Worth is the total value of ALL YOUR ASSETS minus the total value of ALL YOUR LIABILITIES. Note that in most cases, simply subtracting the liabilities from the assets you report later in this disclosure *will not* accurately reflect your Net Worth, because only certain assets and liabilities are reportable. Please click the instructions tab for specific guidance on calculating your Net Worth.

$ Please enter a number

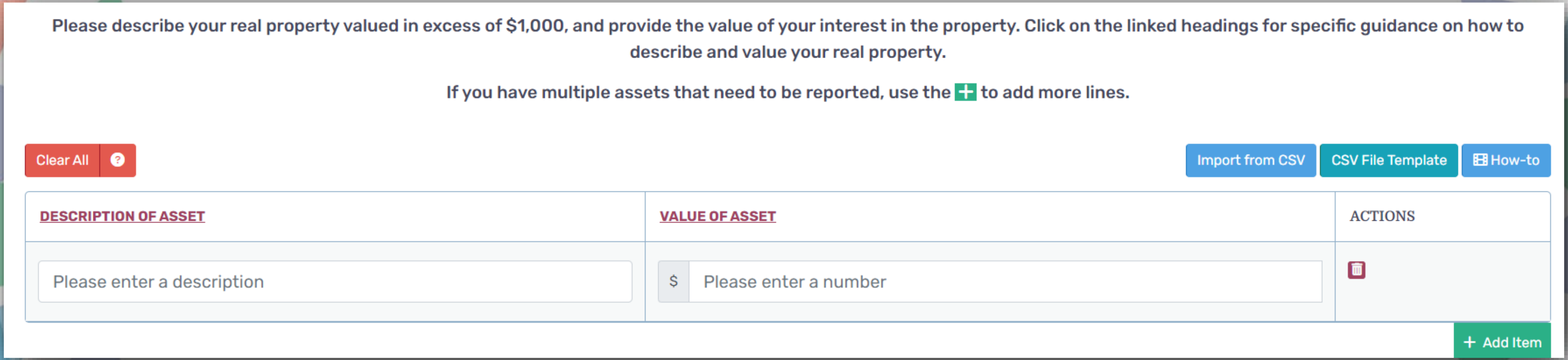
- Snapshot of net worth on December 31 or a more recent date. You will be prompted to choose a date.
- Correct: Sum all assets, subtract all liabilities.
- Incorrect: Sum all *reported* assets, subtract all *reported* liabilities

Comparing Form 1 and Form 6

Disclosure of Assets

Form 1	Form 6
Intangible personal property & certain real property in FL	Intangible, Tangible & Real Property
• Intangible assets over $10,000 individually	• Assets over $1,000 individually • Household goods and personal effects collectively
Type of intangible, business name	Description of asset, value

How to Disclose: Assets



- Household goods and personal effects are disclosed on a separate screen.
- Asset is anything valued $1,000+ that can be sold
- Most common: bank accounts, real property, stock
- Ability to import Excel (.csv file)

Comparing Form 1 and Form 6

Disclosure of Liabilities

Form 1	Form 6
Liabilities over $10,000	Liabilities over $1,000
Owed at any point in the year	Owed on the date chosen
Creditor name/address	Creditor name/address, amount
Exclusions for: • Credit cards • Indebtedness on a life insurance policy • Taxes owed not reduced to a judgment • Contingent liabilities	Exclusions for: • Credit cards • Indebtedness on a life insurance policy • Taxes owed not reduced to a judgment • Contingent liabilities

How to Disclose: Liabilities

CREDITOR NAME	CREDITOR ADDRESS	AMOUNT OF LIABILITY	ACTIONS
Please enter a creditor name	Please enter a creditor address	$ Please enter a number	

+ Add Item

- List all liabilities over $1,000; exclusions in instructions
- Most common: mortgages, car payments, and student loans

Comparing Form 1 and Form 6

Disclosure of Primary Sources of Income

Form 1	Form 6
Income over $2,500	Income over $1,000
Do not disclose public salary	Disclose public salary
Source name/address, description of business	Source name/address, amount

How to Disclose: Income

NAME OF SOURCE OF INCOME	ADDRESS OF SOURCE OF INCOME	INCOME AMOUNT	ACTIONS
Please enter a source name	Please enter a source address	$ Please enter a numt	

+ Add Item

- "Primary sources of income" are items that constitute gross income on federal tax returns (e.g salary, capital gains, etc.)
- Must include your public salary
- May instead attach federal income tax return and all schedules and attachments

Comparing Form 1 and Form 6

Disclosure of Secondary Sources of Income

Form 1	Form 6
Disclose clients/customers if: • Own >5% of the business; • Income from business **>$5,000** • Client/customer contributed >10% of the business's gross income	Disclose clients/customers if: • Own >5% of the business; • Income from business **>$1,000** • Client/customer contributed >10% of the business's gross income
Business name, Client name/ address, Client business description	Business name, Client name/ address, Client business description

How to Disclose: Secondary Sources

BUSINESS ENTITY	MAJOR SOURCES OF BUSINESS INCOME	ADDRESS	PRINCIPAL BUSINESS ACTIVITY OF SOURCE	ACTIONS
Please enter busine:	Please enter business sou	Please enter business address	Please enter business activi	

+ Add Item

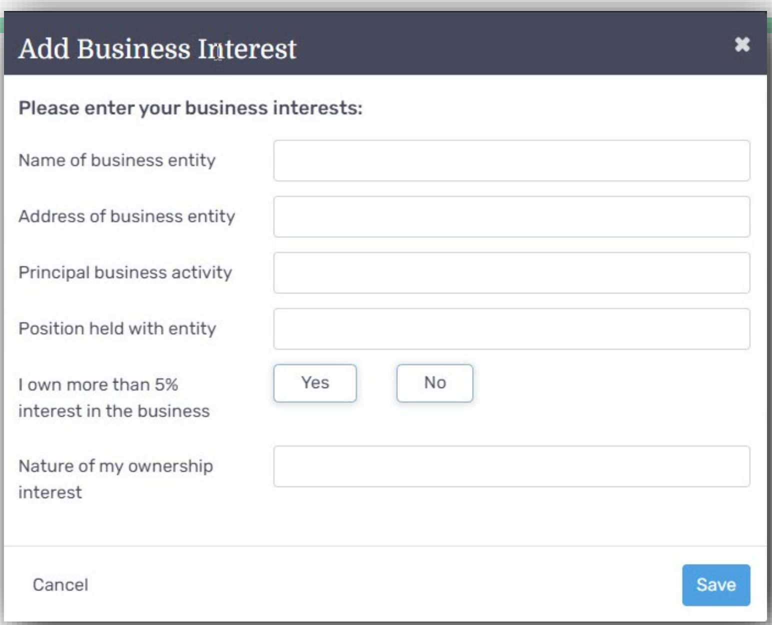
- “Secondary sources of income” are the major clients/customers of businesses of which you own more than 5 percent.
- “Major clients/customers” supply more than 10 percent of your business’s gross income that year.

Comparing Form 1 and Form 6

Disclosure of Interests in Specified Businesses (No difference between Form 1 and Form 6)

Form 1	Form 6
Disclose certain businesses: • Name/Address • Principal business activity • Position held • Whether own >5% • Nature of ownership interest	Disclose certain businesses: • Name/Address • Principal business activity • Position held • Whether own >5% • Nature of ownership interest

How to Disclose: Specified Businesses


Add Business Interest

Please enter your business interests:

Name of business entity

Address of business entity

Principal business activity

Position held with entity

I own more than 5% interest in the business — Yes / No

Nature of my ownership interest

Cancel — Save

- You must disclose ownership interest >5% in "specified businesses."
- These are businesses of a type specified in the instructions. Not every business is a specified business.

Comparing Form 1 and Form 6

Disclosure of Training Requirement (No difference between Form 1 and Form 6)

Form 1	Form 6
4 hours of training	4 hours of training

How to Disclose: Annual Training

This section applies only to Constitutional officers, elected municipal officers, and commissioners of community redevelopment agencies, each of whom are required to complete annual ethics training pursuant to Section 112.3142, F.S.

☐ I certify that I have completed the required training under Section 112.3142 F.S.

☐ Required training under Section 112.3142, F.S., not applicable to filer for this form year.

- Constitutional officers, municipal officers, and others must complete 4 hours of ethics training <u>each calendar year</u>.
- Public officials assuming a new office/term before 3/31 must complete the training before 12/31 of that year.

Questions?

Thank you

stillman.kerrie@leg.state.fl.us
zuilkowski.steven@leg.state.fl.us
(850) 488-7864
www.ethics.state.fl.us

FORM 6 — FULL AND PUBLIC DISCLOSURE OF FINANCIAL INTERESTS — 2021

Please print or type your name, mailing address, agency name, and position below:

FOR OFFICE USE ONLY:

LAST NAME — FIRST NAME — MIDDLE NAME:

MAILING ADDRESS:

CITY : ZIP : COUNTY :

NAME OF AGENCY :

NAME OF OFFICE OR POSITION HELD OR SOUGHT :

CHECK IF THIS IS A FILING BY A CANDIDATE ☐

PART A -- NET WORTH

Please enter the value of your net worth as of December 31, 2021 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of ____________________, 20 _____ was $ ___________________________.

