

**Seminole County
Parks & Preservation Advisory Committee
Meeting Minutes
March 15, 2023**

Members Present:

Isaac Abdelmessih, Pasha Baker, Mark Brandenburg, Nancy Dunn, Davion Hampton, Joshua Memminger, Harrel Morgan, Chris Stevens

Members Absent:

Tom Boyko, Ashley Cros, Angela Fleming, Emily Hanna, Reid Hillard, William Wills

Guest:

Gerlin Kahn, Assistant County Attorney

Staff Present:

William Pandos, Division Manager, Greenways & Natural Lands
Sherry Williams, Special Projects Program Manager
Cindy Kelley, Administration Assistant

Location:

Boombah Soldiers Creek
2400 State Road 419
Longwood, FL 32750

On Wednesday, March 15, 2023, Chairman Mark Brandenburg called the meeting to order at 6:30 p.m. There was a quorum in attendance.

Pledge of Allegiance, Welcome and Introductions

Mark Brandenburg led the Pledge of Allegiance and introduced the guest.

Approval of Minutes:

Mr. Brandenburg asked if there were any questions or corrections regarding the minutes for the November 16, 2023 meeting minutes. A motion was made and seconded to approve with no corrections. The motion passed unanimously.

**Seminole County
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New Business:

- Five new members were introduced and told about themselves. Isaac Abdelmessih, Davion Hampton, Joshua Memminger, Harrel Morgan and Chris Stevens
- Gerlin Kahn was present from the County Attorney's office to present the Yearly Ethnics and Sunshine Law Training.
- Mark Brandenburg reminded everyone that they need to go thru Cindy Kelley to get information out to the committee.
- List is being updated by Shani Beach. Send out matrix to committee.

Sherry Williams

- Gave a summary presentation on the Seminole Forever workshop that took place on March 14, 2023 at the Commission meeting. Was a non-voting workshop. Advisory board will be appointed by the Board of County Commissioners. Will be a program for Natural Lands.
- Park system master plan is being worked on by the consultant, GAI, they are in the information gathering level. Kick off meeting is Monday, March 20, 2023 and when we have more information, we will be bringing it to the committee.
- We are working on the ARPCA reaccreditation for 2024.
- If any recommendations for the Board of County Commissioners are given, it is done as a group with a letter sent by the Chairperson.
- You should set up some update meetings with your commissioners to stay up to date with what is going on.

Greenways and Natural Lands Division Update

Bill Pandos gave the update on Greenways and Natural Lands Division

- Passive Parks
 - Spring Eco Camp is full and is a great program every year
 - Markham Trail Head Mountain Bike Trail Grand opening is April 1st from 10:00 am to 1:00 pm.
 - New restroom was added at Winwood Park and the pavilion has gone on the RecTrax system.

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- Soldiers Creek overflow parking is in progress. Adding 90 more parking spots.
- Black Bear parking area expansion is complete.
- Midway/River Bend roadway landscaping project is in progress.
- Monroe Wayside boat ramp is being totally refurbished to include one more ramp for a total of 4, should be reopening by August. Hope to come back and put in restroom and clean and restore the historic bridge.
- Health Department fitness area has opened. Looking to put up shade structures.
- Seminole Wekiva Trail Underpasses-Public Works has new engineers that are meeting with the consultants.
- Central Seminole Trail extension is in the works per the engineer.
- Deer Run Park had the master plan kick off meeting with GAI on March 8th. We will be having community meetings for the master plan review.

Parks and Recreation

Michael Wirsing was absent. No report on parks.

Meeting was adjourned at 8:20 PM.



Parks & Preservation Advisory Committee Meeting

March 15, 2023



Today's Agenda

Call to Order – Mark Brandenburg

Pledge of Allegiance

Welcome/Introductions – Mark Brandenburg

- Introduce three new members-Isaac Abdelmessih, Joshua Memminger and Harrel Morgan

Approval of November 16, 2022 Meeting Minutes

New Business:

Gerlin Kahn

- Annual Ethics and Sunshine Law Training

Sherry Williams

- BCC Agenda Items of Interest

Bill Pandos

- Greenways and Natural Lands Division Updates

Michael Wirsing

- Parks and Recreation Division Updates

Old Business:

