

Open and Public Meetings Act

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PURPOSE

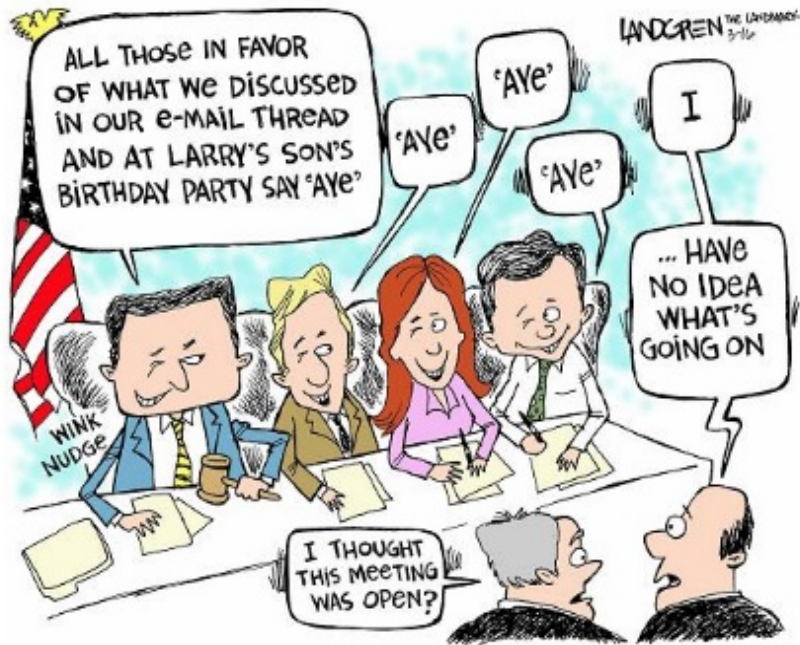


COUNTY BOARDS exist to conduct the people's business.

- Take Actions Openly
- Deliberate Openly

Open Actions and Deliberations

ANTITHESIS OF OPEN MEETING



OPEN AND PUBLIC MEETINGS



The RULE IS . . .

MEETINGS
ARE OPEN
TO THE
PUBLIC,
including quorum
workshops &
executive sessions




Workshops & Executive Sessions:

- Must be held at same location if held on same day as regularly scheduled meeting, unless . . .
- Regular meeting is held elsewhere and Workshop/Executive Session is at the regular place,
- Any of the meetings are a site visit or traveling tour,
- It is an electronic meeting, or
- It is an emergency meeting and impracticable to hold at regular location

WHAT IS A MEETING?

Meeting: means a convening of a public body with a quorum present to discuss, receive comment, or act on a matter under its jurisdiction or advisory power.

Meeting  does not mean a social or chance meeting.

When in doubt, err on the side of following the Open and Public Meetings Act.



ATTENDANCE



"I've called this meeting to discuss absenteeism."

DO I HAVE TO ATTEND
MEETINGS, OR CAN MEETINGS
BE HELD WITHOUT PEOPLE ALL
IN THE SAME ROOM?

Electronic Meetings



County Boards may hold electronic meetings (phone, computer or other electronic means) as adopted in the bylaws.

- Notice Requirements Apply
- Public Must Have Means to Attend or Participate
- Have Anchor Location (normal meeting site)

A quorum shall consist of voting members in attendance.
The Board shall conduct business by majority vote of a quorum. SLCO Code 2.98.050(B)

Can A Meeting Be Closed? If So, When?



A Meeting May Be Closed For:

- Discussions of a person's character, professional competence, or physical or mental health
- Discussions of security personnel, devices or systems
- Investigative proceedings regarding allegations of criminal misconduct
- Strategy sessions for pending/imminent litigation
- Strategy sessions for collective bargaining
- Strategy sessions to discuss purchase, exchange, lease or sale of real property, if public discussion would prevent best terms
 - Public notice of terms and public notice of approval of sale required

Is There A Process To Close A Meeting?



Yes, There Is:

- A properly noticed public meeting must be held before entering into a closed session;
- A quorum must be present;
- 2/3 must vote to close the meeting; and
- The body must publicly announce and enter on the minutes:
 - Reason(s) for holding the closed meeting
 - Location where closed meeting will be held
 - Vote by name of each member, for and against, on the motion to have a closed meeting

What Is Forbidden During A Closed Meeting?

You May Not:

- Discuss topics outside of the purpose for the closed meeting
- Take Final Action, including approving a resolution, rule, regulation, contract or appointment
- Discussions around filling a mid-term elected vacancy, including a interview and discussion of character, professional competency, or physical or mental health of potential applicant



Are There Any Meetings That **MUST** Be Closed?