PART B -- ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds $1,000. This category includes any of the following, if not held for investment purposes: jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use, whether owned or leased.

The aggregate value of my household goods and personal effects (described above) is $ ____

ASSETS INDIVIDUALLY VALUED AT OVER $1,000:

DESCRIPTION OF ASSET (specific description is required - see instructions p.4)	VALUE OF ASSET

PART C -- LIABILITIES

LIABILITIES IN EXCESS OF $1,000 (See instructions on page 4):

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY

(Continued on reverse side)

PART D -- INCOME

Identify each separate source and amount of income which exceeded $1,000 during the year, including secondary sources of income. Or attach a complete copy of your 2021 federal income tax return, including all W2s, schedules, and attachments. Please redact any social security or account numbers before attaching your returns, as the law requires these documents be posted to the Commission's website.

☐ I elect to file a copy of my 2021 federal income tax return and all W2's, schedules, and attachments.
[If you check this box and attach a copy of your 2021 tax return, you need not complete the remainder of Part D.]

PRIMARY SOURCES OF INCOME (See instructions on page 5):

NAME OF SOURCE OF INCOME EXCEEDING $1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person--see instructions on page 5]:

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

PART E -- INTERESTS IN SPECIFIED BUSINESSES [Instructions on page 6]

	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2	BUSINESS ENTITY # 3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

PART F - TRAINING

This section applies only to officers required to complete annual ethics training pursuant to section 112.3142, F.S. [See instructions p. 6]

❑ **I CERTIFY THAT I HAVE COMPLETED THE REQUIRED TRAINING.**

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

____

SIGNATURE OF REPORTING OFFICIAL OR CANDIDATE

STATE OF FLORIDA

COUNTY OF ________________________________

Sworn to (or affirmed) and subscribed before me by means of ❑ physical presence or ❑ online notarization, this __________ day of

____________________, 20 ____ by _________________________________.

____

(Signature of Notary Public--State of Florida)

____

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known __________ *OR* Produced Identification _____________

Type of Identification Produced ____

If a certified public accountant licensed under Chapter 473, or attorney in good standing with the Florida Bar prepared this form for you, he or she must complete the following statement:

I, ____, prepared the CE Form 6 in accordance with Art. II, Sec. 8, Florida Constitution, Section 112.3144, Florida Statutes, and the instructions to the form. Upon my reasonable knowledge and belief, the disclosure herein is true and correct.

____ ______________________________

Signature Date

Preparation of this form by a CPA or attorney does not relieve the filer of the responsibility to sign the form under oath.

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE ❑

NOTICE

Annual Full and Public Disclosure of Financial Interests is due July 1. If the annual form is not filed or postmarked by September 1 an automatic fine of $25 for each day late will be imposed, up to a maximum penalty of $1,500. Failure to file also can result in removal from public office or employment. [s. 112.3144, F.S. - applicable to officials other than judges]

In addition, failure to make any required disclosure constitutes grounds for and may be punished by one or more of the following: disqualification from being on the ballot, impeachment, removal or suspension from office or employment, demotion, reduction in salary, reprimand, or a civil penalty not exceeding $10,000. [s. 112.317, F.S.]

INSTRUCTIONS FOR COMPLETING AND FILING FORM 6 FULL AND PUBLIC DISCLOSURE OF FINANCIAL INTERESTS

WHAT TO FILE

File only the first sheet (pages 1 and 2). **Originals are required. Photocopies, faxed copies and emailed copies will not be accepted**. A candidate who has filed Form 6 for 2021 with the Commission, prior to qualifying, may file a copy of that Form 6 at the time of qualifying.

WHERE TO FILE

Officeholders: Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303;

Candidates: The officer before whom they qualify. **If a Form 6 is filed with a qualifying officer, it need not also be filed with the Commission.**

WHEN TO FILE

Officeholders: No later than July 1, 2022.

Candidates: During the qualifying period.

WHO MUST FILE FORM 6:

All persons holding the following positions: Governor, Lieutenant Governor, Cabinet members, members of the Legislature, State Attorneys, Public Defenders, Clerks of Circuit Courts, Sheriffs, Tax Collectors, Property Appraisers, Supervisors of Elections, County Commissioners, elected Superintendents of Schools, members of District School Boards, Mayor and members of the Jacksonville City Council, Judges of Compensation Claims; the Duval County Superintendent of Schools, and members of the Florida Housing Finance Corporation Board, each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, toll authority, or expressway agency created pursuant to Chapter 348 or 343, F.S., or any other general law, and judges, as required by Canon 6, Code of Judicial Conduct.

INSTRUCTIONS FOR COMPLETING FORM 6:

INTRODUCTORY INFORMATION (At Top of Form):

If your name, mailing address, public agency, and position are already printed on the form, you do not need to provide this information unless it should be changed. To change any of this information, write the correct information on the form, and contact your agency's financial disclosure coordinator. You can find your coordinator on the Commission on Ethics website: www.ethics.state.fl.us.

NAME OF AGENCY: The name of the governmental unit which you serve or served, or for which you are a candidate.

OFFICE OR POSITION HELD OR SOUGHT: The title of the office or position you hold, are seeking, or held as of December 31, 2021, even if you have since left that position. If you are a candidate, check the box below your name and address.

PUBLIC RECORD: The disclosure form and everything attached to it is a public record and is required by law to be posted to the Commission's website. **Your Social Security number, bank account, and credit card numbers are not required and you should redact them from any documents you file.** If you are an active or former officer or employee listed in Section 119.071, F.S., whose home address or other information is exempt from disclosure, the Commission will maintain that confidentiality ***if you submit a written request.***

PART A — NET WORTH

[Required by Art. II, s. 8(a)(i)(1), Fla. Const.]

Report your net worth as of December 31, 2021, or a more current date, and list that date. This should be the same date used to value your assets and liabilities. In order to determine your net worth, you will need to total the value of all your assets and subtract the amount of all of your liabilities. Simply subtracting the liabilities reported in Part C from the assets reported in Part B will not result in an accurate net worth figure in most cases.

To total the value of your assets, add:

(1) The aggregate value of household goods and personal effects, as reported in Part B of this form;

(2) The value of all assets worth over $1,000, as reported in Part B; and,

(3) The total value of any assets worth less than $1,000 that were not reported or included in the category of "household goods and personal effects."

To total the amount of your liabilities, add:

(1) The total amount of each liability you reported in Part C of this form, except for any amounts listed in the "joint and several liabilities not reported above" portion; and,

(2) The total amount of unreported liabilities (including those under $1,000, credit card and retail installment accounts, and taxes owed).

(CONTINUED on page 4) ☞

PART B — ASSETS WORTH MORE THAN $1,000

[Required by Art. II, s. 8, Fla. Const.; s. 112.3144, F.S.]

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

The value of your household goods and personal effects may be aggregated and reported as a lump sum, if their aggregate value exceeds $1,000. The types of assets that can be reported in this manner are described on the form.

ASSETS INDIVIDUALLY VALUED AT MORE THAN $1,000:

Describe, and state the value of, each asset you had on the reporting date you selected for your net worth in Part A, if the asset was worth more than $1,000 and if you have not already included that asset in the aggregate value of your household goods and personal effects. Assets include, but are not limited to, things like interests in real property; cash; stocks; bonds; certificates of deposit; interests in businesses; beneficial interests in trusts; money owed you (including, but not limited to, loans made as a candidate to your own campaign); bank accounts in which you have an ownership interest; Deferred Retirement Option Program (DROP) accounts; and the Florida Prepaid College Plan. Assets also include investment products held in IRAs, brokerage accounts, and the Florida College Investment Plan. <u>Note that the product *contained in* a brokerage account, IRA, or the Florida College Investment Plan, is your asset—not the account or plan itself</u>.

You are not required to disclose assets owned solely by your spouse.

How to Identify or Describe the Asset:

— Real property: Identify by providing the street address of the property. If the property has no street address, identify by describing the property's location in a manner sufficient to enable a member of the public to ascertain its location without resorting to any other source of information.

— Intangible property: Identify the type of property and the business entity or person to which or to whom it relates. <u>**Do not list simply "stocks and bonds" or "bank accounts."**</u> For example, list "Stock (Williams Construction Co.)," "Bonds (Southern Water and Gas)," "Bank accounts (First National Bank)," "Smith family trust," "Promissory note and mortgage (owed by John and Jane Doe)."

How to Value Assets:

— Value each asset by its fair market value on the date used in Part A for your net worth.

— Jointly held assets: If you hold real or personal property jointly with another person, your interest equals your legal percentage of ownership in the property. <u>However</u>, assets that are held as tenants by the entirety or jointly with right of survivorship, including bank accounts held in such a manner, must be reported at 100% of their value.

— Partnerships: You are deemed to own an interest in a partnership which corresponds to your interest in the equity of that partnership.

