

The seal of the Florida Department of State is centered in the background. It features a circular design with a central figure, possibly a person or a symbol, surrounded by text. The text "GREAT SEAL OF THE STATE OF FLORIDA" is visible around the perimeter of the seal.

Abandoned African-American Cemeteries Task Force First Meeting

July 20, 2021

FLORIDA DEPARTMENT *of* STATE

II. Call to Order/Roll Call

	MEMBER	REPRESENTING ENTITY	AREA
1.	Dr. Timothy Parsons, Chair <i>Director, Division of Historical Resources, Florida Department of State</i>	Secretary of State, Laurel Lee's designee	Statewide
2.	Dr. Kathryn O'Donnell Miyar <i>Bureau Chief, Bureau of Archaeological Research, Division of Historical Resources, Florida Department of State</i>	Bureau of Archaeological Research, Division of Historical Resources	Statewide
3.	Ms. Yvette Lewis <i>President, NAACP Hillsborough County Branch</i>	Florida State Conference of the National Association for the Advancement of Colored People (NAACP)	Hillsborough County
4.	Dr. Antoinette Jackson <i>Professor and Chair, Department of Anthropology, USF</i>	Florida Council of Churches	Tampa
5.	Ms. Althemese Barnes <i>Executive Director, FAAHPN</i>	Florida African American Heritage Preservation Network (FAAHPN)	North Florida Region
6.	Mr. Jeffery T. Moates <i>West Central Region Director, FPAN</i>	Florida Public Archaeology Network (FPAN)	West Central Region
7.	Mr. Keenan L. Knopke <i>President & CEO Curlew Hills Memory Gardens, Inc.</i>	Cemetery Industry	Temple Terrace
8.	Senator Janet Cruz	Florida Senate	Part of Hillsborough County
9.	Representative Fentrice Driskell	Florida House of Representatives	Part of Hillsborough County
10.	Mr. Jaha Cummings <i>Council Member, City of Punta Gorda</i>	Local government	Punta Gorda



II. Welcome

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II. Introduction of Task Force Members

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III. Overview of Ch. 2021-60, *Laws of Florida*

- On June 4, 2021, Governor DeSantis signed into law CS/CS/HB 37 (Chapter 2021-60, Laws of Florida) relating to Abandoned Cemeteries. The bill created a 10-member Task Force on Abandoned African-American Cemeteries (“Task Force”), adjunct to the Department of State (“Department”), to:
 - Study the extent to which unmarked or abandoned African-American cemeteries and burial grounds exist throughout the state; and
 - Develop and recommend strategies for identifying and recording cemeteries and burial grounds while preserving local history and ensuring dignity and respect for the deceased

III. Overview of Ch. 2021-60, *Laws of Florida*

- Specifically, the bill required the Task Force to:
 - Review the [findings and recommendations](#) made by the Task Force on Abandoned and Neglected Cemeteries created pursuant to [Chapter 98-268, Laws of Florida](#), and any legislative or administrative action taken in response to the Task Force's findings and recommendations.
 - Examine the adequacy of current practices regarding the preservation of unmarked and abandoned African-American cemeteries and burial grounds and identify any challenges unique to African-American cemeteries and burial grounds.
 - Identify locations of unmarked and abandoned African-American cemeteries and burial grounds throughout the state and propose strategies, including any proposed legislation, for the preservation and evaluation of such sites.
 - Make recommendations regarding standards for the creation, placement, and maintenance of a memorial at any identified locations of unmarked and abandoned African-American cemeteries or burial grounds throughout the state.
 - Submit a report by January 1, 2022, detailing its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives.

Identified Abandoned African-American Cemeteries

- Zion Cemetery

Identified Abandoned African-American Cemeteries

- Ridgewood Cemetery

Identified Abandoned African-American Cemeteries

- New Hope Cemetery

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IV. Florida Law and Abandoned Cemeteries

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Chapter 479, *F.S.*: Funeral Cemetery, and Consumer Services Act

- Regulates funeral and cemetery services (cemeteries, columbaria, cremation, cemeteries companies, dealers, and monument builders, and funeral directors and establishments.
- Cemetery definition:
 - “a place dedicated to and used or intended to be used for the permanent interment of human remains or cremated remains. A cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the interment or disposition of cremated remains; or any combination of one or more of such structures or places.”
- Allows counties and municipalities with jurisdiction over an abandoned cemetery to provide maintenance and security to the cemetery.

