

WILLIAM "BILL" EDDINS
STATE ATTORNEY



OFFICE OF
STATE ATTORNEY
FIRST JUDICIAL CIRCUIT OF FLORIDA

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December 1, 2017

Alison P. Rogers
County Attorney
Escambia County Board of Commissioners
221 Palafox Place, Suite 430
Pensacola, FL 32502

Dear Alison:

Enclosed please find a copy of a complaint we have received from the Escambia County Sheriff's Department alleging possible Sunshine and Public Record violations by Escambia County.

Please review this complaint and provide any information you would like us to consider. I would appreciate receiving your response within seven days of the date of this letter.

If you have any questions regarding this matter please contact me.

Sincerely,

Gregory A. Marcille
Chief Assistant State Attorney

Enclosures

Greg Marcille - FW: PRR for Budget "Shade" Meeting

From: "Gerald E. Champagne" <gchampagne@escambiaso.com>
To: "Greg Marcille (Greg_Marcille@sa01.org)" <Greg_Marcille@sa01.org>
Date: 11/17/2017 11:29 AM
Subject: FW: PRR for Budget "Shade" Meeting

Greg, below is the Escambia County response to our request for the record of an Escambia County Board of County Commissioners Meeting held on October 23, 2017. EBOCC is contending that the meeting was properly closed to the public pursuant to Section 286.011(8), Florida Statutes (2017). This statute provides that EBOCC may meet in private with their attorney to discuss pending litigation provided: "The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures." We do not see how this meeting could possibly have been held for either of these reasons, because there were and are no "settlement negotiations" ongoing, and there do not appear to be any "litigation expenses" because the reply was handled by in-house counsel. We believe that this meeting dealt with the drafting of the EBOCC Response to the Sheriff's pending Budget Appeal, which is not a proper reason to close the meeting to the public.

We have requested a transcript of the closed portion of this meeting, and that request has been denied. See the email below. We believe that this response is also an improper denial of a request to produce a public record.

We also observe that the current EBOCC Chairman has publicly stated that it is his opinion that it's proper to conduct a "shade" meeting when the subject of the meeting is "potential litigation." We do not believe that this is permitted under Florida law.

On behalf of Sheriff Morgan, we respectfully request that you initiate an investigation into this meeting on the basis that it was wrongfully closed to the public in violation of Section 286.011(8), Florida Statutes (2017). We also request that you investigate the County's denial of our request for the transcript because the cited Statute does not permit denial of our request for a transcript of the meeting. We contend that EBOCC is wrongfully denying access to a public record in violation of Chapter 119, Florida Statutes (2017).

Gerald E. Champagne
 General Counsel
 Escambia County Sheriff's Office
gchampagne@escambiaso.com
 (850) 436-9515

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Escambia County Sheriff's Office, 1700 W Leonard St., Pensacola, FL 32501. ECSO home page:
<http://escambiaso.com/>.

From: Debra Little
Sent: Thursday, November 09, 2017 10:00 AM
To: Eric Haines
Cc: Gerald E. Champagne; Carissa L. Mitchell
Subject: FW: PRR for Budget "Shade" Meeting

Please see the below response. I will reach out to Susan to see if any records pertaining to our request exist.

Debra D. Little
General Counsel
Escambia County Sheriff's Office
1700 West Leonard Street
Pensacola, Florida 32501
Office: (850) 436-9515
ddlittle@escambiaso.com



Certified Litigation Specialist

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From: Alison A. Rogers [<mailto:aarogers@co.escambia.fl.us>]
Sent: Thursday, November 09, 2017 8:26 AM
To: Debra Little
Cc: Carissa L. Mitchell; Susan Woolf (COC); Charlie Peppler; Kristin D. Hual; Dianne C. Simpson
Subject: RE: PRR for Budget "Shade" Meeting

Debra,

I hope this email finds you well.

Pursuant to Art. V, sec. 16, Fla. Const. and sections 28.12 and 125.17, Fla. Stat., the Clerk of Court is the official record keeper of BCC meetings, including minutes. Records of the public portion of the meeting referenced should be obtained from that source. The County did not televise or video record the public portions of this meeting.

Pursuant to section 286.011(8)(e), Fla. Stat., the transcript of the litigation session will be "made part of the public record upon conclusion of the litigation." Therefore, it is not currently accessible as a public record as established by section 286.011(8), Fla. Stat.

Please call with any questions or concerns.

Best,

Alison P. Rogers
County Attorney
Escambia County Board of County Commissioners
221 Palafox Place, Suite 430
Pensacola, Florida 32502
Phone: (850) 595-4970
Fax: (850) 595-4979



From: Debra Little [mailto:ddlittle@escambiaso.com]
Sent: Wednesday, November 08, 2017 2:26 PM
To: Alison A. Rogers <aarogers@co.escambia.fl.us>
Cc: Carissa L. Mitchell <solegal@escambiaso.com>
Subject: PRR for Budget "Shade" Meeting

Good afternoon, please allow this email to serve as a request for any and all records, videos, audio, minutes, and transcripts of the meeting to discuss Sheriff Morgan's budget appeal held October 23, 2017.

This request should be interpreted to include both the public portion of the discussion where the Board voted to hold the meeting in the "Shade" and the closed meeting/discussion held after the vote.

Should you deny my request, or any part of the request, please state in writing the basis for the denial, including the exact statutory citation authorizing the denial as required by s. 119, F.S.

Debra D. Little

General Counsel
Escambia County Sheriff's Office
1700 West Leonard Street
Pensacola, Florida 32501
Office: (850) 436-9515
ddlittle@escambiaso.com



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Florida has a very broad public records law. Under Florida law, both the content of emails and email addresses are public records. If you do not want the content of your email or your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in person.