— Trusts: You are deemed to own an interest in a trust which corresponds to your percentage interest in the trust corpus.

— Real property may be valued at its market value for tax purposes, unless a more accurate fair market value is available.

— Marketable securities which are widely traded and whose prices are generally available should be valued based upon the closing price on the valuation date.

— Accounts, notes, and loans receivable: Value at fair market value, which generally is the amount you reasonably expect to collect.

— Closely-held businesses: Use any method of valuation which in your judgment most closely approximates fair market value, such as book value, reproduction value, liquidation value, capitalized earnings value, capitalized cash flow value, or value established by "buy-out" agreements. It is suggested that the method of valuation chosen be indicated on the form.

— Life Insurance: Use cash surrender value less loans against the policy, plus accumulated dividends.

— The asset value of a leased vehicle is the vehicle's present value minus the lease residual (a number found on the lease document).

PART C— LIABILITIES

[Required by Art. II, s. 8, Fla. Const.; s. 112.312, F.S.]

LIABILITIES IN EXCESS OF $1,000 :

List the name and address of each creditor to whom you owed more than $1,000 on the date you chose for your net worth in Part A, and list the amount you owed. Liabilities include: accounts, notes, and interest payable; debts or obligations (excluding taxes, unless the taxes have been reduced to a judgment) to governmental entities; judgments against you, and the unpaid portion of vehicle leases.

You are not required to disclose liabilities that are solely your spouse's responsibility.

You do not have to list on the form any of the following: credit card and retail installment accounts, taxes owed (unless the taxes have been reduced to a judgment), indebtedness on a life insurance policy owed to the company of issuance, or contingent liabilities. A "contingent liability" is one that will become an actual liability only when one or more future events occur or fail to occur, such as where you are liable only as a partner (without personal liability) for partnership debts, or where you are liable only as a guarantor, surety, or endorser on a promissory note. If you are a "co-maker" on a note and are jointly liable or jointly and severally liable, then it is not a contingent liability.

How to Determine the Amount of a Liability:

— Generally, the amount of the liability is the face amount of the debt.

— The amount of the liability of a vehicle lease is the sum of any past-due payments and all unpaid prospective lease payments.

— If you are the only person obligated to satisfy a liability, 100% of the liability should be listed.

— If you are jointly and severally liable with another person or entity, which often is the case where more than one person is liable on a promissory note, you should report here only the portion of the liability that corresponds to your percentage of liability. *However*, if you are jointly and severally liable for a debt relating to property you own with one or more others as tenants by the entirety or jointly, with right of survivorship, report 100% of the total amount owed.

— If you are only jointly (not jointly and severally) liable with another person or entity, your share of the liability should be determined in the same way as you determined your share of jointly held assets.

(CONTINUED on page 5) ☞

Examples:

— You owe $10,000 to a bank for student loans, $5,000 for credit card debts, and $60,000 with your spouse to a savings and loan for the mortgage on the home you own with your spouse. You must report the name and address of the bank ($10,000 being the amount of that liability) and the name and address of the savings and loan ($60,000 being the amount of this liability). The credit card debts need not be reported.

— You and your 50% business partner have a $100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and $50,000 as the amount of the liability. If your liability for the loan is only as a partner, without personal liability, then the loan would be a contingent liability.

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

List in this part of the form the amount of each debt for which you were jointly and severally liable, that is not reported in the "Liabilities in Excess of $1,000" part of the form. Example: You and your 50% business partner have a $100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and $50,000 as the amount of the liability, as you reported the other 50% of the debt earlier.

PART D — INCOME

[Required by Art. II, s. 8, Fla. Const.]

As noted on the form, you have the option of either completing Part D of the form or attaching a copy of your complete 2021 federal income tax return, including all schedules, W2's and attachments, with Form 6, or. If you do not attach your tax return, you must complete Part D.

PRIMARY SOURCES OF INCOME:

List the name of each source of income that provided you with more than $1,000 of income during 2021, the address of that source, and the amount of income received from that source. The income of your spouse need not be disclosed; however, if there is joint income to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should include all of that income.

"Income" means the same as "gross income" for federal income tax purposes, even if the income is not actually taxable, such as interest on tax-free bonds. Examples of income include: compensation for services, gross income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, distributive share of partnership gross income, and alimony, but not child support. Where income is derived from a business activity you should report the income to you, as calculated for income tax purposes, rather than the income to the business.

Examples:

— If you owned stock in and were employed by a corporation and received more than $1,000 of income (salary, commissions, dividends, etc.) from the company, you should list the name of the company, its address, and the total amount of income received from it.

— If you were a partner in a law firm and your distributive share of partnership gross income exceeded $1,000, you should list the name of the firm, its address, and the amount of your distributive share.

— If you received dividend or interest income from investments in stocks and bonds, list only each individual company from which you received more than $1,000. Do not aggregate income from all of these investments.

— If more than $1,000 of income was gained from the sale of property, then you should list as a source of income the name of the purchaser, the purchaser's address, and the amount of gain from the sale. If the purchaser's identity is unknown, such as where securities listed on an exchange are sold through a brokerage firm, the source of income should be listed simply as "sale of (name of company) stock," for example.

— If more than $1,000 of your income was in the form of interest from one particular financial institution (aggregating interest from all CD's, accounts, etc., at that institution), list the name of the institution, its address, and the amount of income from that institution.

SECONDARY SOURCES OF INCOME:

This part is intended to require the disclosure of major customers, clients, and other sources of income to businesses in which you own an interest. **It is not for reporting income from second jobs.** That kind of income should be reported as a "Primary Source of Income." You will ***not*** have anything to report ***unless***:

(1) You owned (either directly or indirectly in the form of an equitable or beneficial interest) during the disclosure period, more than 5% of the total assets or capital stock of a business entity (a corporation, partnership, limited partnership, LLC, proprietorship, joint venture, trust, firm, etc., doing business in Florida); and

(2) You received more than $1,000 in gross income from that business entity during the period.

If your ownership and gross income exceeded the two thresholds listed above, then for that business entity you must list every source of income to the business entity which exceeded 10% of the business entity's gross income (computed on the basis of the business entity's most recently completed fiscal year), the source's address, the source's principal business activity, and the name of the business entity in which you owned an interest. You do not have to list the amount of income the business derived from that major source of income.

Examples:

— You are the sole proprietor of a dry cleaning business, from which you received more than $1,000 in gross income last year. If only one customer, a uniform rental company, provided more than 10% of your dry cleaning business, you must list the name of your business, the name of the uniform rental company, its address, and its principal business activity (uniform rentals).

— You are a 20% partner in a partnership that owns a shopping mall and your gross partnership income exceeded $1,000. You should list the name of the partnership, the name of each tenant of the mall that provided more than 10% of the partnership's gross income, and the tenant's address and principal business activity.

(CONTINUED on page 6) ☞

PART E – INTERESTS IN SPECIFIED BUSINESSES

[Required by s. 112.3145, F.S.]

The types of businesses covered in this section include: state and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies; credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies; utility companies; entities controlled by the Public Service Commission; and entities granted a franchise to operate by either a city or a county government.

You are required to make this disclosure if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period, more than 5% of the total assets or capital stock of one of the types of business entities listed above. You also must complete this part of the form for each of these types of businesses for which you are, or were at any time during 2021, an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process).

If you have or held such a position or ownership interest in one of these types of businesses, list: the name of the business, its address and principal business activity, and the position held with the business (if any). Also, if you own(ed) more than a 5% interest in the business, as described above, you must indicate that fact and describe the nature of your interest.

PART F – TRAINING CERTIFICATION

[Required by s. 112.3142, F.S.]

If you are a Constitutional or elected municipal officer whose service began before March 31 of the year for which you are filing, you are required to complete four hours of ethics training which addresses Article II, Section 8 of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and open meetings laws of the state. You are required to certify on this form that you have taken such training.

(End of Instructions.)

OTHER FORMS YOU MAY NEED TO FILE IN ORDER TO COMPLY WITH THE ETHICS LAWS

In addition to filing Form 6, you ***may*** be required to file one or more of the special purpose forms listed below, depending on your particular position, business activities, or interests. As it is your duty to obtain and file any of the special purpose forms which may be applicable to you, you should carefully read the brief description of each form to determine whether it applies.

Form 6F — *Final Full and Public Disclosure of Financial Interests*: Required of elected constitutional officers and others who must file financial disclosure using Form 6; to be filed within 60 days after leaving office or employment. This form is used to report financial interests between January 1st of the last year of office or employment and the last day of office or employment. [s. 112.3144, F.S.]

Form 6X — *Amended Full and Public Disclosure of Financial Interests:* To be used by elected constitutional officers and others who must file financial disclosure using Form 6 or 6F to correct mistakes on previously filed form. [s. 112.3144, F.S.]

Form 2 — *Quarterly Client Disclosure:* Required of elected constitutional officers, local officers, state officers, and specified state employees to disclose the names of clients represented for compensation by themselves, or a partner or associate before agencies at the same level of government as they serve. The form should be filed by the end of the calendar quarter (March 31, June 30, Sept. 30, Dec. 31) following the calendar quarter in which a reportable representation was made. [s. 112.3145, F.S.]