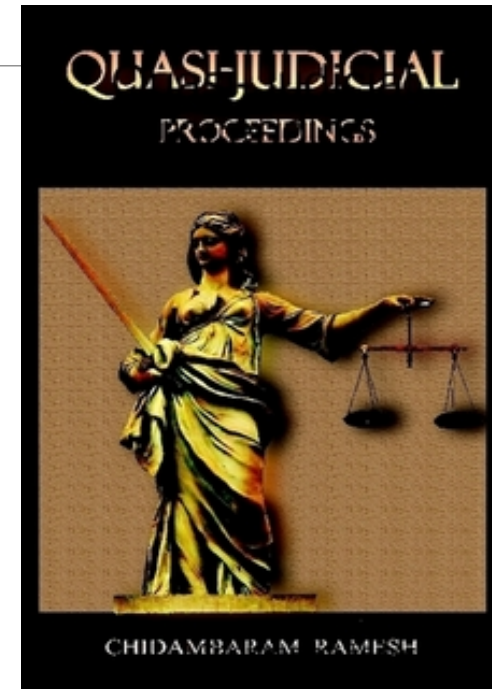
NO*

Your decision to close a meeting to the public is **always** discretionary, **not** mandatory. The law* does not require any meeting to be closed.



QUASI-JUDICIAL FUNCTION EXCEPTION

When the Board is performing its adjudicative function, “under rare circumstances, where a deliberative body of the executive branch has good cause to close only its deliberation sessions, it may apply to the mayor, in writing, for an exception ... The mayor may give written permission [] to conduct only its deliberative process in private.” County Ordinance 2.07.030 D 1.





Welcome to the Utah Public Notice Website:

Public Notice Requirements

Give at least 24 hours notice of date, time, and place of meeting. Including an agenda, specific enough to inform the public.

Public Notice musts:

- Annual public notice of date, time & place of meeting schedule
- Post all notices at office and on Utah Public Notice Website <http://www.utah.gov/pmn/index.html>; and
- Provide to a newspaper or local media correspondent – *subscription service of Public Notice Website satisfies this requirement*

What About Emergencies?

The law allows for meetings to consider “emergency or urgent” matters if:

- An attempt is made to:
 - Notify all members; and
 - A majority of members approve holding the emergency meeting
- The best notice practicable is given of:
 - Time, place and location of emergency meeting
 - The topics to be considered at the emergency meeting
- The minutes include a statement of the unforeseen circumstances that made the meeting necessary



WHAT ARE THE REQUIREMENTS FOR THE MEETING RECORDS?

OPEN MEETINGS

A complete unedited recording of all open public meetings from commencement to adjournment

- Made available to the public within 3 business days of the open meeting and labeled with date, time, and place of meeting
- Not required for site visit or travel tour, if no vote/action taken

Written Minutes -

- Pending minutes made available to public within reasonable time and clearly identified as “unapproved”
- Approved minutes made available to public within 3 business days of approval
- **Are the official record of the meeting**

CLOSED MEETINGS

A complete unedited recording for closed portion from commencement to adjournment

- Except when discussing character, health, etc or security matters, then presiding person signs sworn statement as to purpose of closed meeting.

MAY keep detailed written minutes

Both Recording and Minutes are Protected records under GRAMA, but may be released with a court order

What Are The Minute Requirements?



OPEN MEETINGS

Date, Time and Place

Names of members present and absent

Substance of all matters proposed, discussed or decided

- **May** include summary of comments by members

Record by each member of votes taken

Name of any non-member who is recognized and comments or provides testimony

- The substance, in brief, of the comments or testimony given

Any other information that a member requests to be part of the record

CLOSED MEETINGS

Minutes and Recordings shall include:

- Date, Time and Place
- Names of members present and absent
- Names of all others present except if disclosure infringes on necessary confidentiality to fulfill purpose of closed meeting



You may discuss a topic raised by the public that is not listed on the agenda, but may not take final action on the topic

You may only take a final action if the topic is listed on the agenda and part of the advance public notice

Any person in attendance may record the meeting as long as the recording does not interfere with the meeting

You may remove a person from a meeting if they are willfully disrupting the meeting to the extent that its orderly conduction is seriously compromised

What Happens if Someone Violates OPMA ?



- It is a class B misdemeanor for a member of a public body to knowingly or intentionally violate or abet or advise a violation of any closed meeting provisions
- A court may void any final action in violation of the law
- May have to pay court costs and attorney fees
- Sometimes a violation can be “cured” by noticing up, discussing and taking a public vote in a subsequent meeting



WHO CAN ENFORCE OPMA AND WHEN?

