



To: Innovation Council

From: Naomi Levi Garcia, Assistant City Attorney for the City of Coral Gables

Approved: Miriam Soler Ramos, City Attorney for the City of Coral Gables

MSR

RE: Legal Opinion Regarding Innovation Council Subject to Sunshine Law and Public Records Laws

Date: May 15, 2019

The question has arisen whether the City's Innovation Council is subject to Florida's Government in the Sunshine Law (hereinafter "Sunshine Law"). While the Innovation Council began as a fact-finding, informal think tank, it has since evolved and has begun making recommendations to city officials. As such, the Innovation Council is now subject to Florida's Sunshine Law and Public Records Laws.

The Innovation Council (hereinafter "Council") was created in 2017 for the purpose of promoting the City of Coral Gables as an innovation center of the Americas. At the time of its formation, the Council planned to meet informally on a few occasions to conduct certain fact-finding and promotional activities. On July 11, 2017, the former City Attorney opined during a commission meeting that the Council was not subject to the Sunshine Law due to its informal nature and the fact that the Council would not make recommendations to the City Commission.

Since its initial inception, the Council's overarching goal has remained the same, but its organization, strategies, and relationship to the city have evolved. The Council now has a charter and strategic goals designed to achieve its mission of "partner[ing] with innovative technology organizations to make the City of Coral Gables a smarter and more advanced community and the Innovation Center of the Americas". *Innovation Council Details*, (May 10, 2019, 9:30 AM), <https://www.coralgables.com/innovation-council>. Furthermore, a city consultant was hired to assist the Council with its objectives, that consultant also serves as Chair of the Council. In order to achieve its goals, the Council has become highly organized, and its activities have become more focused, research-based and far reaching. Because the Council cannot operate in a vacuum, the group has met with city officials to keep them abreast of their activities. In *Wood v. Marston*, the Florida Supreme Court held that a university's search and screen committee had a "fact-gathering" role in the solicitation and compilation of applications [and] an equally undisputed

making function in screening the applicants. The Court reasoned that in deciding which of the applicants to reject from further consideration, the committee performed a policy-based, decision-making function that required the committee to follow the Sunshine Law. *Wood v. Marston*, 442 So. 2d 934, 937 (Fla. 1983) See also *Town of Palm Beach v. Gradison*, 296 So. 2d 473, 474 (Fla. 1974). Likewise, if the Council meets with city officials and makes recommendations, the act of deciding which initiatives to champion and which to reject, is analogous to a screening committee deciding which resumes to recommend, even if ultimately, city staff makes the final determination.

Attorney General Opinion 85-76, though non-binding is also illustrative, in that opinion, an ad hoc committee of citizens appointed by the mayor and charged with providing advice and giving recommendations was subject to the Government in the Sunshine Law. The committee's remoteness from the decision-making process did not shield the committee from the Sunshine Law. Fla. Att'y Gen. Op. No. 85-76 (September 13, 1985).

In summary, as a committee that is now not only fact-finding, but also and making recommendations on city initiatives, the Innovation Council should comply with all applicable provisions of Florida's Sunshine Law and Public Records Laws. On a related note, though the question was not specifically asked, the individual employed as a city consultant for the Council should not serve as a voting member of the Council due to conflict of interest and ethics code considerations. (See CAO 2019-007). The consultant may, however, assist the Committee in its mission, as does a City employee who serves as staff to a particular committee.

This opinion is issued pursuant to Secs. 2-252(e)(1) and (8) and 2-300 of the Coral Gables City Code.

From: [Ramos, Miriam](#)
To: [Paulk, Enga](#)
Cc: [Suarez, Cristina](#); [Levi Garcia, Naomi](#)
Subject: Opinion - innovation council
Date: Wednesday, May 15, 2019 11:27:26 AM
Attachments: [Innovation Council CAO - final.docx](#)
[image003.png](#)

Enga, please conform and publish.

Thanks,

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

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From: Naomi Levi Garcia, Assistant City Attorney

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