Form 9 — *Quarterly Gift Disclosure:* Required of elected constitutional officers and others who must file financial disclosure using Form 1 or 6 (as well as State procurement employees) to report gifts worth more than $100. The form should be filed by the end of the calendar quarter (March 31, June 30, September 30, or December 31) following the calendar quarter in which the gift was received. [s. 112.3148, F.S.]

Form 3A — Statement of Interest in Competitive Bid for Public Business

Form 4A — Disclosure of Business Transaction, Relationship, or Interest

Form 8A — Memorandum of Voting Conflict for State Officers

Form 8B — Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers

Form 10 — Annual Disclosure of Gifts from Governmental Entities and Direct Support Organizations and Honorarium Event Related Expenses

Copies of these forms are available from the Supervisor of Elections in your county; from the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303; telephone (850) 488-7864; and at the Commission's website: www.ethics.state.fl.us

Questions about any of these forms or the ethics laws may be addressed to the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303; telephone (850) 488-7864.

Sunshine Law, Public Records, and Ethics Training for City Commissioners

Presented by:

Gretchen R. H. “Becky” Vose, Esq.
Founding Partner, Vose Law Firm LLP

2023

THE FLORIDA BAR BOARD CERTIFIED
CITY, COUNTY & LOCAL GOVERNMENT LAW

VOSE LAW FIRM LLP
ATTORNEYS & COUNSELORS AT LAW

Presentation Overview

Today, we'll be covering:

- **Government in the Sunshine (Open Meetings) Law**
- Public Records Law
- Portions of the Code of Ethics, Ch. 112:
  - Voting Conflicts
  - Nepotism
  - Misuse of Public Position & Information
  - Soliciting and Accepting Gifts and Honoraria
  - New 2024 Requirements: Commissioners Now File Form 6, Forms 1 & 6 Filed Online

Government in the Sunshine (Open Meetings) Law

Scope of the Sunshine Law

- Provides right of access to governmental proceedings
- Applies to both elected and appointed boards
- General Rule – All meetings at which official acts are taken or public business is transacted or discussed shall be open and noticed to the public

Scope of the Sunshine Law

Sunshine Law applies to:

- Any meeting
- Between two or more members of the same board
- When discussing matters that may foreseeably come before that board

"Meeting" includes:

- City Commission meetings and workshops
- Telephone calls and text messages
- Emails and other written correspondence
- Informal discussions or deliberations

Scope of the Sunshine Law

There are three basic requirements :

(1) Meetings of public boards or commissions must be open to the public

(2) Reasonable notice of such meetings must be given

(3) Minutes of the meetings must be taken, promptly recorded and open to public inspection

Scope of the Sunshine Law

- Advisory boards created pursuant to law or ordinance or otherwise established by public agencies are subject to the Sunshine Law, even though their recommendations are not binding upon the agencies that create them.

Scope of the Sunshine Law

- Meeting of staff are not ordinarily subject to the Sunshine Law.
- However, when a staff member ceases to function in a staff capacity and is appointed to a committee which is delegated authority normally within the public board or commission, the staff member loses his or her identity as staff while working on the committee and the Sunshine Law is applicable to the committee.
- It is the nature of the act performed, not the makeup of the committee or the proximity of the act to the final decision, which determines whether a committee composed of staff is subject to the Sunshine Law.

Scope of the Sunshine Law

- Board members may not use e-mail or the telephone to conduct a private discussion about board business. Board members may send a “one-way” communication to each other as long as the communication is kept as a public record and there is no response to the communication except at an open public meeting.
- Accordingly, any “one-way” communications (for example one board member wants to forward an article to the board members for information) should be distributed by the board office so that they can be preserved as public records and ensure that any response to the communication is made only at a public meeting.

Scope of the Sunshine Law

When it comes to the Sunshine Law,
Facebook is not your friend…

- Facebook and other social media platforms pose unique challenges for officials subject to the Sunshine Law.

- Bottom Line: Two or more members of the same board should avoid commenting on the same social media post, if the post or comments discuss matters that may foreseeably come before that board.

Scope of the Sunshine Law

- Only the Legislature can create an exemption to the Sunshine Law (by a 2/3 vote) and allow a board to close a meeting. *Exemptions are narrowly construed*.
- Two most common exemptions we deal with are:
  - Litigation Strategy/Settlement Negotiations Meetings
  - Collective Bargaining Strategy Meetings

Scope of the Sunshine Law

- While a board member is not prohibited from discussing board business with staff or a nonboard member, these individuals cannot be used as a liaison to communicate information between board members.

- For example, a board member cannot ask staff to poll the other board members to determine their views on a board issue.

Meetings

Meetings must be open to public:

- Location accessible to the public
- Adequate size
- May not discriminate against or restrict access to public

So, meetings subject to the Sunshine Law generally should not be held in private homes, or restaurants where an attendee may feel compelled to order a meal.

Meetings

- While boards may adopt reasonable rules and policies to ensure orderly conduct of meetings, the Sunshine Law does not allow boards to ban non-disruptive videotaping, tape recording, or photography at public meetings.

Meetings – Right to Public Comment

New section of Sunshine Law enacted in 2013 - Sec. 286.0114, Fla. Stat.:

- Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission.
- The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decisionmaking process and is within reasonable proximity in time before the meeting at which the board or commission takes the official action.
- This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting.

Meetings – Right to Public Comment

Requirement to allow public comment does not apply to:

- An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board or commission to act;
- An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
- A meeting that is exempt from s. 286.011; or
- A meeting during which the board or commission is acting in a quasi-judicial capacity. (Does not affect the right of a person to be heard as otherwise provided by law.)

Meetings – Right to Public Comment

Rules or policies of a board or commission which govern the opportunity to be heard are limited to those that:

- Provide guidelines regarding the amount of time an individual has to address the board or commission;
- Prescribe procedures for allowing representatives of groups or factions on a proposition to address the board or commission, rather than all members of such groups or factions, at meetings in which a large number of individuals wish to be heard;
- Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her support, opposition, or neutrality on a proposition; and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses; or
- Designate a specified period of time for public comment.

Penalties

- Any member of a board or commission or of any state agency or authority of a county, municipal corporation, or political subdivision who knowingly violates the Sunshine Law is guilty of a misdemeanor of the second degree.
- An unintentional violation may be prosecuted as a noncriminal infraction resulting in a civil penalty up to $500.

Penalties

- The Sunshine Law provides that no resolution, rule, regulation or formal action shall be considered binding except as taken or made at an open meeting.

Penalties

- Recognizing that the Sunshine Law should be construed so as to frustrate all evasive devices, the courts have held that action taken in violation of the law was void *ab initio*.

Penalties

- Where, however, a public board or commission does not merely perfunctorily ratify or ceremoniously accept at a later open meeting those decisions which were made at an earlier secret meeting but rather takes "independent final action in the sunshine," the board's decision may stand.

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Public Records Law

Scope of the Public Records Act

- Florida's Public Records Act provides a right of access to records of state and local governments as well as to private entities acting on their behalf.
- A right of access is also recognized in Article I, section 24 of the Florida Constitution, which applies to virtually all state and governmental entities including the legislative, executive, and judicial branches of government. The only exceptions are those established by law or by the Constitution.

Scope of the Public Records Act

- Section 119.011(12), Florida Statutes, defines "public records" to include:

  all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

Scope of the Public Records Act

- The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge.

Scope of the Public Records Act

- All such materials, **regardless of whether they are in final form**, are open for public inspection **unless the Legislature has exempted them from disclosure**.

- There is no **"This is Really Embarrassing!"** exemption from the Public Records Act.

Some Common Exemptions in Sec. 119.071

- LEO and certain other Employee Addresses, Telephone Numbers, DOB
- Social Security Numbers
- Bank Account Numbers
- Protected Health Information
- Active Criminal Investigative & Intelligence Info
- Security systems information and plans
- Bid responses (for a limited time)

Attorney work product exemption

- Section 119.071(1)(d), provides a narrow exemption for attorney work product.
- Only those records which reflect a "mental impression, conclusion, litigation strategy or legal theory" are included within the parameters of the work product exemption.
- In order to qualify for the exemption, the records must have been prepared "exclusively" for, or in anticipation of imminent, litigation or imminent adversarial administrative proceedings.
- The exemption exists only until the "conclusion of the litigation or adversarial administrative proceedings" even if other issues remain.

Electronic Records

- Email messages made or received by public officers or employees in connection with official business are public records and subject to disclosure in the absence of a statutory exemption.
- The Attorney General has advised that materials placed on an agency's Facebook page presumably would be in connection with official business and thus subject to Chapter 119, Florida Statutes.

What is NOT a Public Record?

- Brief Notes to Yourself
  - Brief notes designed for personal use (to jog memory) & not shared (i.e., kept personal)
  - Comes down to whether you are communicating, perpetuating, or formalizing knowledge.

