

Utah Code Ann., Title 52, Chapter 4

OPEN AND PUBLIC MEETINGS ACT

PRESENTATION LAST REVISED 29

SEPTEMBER 2014

Utah State Tax Commission

Public Policy Declaration

The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.

It is the intent of the Legislature that the state, its agencies, and its political subdivisions: take their actions openly; and conduct their deliberations openly.

Open Meetings

A meeting is open to the public unless closed . . .

Meeting . . .

. . . the **convening** of a **public body**, with a **quorum** present . . .

Convening . . .

. . . the **calling** of a meeting of a **public body** by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

Public Body . . .

. . . any administrative, advisory, executive, or legislative body of the **state or its political subdivisions** that: is **created** by the Utah Constitution, statute, rule, ordinance, or resolution; consists of **two or more persons**; expends, disburses, or is supported in whole or in part by **tax revenue**; and is vested with the **authority** to make decisions regarding the public's business.

Tax Commission



- State Administrative/Executive
- Created by the Utah Constitution
- Four persons
- Tax Revenue: Expends/Disburses/Supported by
- Authority: Rulemaking, Administrative Appeals, Waivers & Compromises, Budgets, etc.

Tax Commission = Public Body

- State Administrative/Executive
- Created by the Utah Constitution
- Four persons
- Tax Revenue: Expends/Disburses/Supported by
- Authority: Rulemaking, Administrative Appeals, Waivers & Compromises, Budgets, etc.

Executive Director



- State Administrative/Executive
- Created by Statute
- One Person
- Expends/Disburses/Supported-by Tax Revenue
- Authority: Employees, Agreements, Operations, Agency Relations, etc.

Executive Director \neq Public Body

- State Administrative/Executive
- Created by Statute
- **One Person**
- Expends/Disburses/Supported-by Tax Revenue
- Authority: Employees, Agreements, Operations, Agency Relations, etc.

MVED Advisory Board = Public Body

- State Advisory
- Created by Statute
- Five Persons
- Supported-by Tax Revenue
- Authority: Assist & Advise in the Administration and Enforcement of the Motor Vehicle Business Regulation Act

Farmland Evaluation Advisory Committee = Public Body

- State Advisory
- Created by Statute
- Five Persons
- Supported-by Tax Revenue
- Authority: Recommend land values to the Tax Commission

Meeting . . .

. . . the **convening** of a **public body**, with a **quorum** present . . .

Quorum . . .

. . . a simple majority of the membership of a public body, unless otherwise defined by applicable law.

Quorum (Tax Commission)

Three members of the commission constitute a quorum for the transaction of business.

Quorum (MVED Board)

A majority of the members of the board constitutes a quorum . . .

Quorum (Farmland Committee)

OPMA Default: Simple majority

How to Host an Open Meeting

- Annual notice of regular meeting schedule
- Adopt a resolution for electronic participation
- At least 24 hours notice of the meeting date, time place and agenda posted in office and online and sent to newspaper
- Agenda identifies topics for consideration with reasonable specificity
- Recording required and must be posted on Utah Public Notice website within three days of the meeting
- Any electronic information presented by any individual at the meeting must be included in the official record of the meeting

How to Host an Open Meeting

- Pending Minutes
 - ▣ Must be available within 30 days of the meeting
 - ▣ Notice that pending minutes are subject to approval and may change
- Approved Minutes
 - ▣ Voted upon in an open meeting
 - ▣ Official record of the meeting
 - ▣ Posted to Utah Public Notice website within three days of approval along with any meeting materials

Closed meetings

Public bodies **may** close a meeting to discuss certain issues if a quorum is present at an open meeting for which proper notice was given and two thirds of the members present approve.

Permitted discussions

- ❑ Character, professional competence, or physical or mental health of an individual
- ❑ Collective bargaining
- ❑ Pending or reasonably imminent litigation
- ❑ Purchase, exchange or lease of real property
- ❑ Sale of real property
- ❑ Deployment of security personnel, devices, or systems
- ❑ Investigation of allegations of criminal misconduct

How to Host a Closed Meeting

- Start in a properly noticed open meeting
- Enter reason(s) for and location of meeting and meeting closing votes of members by name into open meeting minutes
- Announce in open meeting reason(s) for and location of closed meeting
- Approve no actions during the closed meeting
- Take minutes of closed meeting (optional)

How to Host a Closed Meeting

- Must record closed meeting except when discussing:
 - ▣ Character, professional competence, or physical or mental health of an individual
 - ▣ Deployment of security personnel, devices, or systems
- Sign sworn statement that body discussed only:
 - ▣ Character, professional competence, or physical or mental health of an individual
 - ▣ Deployment of security personnel, devices, or systems

Not Meeting

Chance gathering (may not use to circumvent)

Social gathering (may not use to circumvent)

USTC Considering Confidential Tax Matters

Confidential Tax Matters Include:



- ❑ Offers in compromise
- ❑ Private letter rulings
- ❑ Appeals hearings and deliberations
- ❑ Disclosures prohibited by federal or state law
- ❑ Voluntary disclosure agreements
- ❑ Waiver requests

How to Host a Confidential Meeting

- Applies only to Tax Commission
- Keep Confidential Recordings and Minutes
- Confidential Recording/Minutes Exceptions:
 - ▣ Initial Hearings
 - ▣ Deliberations

Miscellany

Electronic transmissions not prohibited

Removal of disruptive person

Suit to void final action

Suit to compel compliance

In camera review of closed meeting recordings

Criminal penalty for closed meeting

violations

Annual Training Required

Congratulations, you survived for another year!