

# Open and Public Meetings Act

Title 52, Chapter 4

# RULE AND PURPOSE

## Why are meetings generally open to the public?

- ▶ State and local agencies exist to conduct the people's business.
  - ▶ Government Must Take Actions Openly
  - ▶ Government Must Deliberate Openly

# WHO DOES THE OPEN AND PUBLIC MEETINGS ACT GOVERN?

Any body of the State or its political subdivisions . . .

- ▶ Created by constitution, statute, rule, ordinance or resolution
- ▶ Consisting of two or more persons
- ▶ That expends, disburses, or is supported by tax revenue, and
- ▶ Vested with authority to make decisions about public business

# WHAT IS A MEETING?

- ▶ 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

*Not a Meeting: social gatherings or chance meetings*

Probably Not



Could Be



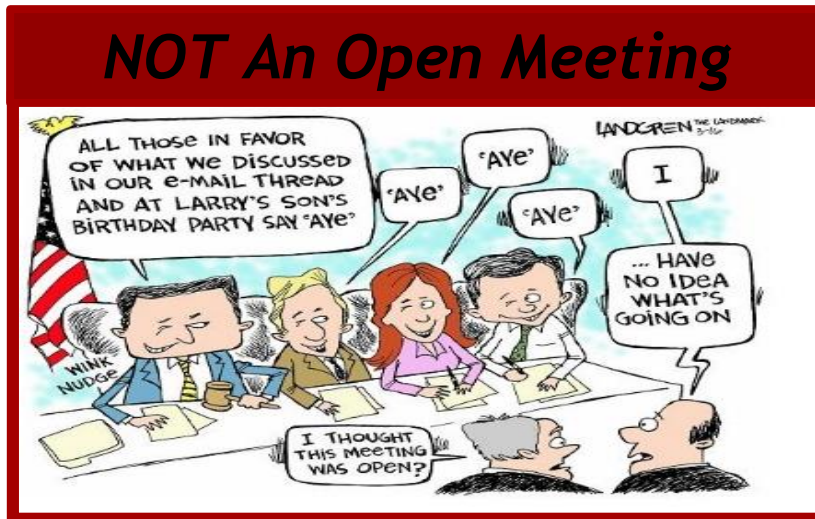
Most Likely Is



***If unsure, follow the Open and Public Meetings Act***

# OPEN ACTIONS AND DELIBERATIONS

- ▶ Any person in attendance may record the meeting as long as the recording does not interfere with the meeting
- ▶ You may remove any person from a meeting if they are willfully disrupting the meeting to the extent that its orderly conduction is seriously compromised



# ELECTRONIC MEETINGS



Public meetings conducted by computer, telephone, or mobile application must abide open meeting regulations

## To Convene an Electronic Meeting:

- ▶ Notice Requirements Apply *(See Slides 7-8 for Modified “No Anchor Location” Requirements)*
- ▶ Public Must Have Means to Attend/Participate at Anchor Location
- ▶ Anchor Location Not Required in Some Circumstances *(See Slides 7-8)*

**Remember:** *before conducting first electronic meeting, whether with or without an anchor location, public body must adopt a resolution or rule to govern electronic meetings*

# ELECTRONIC MEETINGS Cont'd

## *without Anchor Location*

*. . .must abide open meeting regulations*



### ANCHOR LOCATION NOT REQUIRED IF<sup>1</sup>

- ▶ Written determination by Chair, including basis, that holding meeting at anchor location presents “substantial risk” to attendee “health and safety”, **OR**
- ▶ The location where the entity normally meets is ordered closed for health or safety
- ▶ Determination expires 30 days after the day the chair makes determination

### MUST PROVIDE MEANS FOR PUBLIC TO HEAR, VIEW, COMMENT

- ▶ Electronic meetings must provide means for public to hear, or hear and view, the open portions of the meeting, and enable the public to provide comments electronically to the public body if comments are being accepted

### MODIFIED NOTICE REQUIREMENTS FOR NO ANCHOR MEETING

- ▶ Determination must be included in public notice and read at meeting, and
- ▶ Public information must include how public can view or make comments while “attending” meeting, and
- ▶ Electronic meetings held without anchor location are exempt from physically post meeting notice at government building or usual intended meeting place, but must abide all other notice requirements

<sup>1</sup> See Utah Code §§ 52-4-202(3)(i)(A); 52-4-207.