Providing Public Records

- Section 119.07(1)(a), Florida Statutes, provides that "[e]very person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of public records or the custodian's designee."

Providing Public Records

- The Public Records Act requires no showing of purpose or "special interest" as a condition of access to public records. Unless authorized by law, an agency may not ask the requestor to produce identification as a condition to providing public records.

Providing Public Records

- The custodian is not authorized to deny a request to inspect and/or copy public records because of a lack of specifics in the request.

Providing Public Records

- The Public Records Act does not contain a specific time limit (such as 24 hours or 10 days) for compliance with public records requests. The Florida Supreme Court has stated that the only delay in producing records permitted under Chapter 119, Florida Statutes, is the reasonable time allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt.

Providing Public Records

- Nothing in Chapter 119, Florida Statutes, requires that a requesting party make a demand for public records in person or in writing.

Providing Public Records

- A custodian is not required to give out *information* from the records of his or her office. For example, the Public Records Act does not require a town to produce an employee, such as the financial officer, to answer questions regarding the financial records of the town.
- The Public Records Act requires that an agency produce nonexempt existing records. An agency is not required to create a new record.

Providing Public Records

- In the absence of express legislative authority, an agency may not refuse to allow public records made or received in the official course of business to be inspected or copied if requested to do so by the maker or sender of the document.

Providing Public Records

- A custodian of a public record who contends that a record or part of a record is exempt from inspection must state the basis for the exemption, including the statutory citation to the exemption.
- Additionally, upon request, the custodian must state in writing and with particularity the reasons for the conclusion that the record is exempt from inspection.

Providing Public Records

- There is a difference between records the Legislature has determined to be **exempt** from the Public Records Act and those which the Legislature has determined to be **exempt and confidential**.
- If information is made **confidential** in the statutes, the information is not subject to inspection by the public and may be released only to those persons and entities designated in the statute.
- On the other hand, if the records are not made confidential but are simply **exempt** from the mandatory disclosure requirements in section 119.07(1)(a), Florida Statutes, the agency is not prohibited from disclosing the documents in all circumstances.

Providing Public Records

- The general rule is that records which would otherwise be public under state law are unavailable for public inspection only when there is an absolute conflict between federal and state law relating to confidentiality of records.
- If a federal statute requires particular records to be closed and the state is clearly subject to the provisions of such statute, then pursuant to the Supremacy Clause of the United States Constitution, Article VI, section 2, United States Constitution, the state must keep the records confidential.

Fees

- Providing access to public records is a statutory duty imposed by the Legislature upon all record custodians and should not be considered a profit-making or revenue-generating operation. Thus, public information must be open for inspection without charge unless otherwise expressly provided by law.

Fees

- Section 119.07(4)(d), Florida Statutes, authorizes the imposition of a special service charge to inspect or copy public records when the nature or volume of public records to be inspected is such as to require extensive use of information technology resources, or extensive clerical or supervisory assistance, or both. The charge must be reasonable and based on the labor or computer costs actually incurred by the agency.

Fees

- If no fee is prescribed elsewhere in the statutes, section 119.07(4)(a)1., Florida Statutes, authorizes the custodian to charge a fee of up to 15 cents per one-sided copy for copies that are 14 inches by 8 ½ inches or less. An agency may charge no more than an additional 5 cents for each two-sided duplicated copy.

Fees

- The courts have upheld an agency's requirement of a reasonable deposit or advance payment in cases where a large number of records have been requested. In such cases, the fee should be communicated to the requestor before the work is undertaken.

Penalties

- A person who has been denied the right to inspect and/or copy public records under the Public Records Act may bring a civil action against the agency to enforce the terms of Ch. 119.

Penalties

- In addition to judicial remedies, section 119.10(1)(b), Florida Statutes, provides that a public officer who knowingly violates the provisions of section 119.07(1), Florida Statutes, is subject to suspension and removal or impeachment and is guilty of a misdemeanor of the first degree, punishable by possible criminal penalties of one year in prison, or $1,000 fine, or both.

Attorney's Fees

- Section 119.12, Fla. Stat., was amended in 2017 to provide that if a civil action is filed against an agency to enforce the Public Records Act, the court shall assess and award against the agency responsible the reasonable costs of enforcement, **including attorney's fees** against the responsible agency if the court determines that:
  - the **agency unlawfully refused to permit a public record to be inspected or copied**; and
  - The **complainant provided written notice** identifying the public record request to the agency's custodian of public records **at least 5 business days** before filing the civil action.

Attorney's Fees

- Under the 2017 amendment, the complainant is **not required to provide the 5 business day written notice** if the agency does not prominently post the contact information for the agency's custodian of public records in the agency's **primary administrative building** in which public records are routinely created, sent, received, maintained, and requested and **on the agency's website**.

Attorney's Fees – "Improper Purpose"

- Another new addition from the 2017 amendment is the requirement that the court determine whether the complainant requested to inspect or copy a public record or participated in the civil action for an **improper purpose**.
- **If the court determines there was an improper purpose**, the court may not assess and award the reasonable costs of enforcement, including reasonable attorney fees, to the complainant, and **shall assess and award against the complainant** and to the agency the reasonable costs, **including reasonable attorney fees**, incurred by the agency in responding to the civil action.
- "Improper purpose" means a **request to inspect or copy a public record** or **to participate in the civil action** primarily **to cause a violation of this chapter** or for **a frivolous purpose**.

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Voting Conflicts

Voting Conflicts

- Voting Conflicts Law codified in Section 112.3143

To Whom Does This Apply?

- “Public Officers,” that is, persons elected or appointed to hold office in an agency, including persons serving on an advisory body

- If you are a member of a collegial body, it applies to you.

What *is* a Voting Conflict?

Local elected or appointed officers may not vote on:

- Any measure which would inure to his or her special private gain or loss, or
- Any measure which a public officer *knows* would inure to the special private gain or loss of:
  - A principal by whom he/she is retained
  - A parent organization or subsidiary of a corporate principal by whom the officer is retained
  - A relative
  - A business associate

Who is a "Principal?"

- An employer
- A client of a legal, accounting, insurance, or other professional practice
- A corporation for which officer serves as a compensated director

Who is a “Relative?”

- Father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law

- Note: This definition is different than the similar definitions of “relative” in the anti-nepotism and gift laws

What is a “Business Associate?”

- A person or entity who is carrying on a business enterprise with the public officer, regardless of the form of the business

- Key Question #1– Are they engaging in a common commercial or entrepreneurial pursuit?
- Key Question #2 – Is this a current, ongoing business relationship?

“Special” Private Gain (or Loss)

- The voting conflicts law does not apply to all situations that might result in gain or loss to the official—the gain or loss must be “special”
- Requires an *economic* benefit or harm that will inure to the officer, his or her relative, business associate, or principal
- What should be considered?

Special Private Gain or Loss - Considerations

1. What is the size of the affected class?
2. What is the relative benefit or harm when compared to other members of affected class?
3. Is the gain or loss remote or speculative?
4. Is this merely a preliminary or procedural measure?

Size of the Affected Class

- “Special” gain will depend on size of class of persons who are similarly affected by measure
- ↓ class, ↑ chance of “special gain”
- ↑ class, ↓ chance of “special gain”

Remote or Speculative

- Is gain or loss so remote or speculative that the measure cannot be said to inure to officer's gain or loss?
- Will hinge on the facts of each individual case

Preliminary or Procedural

- Some measures are simply procedural or preliminary (to later actions that would result in actual gain or loss)

- Other measures, while procedural in nature, are substantive in effect and will inure to officer's gain or loss

If You Have a Voting Conflict, What Should You Do?

The officer must:

- (1) abstain from voting;
- (2) disclose conflict orally prior to the vote; and
- (3) file a memorandum (Form 8B) within 15 days.

- In addition, appointed local officers must publicly disclose the conflict before participating in discussion of the matter.

Exceptions

- If the “principal by whom you are retained” is a public agency, you may vote.

- If you are a commissioner of a community redevelopment agency or a one-acre, one-vote officer, you may vote.

- If measure affects your expenses and compensation *as provided by law*, you may vote.

Related Issues – Voting Requirement

- Section 286.012 requires members of a collegial body to vote when present at a meeting and prohibits abstaining, except when "there is, or appears to be, a possible conflict of interest . . ."

- "If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice."

Other Conflicts – Sec. 112.313(3), Fla. Stat.
Doing Business with Your Agency

Section 112.313(3) has two prongs:

- Cannot purchase goods/services from business that you, your spouse, or child is an officer, director, partner, proprietor, or material interest (5%)

- Cannot personally sell goods/services to your agency or agency of your political subdivision

Other Conflicts – Sec. 112.313(7), Fla. Stat. Conflicting Employment and Contractual Relationships

Section 112.313(7)(a) prohibits:

- Having an employment or contractual relationship with a business entity when that entity is regulated by or is doing business with your agency.

And also prohibits having any employment or contractual relationship that will:

- Create a continuing or frequently recurring conflict with your public duties; OR
- Impede your ability to fully and faithfully discharge your public duties.