Chapter 479, *F.S.*: Funeral Cemetery, and Consumer Services Act

HOWEVER

- Ch. 497, *F.S.* primarily pertains to licensed cemeteries and excludes most smaller historic and religious cemeteries. Such as:
 - Religious cemeteries of less than 5 acres
 - County and municipal cemeteries
 - Community and nonprofit cemeteries
 - Cemeteries owned/operated by religious institution prior to June 23, 1976
 - Cemeteries owned and operated since July 15, 1915 by a fraternal organization
 - A columbarium owned by and contiguous with an existing religious institution facility
 - Family cemeteries of less than 2 acres
 - A mausoleum less than 2 acres owned and contiguous to an existing religious institution facility
 - A columbarium 5 acres or less on the campus of a state university.

Section 872.05, F.S.: Unmarked Human Burials

“It is the intent of the Legislature that all human burials and human skeletal remains be accorded equal treatment and respect based upon common human dignity without reference to ethnic origin, cultural background, or religious affiliation. This section applies to all human burials, human skeletal remains, and associated burial artifacts not otherwise protected under chapter 497 or other state law and found upon or within any public or private land in the state, including submerged lands.”

- Provides notification requirements upon the discovery of unmarked human remains
- Allows the Division of Historical Resources to assume jurisdiction over unmarked remains 75 years deceased or older
- Provides that reasonable efforts be made to establish kinship, tribal, or ethnic relationships
- Establishes the intentional disturbance of an unmarked burial as a 3rd degree felony

Section 872.05, F.S.: Unmarked Human Burials

Unmarked Human Burial:

“any human skeletal remains or associated burial artifacts or any location, including any burial mound or earthen or shell monument, where human skeletal remains or associated burial artifacts are discovered or believed to exist on the basis of archaeological or historical evidence, excluding any burial marked or previously marked by a tomb, monument, gravestone, or other structure or thing placed or designed as a memorial of the dead.”

Section 872.05 does NOT apply to any cemetery or burial marked OR marked at any time in the past.

Section 872.02, *F.S.*: Injuring or removing tomb or monument; disturbing contents of a grave or tomb

- Provides protections and provisions for the “previously marked” burials that are excluded by Section 872.05.
- Provides criminal liability for willfully and knowingly disturbing previously marked burials.
- Details the legal mechanism to relocate graves, granting authority to a “legally authorized person” as defined in s. 497.005(43) and to the county commission/city council.

Sections 872.02 and 497.005 F.S.: relocating graves

Legally Authorized Person in priority listed:

- *The decedent, when authorizations and directions are provided by the decedent*
- *The person designated by the decedent as authorized to direct disposition*
- *The surviving spouse*
- *A son or daughter 18 years of age or older*
- *A grandchild 18 years of age or older*
- *A grandparent*
- *Any person in the next degree of kinship*

Section 497 does NOT authorize the Department of State, Division of Historical Resources, to assume jurisdiction or relocated marked or previously marked graves

Florida's Sunshine Law



What is the Sunshine Law?

Florida's Government in the Sunshine Law provides a right of access to governmental proceedings and records at both the state and local levels.



Florida's Sunshine Law

Florida Constitution

ARTICLE I, SECTION 24. Access to public records and meetings.—

- (a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.
- (b) All meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution.



Public Meetings

Section 286.011, Florida Statutes

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which **official acts are to be taken are declared to be public meetings open to the public at all times**, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. **The board or commission must provide reasonable notice of all such meetings.**

(2) **The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded**, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.



Public Meetings – Reasonable Notice

Section 120.525, Florida Statutes

Meetings, hearings, and workshops.—

(1) Except in the case of emergency meetings, **each agency shall give notice of public meetings, hearings, and workshops by publication in the Florida Administrative Register and on the agency's website not less than 7 days before the event.** The notice shall include a statement of the general subject matter to be considered.



Reasonable Opportunity To Be Heard

Section 286.0114, Florida Statutes

(2) 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 decision making 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. The opportunity to be heard is subject to rules or policies adopted by the board or commission, as provided in subsection (4).

(4) Rules or policies of a board or commission which govern the opportunity to be heard are limited to those that: (a) Provide guidelines regarding the amount of time an individual has to address the board or commission;

(b) 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;

(c) 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

(d) Designate a specified period of time for public comment.

