

From: Joel Foreman

Sent: Friday, March 10, 2017 4:51 PM

To: Bucky Nash; Everett Phillips

Cc: Ben Scott; Ron Williams

Subject: Suwannee Valley Transit Authority meeting scheduled for Monday, March 13, 2017

Commissioners,

PLEASE DO NOT "REPLY ALL" TO THIS EMAIL. DOING SO WILL CONSTITUTE A SUNSHINE VIOLATION.

It has come to my attention this afternoon that the SVTA has rescheduled a special meeting for this Monday, March 13 at 6 o'clock PM.

Although I do not provide counsel to the SVTA Board, I do consider it my duty to provide counsel to members of the Board and advise them if I believe their participation in a meeting might run afoul of Florida law. I am concerned that the meeting now set for March 13 has not been set in compliance with the requirements of Florida Statutes Ch. 189, the Uniform Special District Accountability Act.

Specifically, section 189.015 provides:

"The governing body of an independent special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days before such meeting, in a newspaper of general paid circulation in the county or counties in which the special district is located, unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the governing body."

I do not find this language to be ambiguous or subject to any interpretation other than when a special district like SVTA wishes to call a special meeting it must publish a notice of the day, time, place and purpose of the meeting in "a newspaper of general paid circulation in the county or counties in which the special district is located". This means that a notice must appear in newspapers in Suwannee, Hamilton, and Columbia Counties providing notice of the special meeting, and that notice must appear on or before the 7th day before the meeting date.

The statute further provides:

The advertisement shall be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the county is published fewer than 5 days a week.

The language is sufficiently clear that a lack of proof as to satisfaction of the notice requirement will undermine the validity of any meeting held out of compliance with this part.

I must also reiterate that it appears to me that there is a lack of compliance with section 189.069 reporting requirements on the SVTA website. Until those items are brought into compliance with respect to noticing meetings I would advise each of you to demand compliance and decline to participate in any improperly noticed meeting.

Allegations of failure to comply with the requirements of Chapter 189 may result in oversight hearings at the local and state level which can result, among other things, in the dissolution of the special district should the oversight hearing result in a determination that the special district has failed to comply with notice requirements.

As to each of you individually, Chapter 189 incorporates Florida's public meeting Sunshine Law, Ch. 286, such that failure to give proper notice under 189 likely creates a separate violation under 286.

Section 286.011(3) provides:

- (3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.
- (b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).
- (c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

Therefore I am required to advise each of you that attendance at any improperly noticed meeting is likely punishable, at minimum, as a noncriminal infraction with a fine. A knowing violation of section 286 carries a second degree misdemeanor charge and is punishable as a criminal offense.

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Please contact me directly should you have any questions.

Respectfully,

Joel Foreman

Joel F. Foreman, County Attorney
Columbia County, Florida

Florida's Government in the Sunshine Law <snip.....>