Public Comment

Adjourn

Seminole Forever

Board of County Commissioners
Work Session



March 14, 2023



Greenways and Natural Lands Update

PPAC Meeting – November 16, 2022





Program and Facilities Update

- Spring Eco Camp



Projects and Operations

Markham Trail Head –

Grand Opening April 1st-10:00 am to
1:00 pm

- **Winwood Park Restroom –**
Construction is completed



- **Soldiers Creek Park Overflow Parking –**
Project in progress



- **Black Bear Wilderness Area Parking Expansion**



- **Black Bear Wilderness Area Parking Expansion**



- Midway/River Bend Landscape Roadway Project



- **Midway /River Bend Landscape Roadway Project**





- **Midway /River Bend Landscape Roadway Project**

- Monroe Wayside boat ramp





- PW Trail project-
 1. SWT Under passes

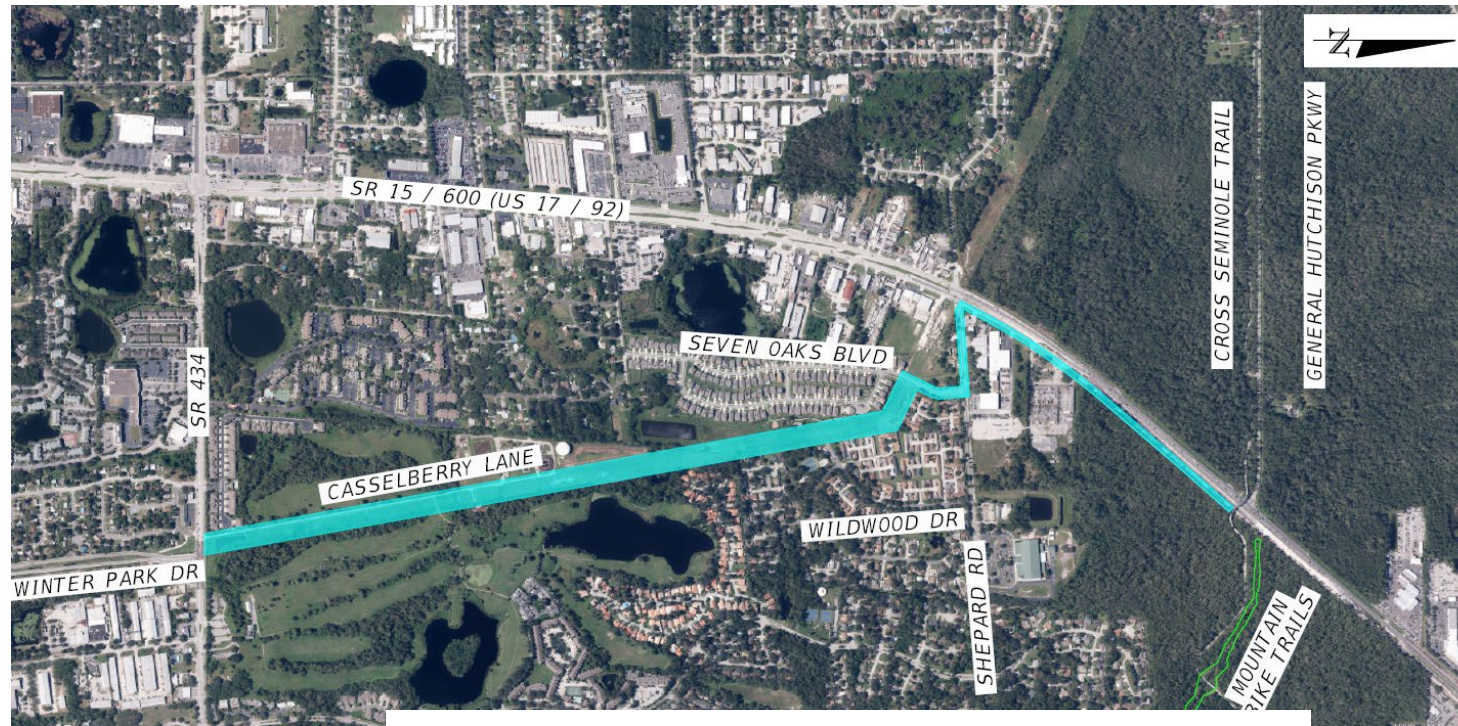
Seminole Wekiva Trail Underpasses



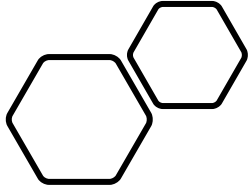
Status: Design just underway.