- Mere abstention from a vote will not cure a violation of this section.

Other Conflicts – Exemptions to Prohibitions

Exemptions to the prohibitions on doing business with your agency (F.S. 112.313(3)) and conflicting employment and contractual relationships (F.S. 112.313(7)) include:

- Rotational system among qualified suppliers
- Sealed, competitive bidding
- Sole Source
- Transactions not more than $500 per calendar year
- Emergency purchases

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Nepotism – Restriction on Employment or Appointment of Relatives

Nepotism - Restriction on Employment or Appointment of Relatives

Sec. 112.3135, Fla. Stat., the "Anti-Nepotism Law":

(2)(a) A public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which the official is serving or over which the official exercises jurisdiction or control:

- any individual who is a relative of the public official.

An individual may not be appointed, employed, promoted, or advanced in or to a position in an agency:

- if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual or
- if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative of the individual is a member.

Nepotism

- Sec. 112.3135(2)(b), Fla. Stat.: Mere approval of budgets shall not be sufficient to constitute “jurisdiction or control” for the purposes of this section.
- Under many City Charters, the City Manager hires and fires most City employees.
- So, as to “employment,” the “collegial body” provision of the anti-nepotism statute would seem to apply to the City Commission only as to positions directly hired and fired by the City Commission.

Nepotism

"Relative" defined as "father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister."

Nepotism

- Applies not just to employment, but appointment to boards.
- BUT, does not apply to appointments to boards other than those with land-planning or zoning responsibilities in municipalities with less than 35,000 population.
- In other words, in most cities, prohibition on appointment only applies to appointments to boards with land-planning or zoning responsibilities.

Nepotism

- Does not apply to contractors who are relatives. *Except, see* Sec. 112.3185(6), Fla. Stat.:
  - (6) An agency employee acting in an official capacity may not directly or indirectly procure contractual services for his or her own agency from any business entity of which a relative is an officer, partner, director, or proprietor or in which the officer or employee or his or her spouse or child, or any combination of them, has a material interest.
- Does not prohibit relatives from working together or even one supervising the other.

Nepotism

- Does not apply to those serving in volunteer capacity who provide emergency medical, firefighting, or police services
- Does not apply to temporary employment during an emergency

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Misuse of Public Position & Information

Misuse of Public Position

- Sec. 112.313(6), Fla. Stat. - MISUSE OF PUBLIC POSITION.—No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others.

Misuse of Public Position

Applies to:

- Public Officers
- Agency Employees
- Local Government Attorneys

Misuse of Public Position

- "Corruptly" is defined in Section 112.312(9), Florida Statutes, to mean "done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties."

Misuse of Public Position

- Allegations of mismanagement, negligence, "waste in government" are generally not a misuse of position because there must be intentional conduct to benefit oneself or someone else.

- "Sexual harassment" can violate Section 112.313(6), Florida Statutes

Misuse of Public Position

Some practical advice – Example: Ethics Opinion 13-25, on Letters of Recommendation

We addressed a very similar question in CEO 99-8. There, a Clerk of Court inquired whether it would violate the Code of Ethics were she to write letters of reference, either on plain stationery, on stationery she purchased herself but which identified her as Clerk, or on official stationery. We noted, as we have in the past, that the act of identifying oneself as an officeholder is a "use" of that office, and that as such, a reference to one's title—either by using letterhead or otherwise—is a use of position. We advised "[w]e are of the opinion that whether a corrupt misuse of official position has occurred in a given situation depends on how and for what purpose the stationery will be used, rather than upon the fact of its use." The issue, we found, lay with the context in which the official's public position is referenced,

Either way, the recipient of the letter is informed of the Council member's public position. This may be appropriate, as in the political contexts noted above, or it may be inappropriate, for example, if the letter were being sent to settle a strictly private dispute with a debtor or creditor.

In CEO 99-8 the context involved letters of recommendation having nothing to do with the business of the Clerk's office, and we found that such letters have long been considered a part of an official's public duties. Under these circumstances, we found that the Clerk's use of official stationery to write such letters would not be inconsistent with the proper performance of her public duties, absent a showing that the action was undertaken to improperly benefit the official or another. As was true in that opinion, in this case there is no suggestion of any quid pro quo in exchange for the letters of support, there is no indication of any benefit to you other than the incidental political benefit of the goodwill of the constituent, and there appears to be no law, rule, or policy which prohibits such use of resources.

Misuse of Certain Information

- Sec. 112.313(8), Fla. Stat. - DISCLOSURE OR USE OF CERTAIN INFORMATION.—A current or former public officer, employee of an agency, or local government attorney <u>may not disclose or use information not available to members of the general public and gained by reason of his or her official position</u>, except for information relating exclusively to governmental practices, <u>for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity</u>.

Presentation Overview

Today, we'll be covering:

- Government in the Sunshine (Open Meetings) Law
- Public Records Law
- **Portions of the Code of Ethics, Ch. 112:**
  - Voting Conflicts
  - Nepotism
  - Misuse of Public Position & Information
  - **Soliciting and Accepting Gifts and Honoraria**
  - New 2024 Requirements: Commissioners Now File Form 6, Forms 1 & 6 Filed Online

Soliciting and Accepting Gifts and Honoraria

What Law Applies?

- Sec. 112.313(2), Fla. Stat. – “Quid pro quo”
- Sec. 112.313(4), Fla. Stat. – “Influence”
- Sec. 112.3148, Fla. Stat. – “Classic Gift Law”
- Sec. 112.31485, Fla. Stat. – “Gifts from PCs”
- Sec. 112.3149, Fla. Stat. – “Honoraria”

Quid pro quo - 112.313(2)

- SOLICITATION OR ACCEPTANCE OF GIFTS.—No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

Influence – 112.313(4)

- UNAUTHORIZED COMPENSATION.—No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

Applicability of Quid Pro Quo and Influence

Applicable to all:

- Public officers,
- Employees of an agency, and
- Local government attorneys

“RIPEs” – Reporting Individuals and Procurement Employees

- “Reporting individual” means any individual, including a candidate upon qualifying, who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file full or limited public disclosure of his or her financial interests or any individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

"RIPEs" – Reporting Individuals and Procurement Employees

- "Procurement employee" means any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, if the cost of such services or commodities exceeds or is expected to exceed $10,000 in any fiscal year.

Section 112.3148 – Classic Gift Law

Short Version:

✕ Solicit gifts from lobbyists, principals, vendors

✕ Receive gifts worth more than $100 from lobbyists, principals, vendors

✓ Receive and report gifts worth more than $100 received from others

☺ Receive gifts of any value from relatives

Gift Law Definitions

- Gift
- Lobbyist
- Vendor
- Directly or indirectly

“Gifts”

Anything you get, for which you do not give equal or greater consideration within 90 days

Includes:

- Food or beverage
- Membership dues
- Plants, flowers or floral arrangements
- Transportation and lodging
- Preferential rates
- The use of property
- Tickets

What's *not* a gift?

- Salary, etc., associated with private employment
- Campaign contributions
- Awards in recognition of service
- Gifts from "government officer or employee" organizations

“Lobbyist”

Anyone who, for compensation, is seeking or has sought in the last 12 months to influence the governmental decisions of a RIPE or his or her agency

“Vendor”

Business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services.

Solicitation of Gifts from Restricted Donors

A RIPE may not solicit a gift of any amount from:

- A lobbyist who lobbies his agency
- A lobbyist's partner, firm, employer, or principal
- A vendor

if it would benefit the RIPE, another RIPE, or any RIPE's immediate family

Acceptance of Gifts from Restricted Donors

A RIPE may not accept, directly or indirectly, a gift worth more than $100 from any of those donors:

- A lobbyist who lobbies his agency
- A lobbyist's partner, firm, employer, or principal
- A vendor

Reporting by Restricted Donors

A restricted donor "who makes, or directs another to make, an individual gift having a value in excess of $25, but not in excess of $100, other than a gift that the donor knows will be accepted on behalf of a governmental entity or charitable organization, must file a report on the last day of each calendar quarter for the previous calendar quarter in which a reportable gift is made"

"directly or indirectly"

- Gift is intended to benefit the RIPE

- Gift or the benefit of the gift is ultimately received by the RIPE

Rule 34-13.310(6), F.A.C.

Gifts from non-Restricted Donors

A RIPE may accept a gift someone who is neither a relative or a Restricted Donor, but must report it on a Form 9 quarterly if the gift is worth more than $100.

Is it worth more than $100?

- Default: cost to the donor less tax and gratuities
- Lodging in a private residence: $44 per night
- Private transportation: same as comparable commercial conveyance
- Tickets: face value, daily, or per event, whichever is greater

What can I accept under 112.3148?