The Attorney General and County Attorneys

Any person denied rights under OPMA

A suit to void a final action must be filed within 90 days of the action

- 30 days for final actions regarding debt, bonds or notes





COMMON VIOLATIONS

Closing a meeting without first voting on a motion to close in an open meeting

Conducting a closed meeting for reasons other than those allowed by law

Taking an official or final action in a closed meeting

Failing to provide proper or adequate notice of a public meeting

Taking action on an item not listed on the agenda

Questions?



Ethics and Disclosure of Conflict of Interests Training

Dianne Orcutt,
Deputy District Attorney




Conflict of Interest?



Divided Loyalty

Public *vs* Private Interests



A call for personal
integrity...

ETHICS



- “Appointed Officers” of Salt Lake County support, obey and defend the Constitution of the United States, the Constitution of the State of Utah, the laws of the State of Utah, and the ordinances of Salt Lake County, to the best of their abilities and **will always strive to meet the highest ethical standards implicit in their employment and in the furtherance of the best public interest.**
- TAB’s purpose:
 - To work collaboratively with County elected offices, departments and agencies to establish policies, standards, organizational structures and processes that ensure the effective and efficient use of information technology resources to maximize operational efficiency and enable each elected office, department and agency to achieve its information technology goals in the best interests of all County stakeholders.

CONFLICTS and ETHICS: Who is required to comply?

- All Appointed Officers, which includes those appointed to County Boards whether or not they are compensated must be aware of and abide by:
 - Utah Public Officers' and Employees' Ethics Act §§ 67-16-1 et seq.
 - County Officers and Employee Disclosure Act §§ 17-16a-1 et seq.
 - County Ethics Code County Ordinance 2.07
 - Conflicts of Interest Prohibited County Ordinance 3.16.110
 - Countywide Policy 1430 (Professional Ethics & Conflicts of Interest)
 - Countywide Policy 1006 (Gift Policy)



DISCLOSURE STATEMENT: What is it and What must be disclosed?

- A Disclosure Statement is a written and sworn document that is filed with the County Council and is a public document.
- Any potential conflict of interest of any member shall be disclosed annually by filing a disclosure statement in accordance with county-wide policies and procedures

What Constitutes A Conflict of Interest ?



- Involvement in any business entity that is subject to County regulation
- Involvement with a business that does or anticipates doing business with the County
- Any payment received for helping a private person or business in a transaction with the County
- A personal or private interest of any kind which raises any actual or potential conflict of interest with your County duties.

To Recuse or Not Recuse

Restricted Conflict

- A direct private financial interest
- Must report annually
- Must disclose publicly to members of the body
- Shall be recused from all discussions, deliberations, decision making or vote regarding that business entity
- Disclosure statement shall be entered in the minutes

Non-Restricted Conflict

- An interest that may create the appearance of a conflict
- Must report annually
- Shall publicly disclose to members of the body immediately prior to any discussion and/or vote regarding the business entity
- Disclosure statement shall be entered in the minutes

Further Disclosures

Compensation for Assistance

- Must disclose the information at least 10 days prior to the date of any agreement with the business or person being assisted and the Board member
- Or at least 10 days before receiving any compensation

An Interest Creating a Conflict

- Must publicly disclose such interest to the members of the body immediately prior to discussion and/or vote regarding the conflict of interest and the nature of the conflict
- Disclosure shall be entered in the minutes of the meeting

Hypothetical

- Belle Board member owns a 15% interest in a local software company. She has disclosed this on her yearly disclosure statement.
- The TAB is discussing a proposed ordinance that will govern how software contracts must be drafted to address liability.
- Does Belle have a conflict of interest? What kind?
- What is Belle required to do, if anything?
- Should she be recused from discussions, deliberations or decisions on the matter?
- Would your answers change if TAB was considering a proposal submitted by her software company?

ARE THERE ANY ACTIONS THAT YOU ARE PROHIBITED FROM?



- YES ! As a board member:
- You are prohibited ...
 - From disclosing confidential information acquired as a board member
 - Using or attempting to use your position on the board to seek special privileges
 - From knowingly, either directly or indirectly, receiving, accepting, seeking or soliciting any gift or loan, which would reasonably be expected to improperly influence the discharge of your public duties



Potential Penalties

- Removal from Appointment
- Action, Vote or Contract taken in contradiction may be voidable
- Under Utah Public Officers' and Employees' Ethics Act:
 - B misdemeanor up to 2nd Felony based on value §67-16-12
- Under County Officers and Employees Disclosure Act:
 - Class A misdemeanor; bribery- 3rd Felony \$1000 or less & 2nd Felony above \$1000 §17-16a-11
- Under County Ethics Code:
 - Class B misdemeanor



Questions?