7

Central Seminole Trail North Section



Status: Design assigned to Moffatt & Nichol.



- **Sunland Park Renovations**



- Deer Run Park – Master Plan kick off meeting was March 8th





Thank You!

Florida's Government in the Sunshine and Public Records Laws Ethics

Presented By:
Gerlin Kahn, Assistant County Attorney
March 2023



Government in the Sunshine Law

▶ The Sunshine Law has **4 basic requirements:**

- ❑ Meetings must be **open to the public**; and
 - ❑ **Reasonable notice** of the meetings must be given; and
 - ❑ **Minutes** of the meetings must be **taken and promptly recorded**; and
 - ❑ **Public has right to speak** on all propositions except ministerial and emergency matters.
- Florida law governs Quasi-Judicial hearings.

Government in the Sunshine Law: To Whom Does it Apply? When does it apply?

- ▶ The Sunshine Law applies to elected and appointed public boards and
- ▶ Any “gathering” of two or more members of the same board to discuss some matter which may **foreseeably** come before that board for action.

In other words, if it is conceivable that the Board will consider a matter, it should not be discussed in private. *Hough v. Stembridge*, 278 So.2d 288 (Fla. 3d DCA 1973).

Application of the Sunshine Law: Telephone & Email

- ▶ The Sunshine Law applies to meetings and discussions conducted via telephones, computers (*e.g.*, email), and other electronic means. AGO 89-39 and AGO 09-19.

- ▣ **This includes text messages on private phones so long as “conducting public business.”**

O’Boyle v. Town of Gulf Stream, 257 So. 3d 1036 (Fla. 4th DCA 2018)

Refrain from Using Nonmembers to Circulate Information

- ▶ May **not** use nonmembers (such as County staff and Commissioners' Aides) as liaisons to circulate information and thoughts of individual Board members is prohibited. *AGO 74-47.*
- ▶ Staff, too, should refrain from requesting information (such as a member's position) to circulate to other members. *AGO 89-23.*

Written Circulated Comments Violates the Sunshine Law

- ▶ Written reports circulated among Board members for comments, where such comments can be seen by the other members, is a violation of the Sunshine Law. *AGO 90-03.*

Government in the Sunshine Law: Social Media Counts!

- ▶ Social media counts!
 - ▶ Board members may not engage in an exchange or discussion of matters on Facebook or other social media, (e.g., Twitter) that may foreseeably come before the Board for action. *AGO 09-19.*

Government in the Sunshine Law: Public Access

- ▶ Key element of the Sunshine Law
- ▶ Board members are advised to avoid holding meetings in places not easily accessible to the public.

Therefore, the use of **luncheon meetings** should be avoided as these meetings tend to have a “chilling” effect upon the public’s willingness or desire to attend. *Inf. Op to Campbell, February 8, 1999, and Inf. Op. to Nelson, May 19, 1980.*

Government in the Sunshine Law

- ▶ The term “open to the public” means open to all persons who choose to attend. *AGO 99-53*. This includes all members of the press, competitive bidders, and employees.

Frequently Asked Questions

- ▶ **Must written minutes be kept of all sunshine meetings?** While tape recorders may be used to record the proceedings, written minutes of the meeting must be taken and promptly recorded.
- ▶ **Are board members authorized to abstain from voting?**
 - ❑ No, board members who are present at a meeting must vote unless there is, or appears to be, a conflict of interest under Florida Statutes. *Section 286.012, Florida Statutes.*
- ▶ **What are the notice requirements when a meeting is adjourned to a later date?** If a meeting is adjourned and reconvened later to complete the business from the agenda of the adjourned meeting, the second meeting should also be noticed.

Frequently Asked Question (Cont'd)

- ***Does the Sunshine Law restrict a board from taking action on matters not on the agenda?*** No.
- ***May a member of the public tape-record a board meeting?*** Yes.