- Gifts from relatives

  (no reporting requirement)
- Gifts from non-Restricted Donors

  (report if > $100)
- Gifts from Restricted Donors (if < $100)

  (no reporting requirement for RIPE,

  Restricted Donor must report if > $25)

What is a "relative"?

father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee

Section 112.31485 – Gifts from PCs

- (2)(a) A reporting individual or procurement employee or a member of his or her immediate family is prohibited from soliciting or knowingly accepting, directly or indirectly, any gift from a political committee.
- (b) A political committee is prohibited from giving, directly or indirectly, any gift to a reporting individual or procurement employee or a member of his or her immediate family.

Section 112.31485 – Gifts from PCs

- (1)(a) For purposes of this section, the term “gift” means any purchase, payment, distribution, loan, advance, transfer of funds, or disbursement of money or anything of value that is not primarily related to contributions, expenditures, or other political activities authorized pursuant to chapter 106.
- ***
- (3) Any person who violates this section is subject to a civil penalty equal to three times the amount of the gift. Such penalty is in addition to the penalties provided in s. 112.317 and shall be paid to the General Revenue Fund of the state. A reporting individual or procurement employee or a member of his or her immediate family who violates this section is personally liable for payment of the treble penalty. Any agent or person acting on behalf of a political committee who gives a prohibited gift is personally liable for payment of the treble penalty.

Sec. 112.3149 – "honorarium"

A payment, directly or indirectly, to a RIPE, or any other person on his or her behalf, as payment for an oral presentation or a writing (other than a book).

“honorarium event”

A meeting or function, or a series of related meetings or functions such as a convention held over several days, where the RIPE has been invited to make a speech, address, oration, or other oral presentation

Rule 34-13.230, F.A.C.

Honoraria Related to Official Duties

RIPEs are prohibited from soliciting an honorarium which is related to their public office or duties

Honoraria from Restricted Donors

RIPES are prohibited from accepting honoraria from Restricted Donors:

- A lobbyist who lobbies his agency
- A lobbyist's partner, firm, employer, or principal
- A vendor

Reasonable Expenses for Honorarium Event

- Unless otherwise prohibited, RIPEs may accept from Restricted Donors actual and reasonable expenses for transportation, lodging, food and beverage, and registration fees related to an honorarium event.
- A Restricted Donor who pays honorarium event related expenses must provide a statement to the RIPE no later than 60 days after the event.

Annual Disclosure

RIPEs must disclose honorarium event related expenses paid by Restricted Donors annually on Form 10.

Presentation Overview

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- Public Records Law
- **Portions of the Code of Ethics, Ch. 112:**
  - Voting Conflicts
  - Nepotism
  - Misuse of Public Position & Information
  - Soliciting and Accepting Gifts and Honoraria
  - **New 2024 Requirements: Commissioners Now File Form 6, Forms 1 & 6 Filed Online**

New 2024 Requirements: Commissioners Now File Form 6, Forms 1 & 6 Filed Online

Senate Bill 774 (2023)

- Starting in 2024, mayors and elected members of governing bodies of municipalities (and candidates) must file a Form 6.
  - Biggest change from Form 1 to Form 6 – Officials must list:
    - Net Worth
    - Value of Assets
    - Amounts of Liabilities
    - Amounts of Income
- Starting in 2024, Form 1 and Form 6 must be filed online.
  - Law requires Commission on Ethics to notify Form 1 and Form 6 filers by email no later than June 1, to provide deadlines and filing instructions.

CoE Powerpoint / Handouts

- The Florida Commission on Ethics has prepared an overview PowerPoint on the transition from Form 1 to Form 6 for elected members of municipal governing bodies.
- Also provided for reference: Paper version of 2021 Form 6 (no longer available) for ease of explanation.

Sunshine Law, Public Records, and Ethics Training for City Commissioners

Presented by:

Wade C. Vose, Esq.
Managing Partner, Vose Law Firm LLP

September 6, 2023

THE FLORIDA BAR BOARD CERTIFIED
CITY, COUNTY & LOCAL GOVERNMENT LAW

VOSE LAW FIRM LLP
ATTORNEYS & COUNSELORS AT LAW

2022 Form 6 Instructions

Full and Public Disclosure of Financial Interests

Notice

Annual Full and Public Disclosure of Financial Interests is due July 3, 2023. If the annual form is not submitted via the electronic filing system created and maintained by the Commission by September 1, 2023 an automatic fine of $25 for each day late will be imposed, up to a maximum penalty of $1,500. Failure to file also can result in removal from public office or employment. [s. 112.3144, F.S. - applicable to officials other than judges]

In addition, failure to make any required disclosure constitutes grounds for and may be punished by one or more of the following: disqualification from being on the ballot, impeachment, removal or suspension from office or employment, demotion, reduction in salary, reprimand, or a civil penalty not exceeding $10,000. [s. 112.317, F.S.]

Instructions for Completing and Filing Form 6 Full and Public Disclosure of Financial Interests

When to File:

<u>Officeholders:</u> No later than July 3, 2023
<u>Candidates:</u> During the qualifying period.

Who Must File Form 6:

All persons holding the following positions: Governor, Lieutenant Governor, Cabinet members, members of the Legislature, State Attorneys, Public Defenders, Clerks of Circuit Courts, Sheriffs, Tax Collectors, Property Appraisers, Supervisors of Elections, County Commissioners, elected Superintendents of Schools, members of District School Boards, Mayor and members of the Jacksonville City Council, Judges of Compensation Claims; the Duval County Superintendent of Schools, and members of the Florida Housing Finance Corporation Board, each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, toll authority, or expressway agency created pursuant to Chapter 348 or 343, F.S., or any other general law, and judges, as required by Canon 6, Code of Judicial Conduct.

Attachments:

A filer may include and submit attachments or other supporting documentation when filing a disclosure.

Public Record:

The disclosure form is a public record and is required by law to be posted to the Commission's website. **<u>Your Social Security number, bank account, debit, charge, and credit card numbers, mortgage or brokerage account number, personal identification number, or taxpayer identification number are not required and should not be included.</u>** If you are an active or former officer or employee listed in Section 119.071, F.S., whose home address or other information is exempt from disclosure, the Commission will maintain that confidentiality ***<u>if you submit a written and notarized request.</u>***

Questions about this form or the ethics laws may be addressed to the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303; telephone (850) 488-7864.

Net Worth

[Required by Art. II, s. 8(a)(i)(1), Fla. Const.]

Report your net worth as of December 31, 2022, or a more current date, and list that date. This should be the same date used to value your assets and liabilities. In order to determine your net worth, you will need to total the value of all your assets and subtract the amount of all of your liabilities. Simply subtracting your liabilities from your assets will not result in an accurate net worth figure in most cases.

To total the value of your assets, add:

1. The aggregate value of household goods and personal effects, as reported in the Assets section of this form;
2. The value of all assets worth over $1,000, as reported in the Assets section; and,
3. The total value of any assets worth less than $1,000 that were not reported or included in the category of "household goods and personal effects."

To total the amount of your liabilities, add:

1. The total amount of each liability you reported in the Liabilities section of this form, except for any amounts listed in the "joint and several liabilities not reported above" portion; and,
2. The total amount of unreported liabilities (including those under $1,000, credit card and retail installment accounts, and taxes owed).

Assets Worth More Than $1,000

[Required by Art. II, s. 8, Fla. Const.; s. 112.3144, F.S.]

Household Goods and Personal Effects:

The value of your household goods and personal effects may be aggregated and reported as a lump sum, if their aggregate value exceeds $1,000. The types of assets that can be reported in this manner are described on the form.

Assets Individually Values at More Than $1,000:

Describe, and state the value of, each asset you had on the reporting date you selected for your net worth, if the asset was worth more than $1,000 and if you have not already included that asset in the aggregate value of your household goods and personal effects. Assets include, but are not limited to, things like interests in real property; cash; stocks; bonds; certificates of deposit; interests in businesses; beneficial interests in trusts; money owed you (including, but not limited to, loans made as a candidate to your own campaign); bank accounts in which you have an ownership interest; Deferred Retirement Option Program (DROP) accounts; and the Florida Prepaid College Plan. Assets also include investment products held in IRAs, brokerage accounts, and the Florida College Investment Plan. Note that the product contained in a brokerage account, IRA, or the Florida College Investment Plan, is your asset — not the account or plan itself.

You are not required to disclose assets owned solely by your spouse.

How to Identify or Describe the Asset:

- Real property: Identify by providing the street address of the property. If the property has no street address, identify by describing the property's location in a manner sufficient to enable a member of the public to ascertain its location without resorting to any other source of information.
- Intangible property: Identify the type of property and the business entity or person to which or to whom it relates. **Do not list simply "stocks and bonds" or "bank accounts".** For example, list "Stock (Williams Construction Co.)," "Bonds (Southern Water and Gas)," "Bank accounts (First National Bank)," "Smith family trust," "Promissory note and mortgage (owed by John and Jane Doe)."

How to Value Assets:

- Value each asset by its fair market value on the date used in the Net Worth section of this form.
- Jointly held assets: If you hold real or personal property jointly with another person, your interest equals your legal percentage of ownership in the property. However, assets that are held as tenants by the entirety or

jointly with right of survivorship, including bank accounts held in such a manner, must be reported at 100% of their value.