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The Sunshine Law applies to advisory boards created pursuant to law, ordinance, or otherwise established by public agencies or officials.



Scope of the Sunshine Law

- Board members may not engage in private discussions regarding board business with each other, either in person or by telephone, email, texting or any other types of electronic communications (including Facebook, LinkedIn, blogs).
- While an individual board member is not prohibited from discussing board business with staff or a non-board member, these individuals may not be used as a liaison to communicate information between board members.



While a Board may adopt reasonable rules and policies to ensure orderly conduct of meetings, the Sunshine Law does not allow Boards to ban nondisruptive conduct.



Public Meetings – Violations & Penalties

Section 286.011, Florida Statutes

(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](#).



Section 119.01(1), Florida Statutes

It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

This includes the records of all private entities and Boards working on behalf of an agency.



What are 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.



Public Records

- Drafts of documents that are shared with other people are considered public records and must be produced upon request.
- E-mails or text messages created or received in connection with official business that perpetuates, communicates, or formalizes knowledge, is subject to the public records law and open for inspection. All e-mails and text messages must be produced to any person upon request, unless falling within a statutory exemption.
- Records produced during a competitive solicitation process are subject to the public records law unless a statutory exemption applies.



Public Records

- A person who requests a public record is not required to show a legitimate or non-commercial interest as a condition of access to the record.
- An agency may not require that the public records request be in writing or even require the requestor to identify himself or herself, unless specifically authorized by statute.
- The Public Records Act does not contain a specific time limit to provide requested records but Florida courts have determined records must be produced in a reasonable time that would allow the custodian to retrieve the records and redact any exempt information.



Public Records Violations

One of the results of failing to comply with a Public Records request is a civil action being filed against an agency for refusal to allow a public record to be inspected or copied, which could result in reasonable costs of enforcement, including attorneys' fees, being assessed against the agency.



Public Records Violations

Public Records Violations may also be assessed against an individual.

119.10(1) Violation of chapter; penalties.

(1) Any public officer who:

(a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Knowingly violates the provisions of s. [119.07\(1\)](#) is subject to suspension and removal or impeachment and, in addition, commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(2) Any person who willfully and knowingly violates:

(a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(b) Section [119.105](#) commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).



Florida Office of the Attorney General

Open Government Website

<http://www.myfloridalegal.com/pages.nsf/Main/314BA231F89C0C8A8525791B006A54E2>

- The website includes many resources, including the Government-In-The-Sunshine Manual which incorporates laws, judicial decisions, and Attorney General opinions in place as of the year prior to publication.



If you have any questions, feel free to reach out to the Office of General Counsel at Department of State.



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VII. Collecting Public Input

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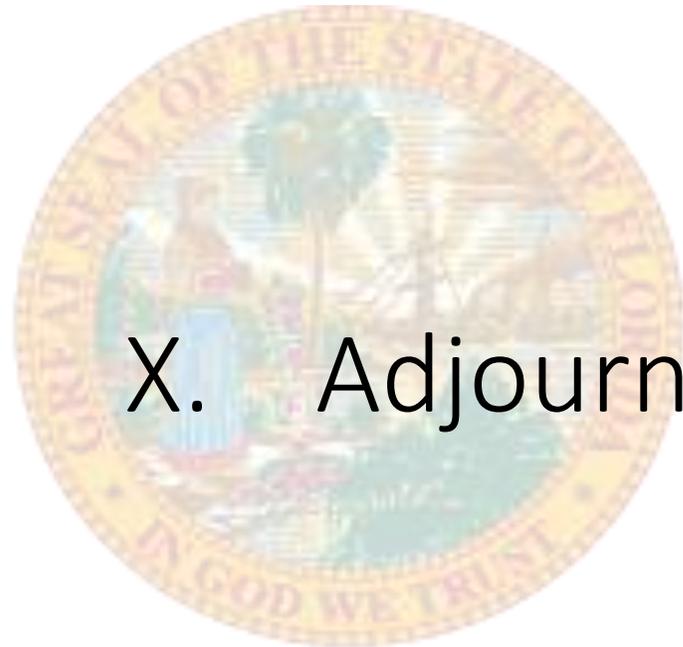
VIII. Task Force Member Questions/Comments

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IX. Public Comment

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X. Adjourn

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