Consequences for Sunshine Violations

► Penalties:

- ❑ Civil penalties up to \$500 against each participating member. A knowing or intentional act is **not** required. *Section 286.011(3)(a), Florida Statutes.*
- ❑ Criminal penalties, including incarceration and fines, for any Board member who knowingly attends such a meeting or has a prohibited contact in violation of the statute. *Section 286.011(3)(b), Florida Statutes.*
- ❑ Award of reasonable attorney's fees against the Board found to have violated the Sunshine Law. *Section 286.011(4).*

Consequences for Sunshine Violations: Tainted Meetings

- ▶ Any action taken at a meeting tainted by a Sunshine Law violation is void. *Section 286.011, Florida Statutes.*
- ▶ In addition, a violation may require the Board member to hire private counsel either for private suits or for State Attorney Actions.

Public Records

Chapter 119, Florida Statutes

- ▶ Florida's Public Records Law provides for citizens to have a virtually unlimited access to the records of government.

Public Records

- ▶ “Public records” means:
 - ▶ 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. *Section 119.011(12), Florida Statutes.*

How to Determine what is a Public Record?

- ▶ HINT: Look at its purpose!
 - ▶ If the purpose of a document prepared in connection with the official business of a public agency is to perpetuate, communicate, or formalize knowledge, then it is a public record regardless of whether it is in final form or the ultimate product of an agency. *Sheven v. Byron, Harless, Schaffer, Reid & Associates, Inc.*, 379 So.2d 633,640 (Fla. Sup. Ct. 1980)

Determining Public Records on a Case- by-Case Basis

- ▶ “It is impossible to lay down a definition of general application that identifies all items subject to disclosure under the [Public Records] act. *Consequently, the classification of items which fall midway on the spectrum of clearly public records on the one end and clearly not public records on the other will have to be determined on a case-by-case basis.*” *Sheven v. Byron, Harless, Schaffer, Reid & Associates, Inc.*, 379 So.2d 633,640 (Fla. Sup. Ct. 1980) (Bracketed words added).

Public Records

Examples of public records subject to the public records law **absent an exception:**

- Computer records
- Email messages
- Text messages
- Facebook messages
- Financial records (including bids, budgets, personal financial records)
- Litigation records
- Personnel records

Potential Sources of Electronic Public Records

- ▶ Public Records on public agency's servers
 - Emails to and from email addresses
- ▶ Public Records on social media and other web-based accounts administered by public agency
- ▶ Public Records on public agency issued cell phones and electronic devices
- ▶ Public Records on privately owned personal cell phones, personal devices
 - Includes personal social media and other web-based accounts of public agency's officers and employees

Public Records: Frequently Asked Questions

- ▶ Is the County required to reformat its records?
 - **No!** The County is not generally required to reformat its records to meet the requestor's particular needs. *AGO 97-39*.
- ▶ Can I ask for a reason for the request?
 - **No!** A person's motive in seeking access to public records is irrelevant. Therefore, the County cannot ask the reason for the public records request. *Curry v. State, 811 So.2d 736 (Fla. 4th DCA 2002)*.

Public Records: What are the compliance requirements?

▶ As custodian of records:

- Must acknowledge requests for public records promptly and
- Respond to such requests in good faith.
- Although there is no time limit for compliance stated in the Act, the Florida Supreme Court has stated that the **only delay permitted “is the limited reasonable time allowed the custodian to retrieve the record and delete portions of the record the custodian asserts are exempt.”**
Tribune Company v. Cannella, 458 So.2d 1075, 1078 (Fla. Sup. Ct. 1984).

Public Records: What are some Consequences?

► Penalties:

- ❑ Individual violations can be prosecuted criminally or in civil court by citizens or companies.
- ❑ The County can be assessed attorney's fees for failing to comply.
- ❑ A Board member can be removed from office for failing to comply.

Part III, Chapter 112, Florida Statutes (Florida Ethics Code)

Prohibitions

Section 112.313, Florida Statutes

- Soliciting or accepting of gifts
- Doing business with one's agency
- Unauthorized compensation
- Misuse of Position (special benefits for self or others)
- Conflicting employment
- Disclosure of certain information

Applies to “Public Officers” which include any person serving on an advisory board.

