

Open & Public Meetings Act:

Utah Code Ann. Title 54, Chapter 4

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What is the purpose of the Act?

- Aid in the conduct of the people's business
- Actions and deliberations should be conducted openly
- Intended to facilitate openness

To whom does the Act apply?

- Any public body
- Administrative, advisory, executive or legislative body
 - Created by Utah Constitution, statute, rule, ordinance or resolution
 - Consists of 2 or more people
 - Expends, disburses, or is supported by tax revenue
 - Vested with authority to make decisions regarding the public's business

What is a “meeting?”

- The convening of a public body, with a quorum present, . . . for the purpose of discussing, receiving comments from the public concerning, or acting upon a matter over which the public body has jurisdiction or advisory power.
- Quorum

Case Study #1

- The chair of the city council has received a report of a problem with a city employee regarding a physical confrontation with a resident in the city. The chair wants to meet that night to discuss the issue. No meeting is scheduled for the next two weeks. The chair talks to the city manager about a proposed meeting. The chair then calls another council member. During the conversation, the chair talks about the issue and also discusses city policy and the need for some changes in the city. Together the two council members decide to pay the medical bills of the injured resident. After the phone conversation, the chair sends an e-mail to the resident stating the council has agreed to pay the bills and to please forward all expenses. The entire council is copied on the e-mail. A third council member “replies all” also promising to pay additional damages to the resident as well. Later that night, the chair shows up for the meeting that he has scheduled. Believing that the matter is resolved via e-mail, the other two council members do not attend the meeting. Obviously the council is trying to do the right thing, but did they follow Utah law? Why or why not?

What are the issues in Case Study #1?

- Emergency meetings
- Noticing
- Quorum
- Action without a meeting
- Illegal meetings
- Action via e-mail
- Transparency
- Procurement
- Separation of Powers
- Administrative Powers
- GRAMA

How to Notice a Meeting

- 24 hours public notice
- Agenda - date, time and place
- Principal office & online
- Annual public notice
- Emergencies - best notice possible

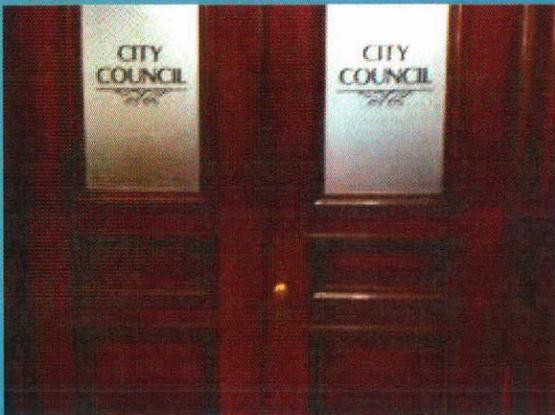
Case Study #2

- A group of residents comes to a city council meeting with a great idea. All in attendance, including the staff, support the concept. The idea requires an application and some matching funds from the city. There is some urgency regarding the application process. Although the item is not on the agenda, the council moves to approve the project, the funds, and the proposed vendor. Everyone in attendance is happy and applauds the efforts of the council. Obviously the council is trying to do the right thing, but did they follow Utah law? Why or why not? Is this action binding?

What are the issues in Case Study #2?

- Noticing issues
- Specificity of agenda
- Action without a meeting
- Illegal meeting
- Transparency
- Emergency meeting
- Allocation of money without notice
- Procurement
- Budgeting issues

Closed Sessions



- To discuss the character, professional competence, or physical or mental health of an individual.
- To discuss strategy for pending or reasonably imminent litigation
- To discuss the purchase, sale, or lease of real property
- To investigate allegations of criminal misconduct.

Case Study #3

- A litigant in a lawsuit and the opposing attorney attend a regularly scheduled city council meeting. The attorney speaks during public comment about some material problems with the city's legal counsel. There has been an allegation of inappropriate conduct by the city's attorney. This disturbing information is consistent with your experience with the attorney. There is growing distrust of your lawyer by all members of the council and staff. The chair of the council dismisses the attorney from the room. The attorney won't leave. The chair asks the attorney once again to leave the meeting. The attorney says no. The attorney begins to record the meeting with his phone. One of the council members moves for a closed session, stating that "personnel" matters have to be discussed in closed session. One of the other council members says that this matter must be discussed in open session and begins to speak out regarding the matter. The attorney takes issue with it and begins to argue with the council member. The attorney even threatens litigation. After numerous attempts to stop the bickering, the council chair demands that the attorney leave the meeting. The attorney will not leave. The council then fires the attorney on the spot.

What are the issues in Case Study #4?

- All public meetings are open unless closed
- Closed session to discuss personnel
- No required closed sessions
- Noticing issues
- Disorderly conduct at meetings
- Attendance at meetings
- Human resources issues
- Liability issues

Recording a Meeting

- Pending minutes - 30 days
- Approved minutes - 3 days
- Audio recordings - 3 days

- What information does the record need to include?

Case Study #5

- After more than 30 years of not raising taxes, it is determined that a modest tax increase is required to effectively run the City. During a very difficult public hearing, the city council and even the staff make statements that they later regret. Before leaving, a group of patrons promises to file a lawsuit against the city. The next day, a spokeswoman for the group returns to the city offices demanding copies of the meeting minutes. She is told the minutes have not been approved so the group cannot have the minutes. She then asks for a rough draft of the minutes, and she is told that she can get them in about 30 days. She then asks for a copy of the recording of the meeting. The city staff says no. After hearing that the group is demanding the tape of the meeting, the chief financial advisor is worried about a few statements he made on the record and some things he said under his breath. Worried about his job, he accesses the tape and edits out a few of the statements that he said during the meeting. What do you do when this happens?

What are the issues in Case Study #5?



- Pending minutes
- Approved minutes
- Information included in the minutes
- Criminal charges

Summary of the Open & Public Meetings Act

- Meetings
- General Rule
- Notice
- Agenda
- Minutes and Recordings
- Closed Meetings
- Electronic Meetings
- Reasonable Accommodations
- Disruptive Behavior
- Voiding a Public Meeting
- Action Challenging Closed Meeting
- Enforcement of the Act

QUESTIONS?