# ELECTRONIC MEETINGS Cont'd

## *with Anchor Location*

*. . . must abide open meeting regulations*

### **MUST PROVIDE MEANS FOR PUBLIC TO HEAR, VIEW, COMMENT**

- ▶ Must provide means for public to hear, or hear and view, the open portions of the meeting, and enable the public to provide comments electronically to the public body if comments are being accepted

### **NOTICE**

- ▶ Electronic meetings held with an anchor location are required to abide all existing notice and posting requirements, including physically posting meeting notice at government building or usual intended meeting place

### **MUST HAVE ANCHOR LOCATION (normal meeting site)**

- ▶ Electronic meetings held with an anchor location are required to abide all existing notice and posting requirements, including physically posting meeting notice at government building or usual intended meeting place



# WHEN CAN A MEETING BE CLOSED?

A MEETING MAY BE **NOT** BE CLOSED TO TAKE A VOTE ON ANY MATTER (except a vote to end the closed meeting)<sup>2</sup>

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 on 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



**YOU ARE NEVER REQUIRED TO CLOSE A MEETING; IT IS ALWAYS OPTIONAL.**

<sup>2</sup> See Utah Code §§52-4-204; See also 52-4-205 for select activities of specific entities that must be conducted in closed session.

# PROCESS TO CLOSE MEETING

- ▶ 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

**REMEMBER: NO VOTES MAY BE TAKEN DURING CLOSED SESSION, EXCEPT A VOTE TO END THE CLOSED SESSION.**

CLOSED SESSION  
MEETING IN PROGRESS  
THE PUBLIC IS  
INVITED TO RETURN  
WHEN THE OPEN  
MEETING RESUMES

# PUBLIC NOTICE REQUIREMENTS

- ▶ Minimum of 24 hours notice before each meeting
- ▶ The public notice must:
  - ▶ Include the date, time, and place of the meeting
  - ▶ Include an agenda that lists topics to be considered, specific enough to inform the public

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
  - ▶ Be posted in specified places, including the Utah Public Notice Website <http://www.utah.gov/pmn/index.html>; and
  - ▶ Be provided to a newspaper or local media correspondent (this is satisfied by the Public Notice Website's subscription service).
- ▶ Must give public notice at least once each year of annual meeting schedule



# WHAT ABOUT EMERGENCIES?

- ▶ Meetings to consider urgent or emergency matters are allowed if:
  - ▶ An attempt is made to notify all members and a majority approves holding the meeting
  - ▶ Best notice practicable is given:
    - ▶ 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



# REQUIREMENTS FOR RECORDING MEETINGS

## Open Meetings

Complete, unedited recording of all open public meetings from commencement to adjournment.

- ▶ Available to the public within 3 business days of meeting, labeled with date, time, and place.
- ▶ 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 available to public within 3 business days of approval.
- ▶ Materials distributed at a public meeting must also be made available along with the approved minutes.

**Are the official record of the meeting**

## Closed Meetings

Complete, unedited recording of closed portion from commencement to adjournment.

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

The recording and minutes are protected records under GRAMA, but may be released with a court order.

Remember that no votes may be taken during closed meetings, except a vote to end a closed meeting.

# REQUIREMENTS RELATED TO MEETING MINUTES

## 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 comments or testimony given.*

- ▶ Any other information that a member requests to be part of the record.
- ▶ Materials distributed during the meeting must be made available with the published minutes.

## 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.

Remember no votes may be taken during closed meetings except a vote to end a closed meeting.

# VIOLATIONS OF OPMA

- ▶ It is a class B misdemeanor to violate, abet, or advise a violation of any closed meeting provision
- ▶ Court may void any final action in violation of law
- ▶ You may have to pay court costs and attorney fees
- ▶ Sometimes a violation can be “cured” by discussing and taking a public vote in a subsequent meeting



# Questions?