Doing Business with One's Agency

Question:

May a school board member's company sell mandatory school uniforms to parents of children who attend the school?

Doing Business with One's Agency

Answer: Yes.

The sale of uniforms to parents of school children is permissible. However, sale of uniforms to the school board or schools in the school district is prohibited.

See CEO 10-12

Unauthorized Compensation

Question:

Does the prohibition against unauthorized compensation extend to the public officer's family?

Unauthorized Compensation

Answer: Yes.

Under F.S. 112.313(4) the prohibition against unauthorized compensation extends to the public official, his or her spouse and minor children.

- ❑ Other relatives, including son-in-law, are not covered by this prohibition. See CEO 11-04

Applies when public official “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 ... was expected to participate in his or her official capacity.” F.S. 112.313(4)

Voting Conflicts of Interest

Section 112.3143(3)(a), Florida Statutes

- ▶ A voting conflict arises when the official is called upon to vote on:
 - ▶ any measure which would inure to the officer's special private gain or loss; *or*
 - ▶ which he or she **knows** would inure to the **special private gain or loss** of any **principal** by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained; *or*
 - ▶ which the officer **knows** would inure to the special private gain or loss of a **relative or business associate** of the public officer

Note: Strict liability for Commissioner's or Board Member's gain or loss since knowledge is not required. However, knowledge of gain or loss is required for all others.

Section 112.3143(1)(c), Florida Statutes

For purposes of “voting conflicts” relative is defined as:

(1)(c) “Relative” means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

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

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

ANALYSIS

- ▶ Are they engaging in a common commercial or entrepreneurial pursuit?
- ▶ 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



Three Considerations

1. What is the size of the affected class?
2. Is the gain or loss here remote or speculative?
3. Is this merely a preliminary or procedural measure?

Size of the Affected Class

- ▶ “Special” gain or loss will depend on size of class of persons who are similarly affected by measure

Remote or Speculative

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

Moral of the Story

- ▶ When in doubt, ask for help to determine if there is a potential voting conflict.
- ▶ Disclose all of the facts.
 - ▶ These decisions are based on the particular facts of each case.
- ▶ Err on the side of the broadest interpretation.

Prohibited Conflict v. Voting Conflict

Remember, abstaining from a vote and fully complying with the voting conflicts law of Section 112.3143, Florida Statutes, will not prevent, cure, or negate a conflict of interest under Sections 112.313(3), Doing Business with one's Agency, or (7), Conflicting Employment or Contractual Relationship, Florida Statutes.

Pre-Vote Checklist

- ▶ Prohibited Conflicts: **Abstaining** does **not** prevent an ethics violation!
- ▶ ASK:
 - ▶ (1) Doing business with one's agency?
 - ▶ (2) Conflicting employment or contractual employment?
 - ▶ (3) Employment of relative?

Form 8B: Memorandum of Voting Conflict for Local Public Officers

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS	
LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY COUNTY	<input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED	NAME OF POLITICAL SUBDIVISION:
	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

Application of Voting Conflicts to **Appointed Public Officers**: Section 112.3143(4)(a), Florida Statutes

No **appointed public** officer shall participate in any matter which would inure to the officer's special private gain or loss of a business corporate principal, subsidiary or relative:

- ▶ without first disclosing the nature of his or her interest; and
- ▶ the disclosure must be made by a memorandum, incorporated in the minutes.

Appointed Public Officers & “Participation”: Section 112.3143(4)(c), Florida Statutes

For purposes of appointed public officers, “**participate**” means any attempt to influence the decision by oral or written communication whether made by the officer or at the officer’s direction.

Application of Voting Conflicts to **Appointed Public Officers**: **Section 112.3143(4)(b)**, **Florida Statutes**

- ▶ If the conflict was not known at the time of the meeting, the officer needs to announce it at the next meeting and file the memorandum.

Importance of voting conflicts filed by public officers

Section 112.3143(6), Florida Statutes

Whenever a public officer or former public officer is being considered for **appointment or reappointment** to public office, the appointing body shall consider the nature of the memoranda of conflicts filed under this section by said officer.

Conclusion of Presentation

Thank You!

If you like to hear this presentation again, come join us in December for the CAO's in-depth dive into all these topics!