- Partnerships: You are deemed to own an interest in a partnership which corresponds to your interest in the equity of that partnership.
- Trusts: You are deemed to own an interest in a trust which corresponds to your percentage interest in the trust corpus.
- Real property may be valued at its market value for tax purposes, unless a more accurate fair market value is available.
- Marketable securities which are widely traded and whose prices are generally available should be valued based upon the closing price on the valuation date.
- Accounts, notes, and loans receivable: Value at fair market value, which generally is the amount you reasonably expect to collect.
- Closely-held businesses: Use any method of valuation which in your judgment most closely approximates fair market value, such as book value, reproduction value, liquidation value, capitalized earnings value, capitalized cash flow value, or value established by "buy-out" agreements. It is suggested that the method of valuation chosen be indicated on the form.
- Life Insurance: Use cash surrender value less loans against the policy, plus accumulated dividends.
- The asset value of a leased vehicle is the vehicle's present value minus the lease residual (a number found on the lease document).

Liabilities

[Required by Art. II, s. 8, Fla. Const.; s. 112.312, F.S.]

Liabilities in Excess of $1,000:

List the name and address of each creditor to whom you owed more than $1,000 on the date you chose for your net worth, and list the amount you owed. Liabilities include: accounts, notes, and interest payable; debts or obligations (excluding taxes, unless the taxes have been reduced to a judgment) to governmental entities; judgments against you, and the unpaid portion of vehicle leases.

You are not required to disclose liabilities that are solely your spouse's responsibility.

You do not have to list on the form any of the following: credit card and retail installment accounts, taxes owed (unless the taxes have been reduced to a judgment), indebtedness on a life insurance policy owed to the company of issuance, or contingent liabilities. A "contingent liability" is one that will become an actual liability only when one or more future events occur or fail to occur, such as where you are liable only as a partner (without personal liability) for partnership debts, or where you are liable only as a guarantor, surety, or endorser on a promissory note. If you are a "co-maker" on a note and are jointly liable or jointly and severally liable, then it is not a contingent liability.

How to Determine the Amount of a Liability:

- Generally, the amount of the liability is the face amount of the debt.
- The amount of the liability of a vehicle lease is the sum of any past-due payments and all unpaid prospective lease payments.
- If you are the only person obligated to satisfy a liability, 100% of the liability should be listed.
- If you are jointly and severally liable with another person or entity, which often is the case where more than one person is liable on a promissory note, you should report here only the portion of the liability that corresponds to your percentage of liability. However, if you are jointly and severally liable for a debt relating to property you own with one or more others as tenants by the entirety or jointly, with right of survivorship, report 100% of the total amount owed.
- If you are only jointly (not jointly and severally) liable with another person or entity, your share of the liability should be determined in the same way as you determined your share of jointly held assets.

Examples:

- You owe $10,000 to a bank for student loans, $5,000 for credit card debts, and $60,000 with your spouse to a savings and loan for the mortgage on the home you own with your spouse. You must report the name and address of the bank ($10,000 being the amount of that liability) and the name and address of the savings and loan ($60,000 being the amount of this liability). The credit card debts need not be reported.
- You and your 50% business partner have a $100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and $50,000 as the amount of the liability. If your liability for the loan is only as a partner, without personal liability, then the loan would be a contingent liability.

Joint and Several Liabilities Not Reported Above:

List in this part of the form the amount of each debt for which you were jointly and severally liable, that is not reported in the "Liabilities in Excess of $1,000" part of the form. Example: You and your 50% business partner have a $100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and $50,000 as the amount of the liability, as you reported the other 50% of the debt earlier.

Income

[Required by Art. II, s. 8, Fla. Const.]

Primary Sources of Income:

List the name of each source of income that provided you with more than $1,000 of income during 2022, the address of that source, and the amount of income received from that source. The income of your spouse need not be disclosed; however, if there is joint income to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should include all of that income.

"Income" means the same as "gross income" for federal income tax purposes, even if the income is not actually taxable, such as interest on tax-free bonds. Examples of income include: compensation for services, gross income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, distributive share of partnership gross income, and alimony if it is considered gross income under federal law, but not child support. Where income is derived from a business activity you should report the income to you, as calculated for income tax purposes, rather than the income to the business.

For purposes of reporting your income, you have the option of either completing this section or submitting a copy of your 2022 federal income tax return, including all schedules, W2s, and attachments.

Examples:

- If you owned stock in and were employed by a corporation and received more than $1,000 of income (salary, commissions, dividends, etc.) from the company, you should list the name of the company, its address, and the total amount of income received from it.
- If you were a partner in a law firm and your distributive share of partnership gross income exceeded $1,000, you should list the name of the firm, its address, and the amount of your distributive share.
- If you received dividend or interest income from investments in stocks and bonds, list only each individual company from which you received more than $1,000. Do not aggregate income from all of these investments.
- If more than $1,000 of income was gained from the sale of property, then you should list as a source of income the name of the purchaser, the purchaser's address, and the amount of gain from the sale. If the purchaser's identity is unknown, such as where securities listed on an exchange are sold through a brokerage firm, the source of income should be listed simply as "sale of (name of company) stock," for example.
- If more than $1,000 of your income was in the form of interest from one particular financial institution (aggregating interest from all CD's, accounts, etc., at that institution), list the name of the institution, its address, and the amount of income from that institution.

Secondary Sources of Income:

This part is intended to require the disclosure of major customers, clients, and other sources of income to businesses in which you own an interest. **It is not for reporting income from second jobs.** That kind of income should be reported as a "Primary Source of Income." You will ***not*** have anything to report ***unless:***

1. You owned (either directly or indirectly in the form of an equitable or beneficial interest) during the disclosure period, more than 5% of the total assets or capital stock of a business entity (a corporation, partnership, limited partnership, LLC, proprietorship, joint venture, trust, firm, etc., doing business in Florida); and
2. You received more than $1,000 in gross income from that business entity during the period.

If your ownership and gross income exceeded the two thresholds listed above, then for that business entity you must list every source of income to the business entity which exceeded 10% of the business entity's gross income (computed on the basis of the business entity's most recently completed fiscal year), the source's address, the source's principal business activity, and the name of the business entity in which you owned an interest. You do not have to list the amount of income the business derived from that major source of income.

Examples:

- You are the sole proprietor of a dry cleaning business, from which you received more than $1,000 in gross income last year. If only one customer, a uniform rental company, provided more than 10% of your dry cleaning business, you must list the name of your business, the name of the uniform rental company, its address, and its principal business activity (uniform rentals).
- You are a 20% partner in a partnership that owns a shopping mall and your gross partnership income exceeded $1,000. You should list the name of the partnership, the name of each tenant of the mall that provided more than 10% of the partnership's gross income, and the tenant's address and principal business activity.

Interests in Specified Businesses

[Required by s. 112.3145, F.S.]

The types of businesses covered in this section include: state and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies; credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies; utility companies; entities controlled by the Public Service Commission; and entities granted a franchise to operate by either a city or a county government.

You are required to make this disclosure if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period, more than 5% of the total assets or capital stock of one of the types of business entities listed above. You also must complete this part of the form for each of these types of businesses for which you are, or were at any time during 2022, an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process).

If you have or held such a position or ownership interest in one of these types of businesses, list: the name of the business, its address and principal business activity, and the position held with the business (if any). Also, if you own(ed) more than a 5% interest in the business, as described above, you must indicate that fact and describe the nature of your interest.

Training Certification

[Required by s. 112.3142, F.S.]

If you are a Constitutional or elected municipal officer whose service began before March 31 of the year for which you are filing, you are required to complete four hours of ethics training which addresses Article II, Section 8 of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and open meetings laws of the state. You are required to certify on this form that you have taken such training.

AGENDA MANAGEMENT

Subject	Dept		Mtg Date
Reorganization of Council: Mayor/Vice Mayor nominations	Admin	added 11.10.2023	11.20.2023
OSC Electrical ratification	Public Works	added 11.10.2023	11.20.2023
First Florida Intergrity Bank Loan Amendments	Finance	added 11.25.2023	11.20.2023
Presentation: SchenkelShultz/SCAPE	Admin	added 10.24.2023	12.07.2023 M&P
Presentation: Corradino Group - LDC/Comp Plan updates	P&Z	added 07.19.2023	TBD TC
Council Strategic Planning session(s)		added 10.12.2023	TBD
Joint Sessions between Council & advisory committees		added 11.02.2023	Multiple M&P days
Downtown District Analysis (what are can/cannot do's?) (JA)	P&Z	added 06.22.2023	TBD M&P
Resilient Lee hub (BV)	Council	added 06.21.2023	TBD M&P
What is Workforce Housing? (BV)	Council	added 04.06.2023	TBD M&P
Sewer inspection with home rebuilds (BV)	P&Z	added 04.17.2023	TBD M&P
Veteran's Tribute at Bayside Park (JA)	Council	added 09.08.2022	TBD M&P
LDC/Comp Plan transmittal hearing	P&Z	added 06.22.2023	TBD