

Open and Public Meetings Act

Utah Code Annotated

Title 52 Chapter 4

2017 Annual Training

Earliest History of Open Meetings

- ▣ Reasons for Open Meetings:
 - Procedural “due process” requires people be given “notice” and an “opportunity to be heard.”
 - American public policy and democracy favors openness.

Public Policy

54-4-102 Public Policy. The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the peoples business. It is the intent of the Legislature that the state, its agencies, and its political subdivisions:

- ▣ (a) take their actions openly; and
- ▣ (b) conduct their deliberations openly.

52-4-104. Training. The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

Open Meetings - Overview

Five Parts - Open and Public Meetings Act:

- ▣ One - Meetings
- ▣ Two - Public Notice
- ▣ Three - Minutes and Records
- ▣ Four - Closed Meetings
- ▣ Five - Enforcement

All Meetings Open to the Public . . .

52-4-103

▣ WHAT IS A MEETING?

- It is the convening of a public body, with a quorum present.
- Includes a workshop or an executive session.
- Includes meeting held in person or by means of electronic communications.
- Where the purpose of the meeting is discussing, receiving comments, or acting upon a matter where the public body has jurisdiction or advisory power.

▣ 52-4-201.

A meeting is open to the public unless it's a closed meeting allowed under state law.

- ▣ Public meetings may only be held at City Hall , some exemptions apply.

All Meetings Open to the Public . . .

- ▣ WHAT IS A PUBLIC BODY?
 - The City Council.
 - The Planning Commission.
 - Any other administrative, advisory, executive, or legislative body of the city that is:
 - ▣ Created by statute, rule, ordinance, or resolution.
 - ▣ Has two or more members.
 - ▣ Spends or is supported by taxes.
 - ▣ Has authority to make public decisions.

All Meetings Open to the Public . . .

WHAT IS NOT A “MEETING”?

- A chance meeting.
- A social gathering.
- **Training.**

Open Meetings – Public Notice

- ▣ **52-4-202. Public Notice of Meetings.**
In January each year the City Recorder will publish a notice of the annual meeting schedule.
- ▣ At least 24 hours before any meeting, an agenda must be posted that includes:
 - Agenda topics written with “reasonable specificity.”
 - Date of the meeting.
 - Time of the meeting.
 - Place of the meeting.
- ▣ A topics raised by the public that is not on the agenda may only be heard if the presiding officer allows. No action can be taken on an item that is not posted on the agenda.
- ▣ Agendas must also be posted, provided to a “local media correspondent,” and uploaded to the Utah Public Notice Website.
- ▣ Emergency meetings allow is a natural disaster or similar situation.

Open Meetings – Minutes and Records

52-4-203. Written minutes of open meetings :

- ▣ Written minutes and a recording shall be kept of all open meetings.
- ▣ Written minutes of an open meeting shall include:
 - Date, time, and place of the meeting.
 - The names of members present and absent.
 - Substance of all matters proposed, discussed, or decided which may include a summary of comments made by members of the public body.
 - A record, by individual member, of each vote taken by the public body.
 - Name of each person who is not a member of the public body, and upon recognition by the presiding member of the public body, provided testimony or comments. Brief substance of the testimony or comments provided by the public.
 - Any other information a member requests be entered in the minutes, so long as it actually happened.

Open Meetings – Minutes and Records

- ▣ The recording of an open meeting shall:
 - Be a complete and unedited record from commencement through adjournment.
 - Be properly labeled or identified with the date, time, and place of the meeting.
- ▣ The City shall:
 - Make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes.
 - Post the approved written minutes of an open meeting to the Utah Public Notice Website and make available to the public at City Hall., including any public materials distributed at the meeting.
 - Within 3 business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- ▣ All or part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.
- ▣ The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements. A recording of a site visit or a traveling tour is not required if there is no vote or action.
- ▣ Written minutes shall be the official record of action taken at the meeting.

Closed Meetings – Procedure

52-4-204. Closed meetings:

- ▣ A closed meeting may be held only if:
 - A quorum is present; and
 - 2/3 of the city council vote to approve closing the meeting.
- ▣ Closed meetings can only be held for limited purposes.
- ▣ No ordinance, resolution, rule, regulation, contract, or appointment can be approved in a closed meeting.
- ▣ The open meeting's minutes must reflect:
 - The reason for the closed meeting.
 - Location of the closed meeting.
 - Roll call to enter the closed meeting.

Closed Meetings – Purpose

- ▣ A closed meeting may ONLY be held for the following purposes:
 - Discuss character, professional competence, or physical or mental health of an individual.
 - Strategy sessions to discuss collective bargaining.
 - Strategy sessions to discuss pending or reasonably imminent litigation.
 - Strategy sessions to discuss the purchase, exchange, or lease of real property.
 - Investigate allegations of criminal misconduct.
 - Discuss deployment of security personnel, devices, or systems.
- ▣ A public body may not interview a person applying to fill an elected position in a closed meeting.
- ▣ 54-2-406(6) No recording and signed sworn statement if the closed meeting is for:
 - Discussing character, professional competence, or physical or mental health of an individual.
 - Discuss deployment of security personnel, devices, or systems.

Open Meetings – Enforcement

- ▣ Utah Supreme Court broadly interprets the Utah Open and Public Meetings Act to ensure the purpose of openness. Exceptions will be strictly construed. *Kearns-Tribune Corp. v. Salt Lake County*
- ▣ 54-4-302 provides that any final action taken in violation of the Act is voidable by the court.
- ▣ 54-4-303 states that a person who feels the City violated the Act may sue to:
 - Compel compliance.
 - Interpret the Act based on a public body's actions.
 - The court may award reasonable attorney fees and court costs to a successful plaintiff.
- ▣ The Act does not prohibit removing a disruptive person from a meeting when orderly conduct is seriously compromised.

Open and Public Meetings Act

Questions