
MILLCREEK PLANNING COMMISSION OPEN
AND PUBLIC MEETINGS TRAINING

- **Utah law requires that the presiding officer of the public body (*i.e.*, *Chair*) ensure that members of the public body are provided with annual training regarding the Open and Public Meetings Act (“Act”)**
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LEGISLATIVE POLICY

- **The Legislature established a public policy that City's take their action openly and conduct their deliberation openly**
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GENERAL RULE

- **That all meetings are open to the public unless closed under a specific closed meeting provision**
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- **A meeting is defined as a gathering of a public body, with a quorum (four) present, by an individual with authority to convene the public body for the purpose of receiving public comment on a relevant matter, deliberating about a relevant matter, or taking action upon a relevant matter.**
 - **The provision that says a meeting does not include a chance or a social meeting was removed**
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- **Relevant matter means a matter that is within the scope of the authority of the public body**
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- **A public body may not act together outside a meeting in a concerted and deliberate way to predetermine an action taken by a public body**
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SPECIAL RULE FOR PLANNING COMMISSION ADOPTED BY ORDINANCE (NOT STATE STATUTE)

- **No member of the Commission shall have any ex parte communications regarding any administrative or rezoning land use application before the Commission.**
- **Ex parte communication means any communication that concerns the merits of the matter, including but not limited to electronic or social media communication, with interested parties of an administrative or rezoning land use application coming before the Commission prior to the Commission reaching a final decision.**

- **An interested party is a party to the proceedings or other persons who might be affected by the outcome**
 - **The purpose of the ex parte rule is to ensure that all interested parties have equal opportunity to participate in the decision-making process and to maintain the integrity of the proceedings**
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- **UTAH CODE ANN. § 52-4-210 provides “Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting.”**
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- **A public body must give at least 24 hours advance notice of each meeting unless the meeting is to consider a matter of emergency or urgent mature**
 - **Public body must give notice of its annual meeting schedule**
 - **Notice requires a meeting agenda, date, time, and place of the meeting**
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- **Notice should be specific enough to notify the public as to the topic to be considered**
- **The Council chair may in his/her discretion discuss a topic raised by the **public** that is not on the agenda provided that the Council may not take final action on the topic unless it is properly noticed**

- **Written minutes and a recording must be kept of all open meetings**
 - **Written minutes are the official record of action taken at the meeting**
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- **Closed meeting may be held for only specific purposes including the following:**
 - **Discussion of the character, professional competence, or physical or mental health of an individual**
 - **Discussion of pending or reasonable imminent litigation**
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- **Discussion regarding the purchase, exchange, or lease of real property**
 - **Discussion regarding the sale of real property**
 - **When the Commission is acting in a judicial or quasi-judicial matter (not statutory)**
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- **Minutes and recording of closed meeting are protected records under GRAMA**
- **Recording does not need to be made if the closed meeting is closed exclusively for the discussion of the character, profession competence, or physical or mental health of an individual. Note the presiding officer must sign a sworn statement affirming that the sole purpose of the closed meeting was to discuss such matter**

CASE STUDY # 1

THE MEETING AT SMITHS

Four planning commissioners have been properly trained to shop local and run into each other at the local Smith's store, and one of the commissioners starts discussing a request for a conditional use.

CASE STUDY #1

THE MEETING AT SMITHS

- **MAY:**
 - **Discuss but be careful and best policy would say that this is not an appropriate forum to discuss this matter and change the subject**
 - **Continue shopping (walk away)**
 - **MAY NOT:**
 - **Discuss the matter and predetermine the action to be taken**
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CASE STUDY #2

THE OVERBEARING CONSTITUENT

- **While attending your local worship service you are approached by a constituent who wants to discuss your position and vote on the proposed new day care in his neighborhood (conditional use on commission agenda)**

CASE STUDY #2

THE OVERBEARING CONSTITUENT

- **Open Meeting Act**
 - **Discuss the matter as you deem appropriate**
- **PC Rules**
 - **Recommend that this is not an appropriate forum to discuss this matter and change the subject**
 - **Continue worship (walk away)**

CASE STUDY #3

SOCIAL MEDIA DILEMMA

- **While perusing your favorite social media site, you encounter a post about a daycare with a pending conditional use application. The post contains some obvious misinformation that you consider outrageous and an intentional misrepresentation.**

CASE STUDY #3

FACEBOOK DILEMMA

- **Open Meeting Act**
 - **Not clear because the electronic message exception applies to other members of the public body appropriate**
- **PC Rules**
 - **Close the post**

CASE STUDY #4

INSPECTING PROPERTY

- **You are a diligent member of the Commission, and you visit a property with a pending conditional use application before the Commission.**

CASE STUDY #4

INSPECTING PROPERTY

- **Open Meeting Act**
 - **No violation**
 - **PC Rules**
 - **No violation**
 - **Best Practice**
 - **Explain what you observed to the Planning Commission at the open meeting**
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CASE STUDY #4.5

INSPECTING PROPERTY

- **While inspecting the property with a pending conditional use application, the owner approaches and wants to discuss the conditional use application.**

CASE STUDY #4.5

INSPECTING PROPERTY

- **Open Meeting Act**
 - **No violation**
- **PC Rules**
 - **Violation**
- **Best Practice**
 - **Recommend that this is not an appropriate forum to discuss this matter and walk away**

CASE STUDY #4.5

INSPECTING PROPERTY

- **What are your obligations:**
 - **Disclose/disclose in the Commission meeting the ex parte communication**
 - **Depending on what you heard, consider recusing yourself**
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CASE STUDY #5

DISCUSSION WITH MEMBERS OF PC

- **You are approached by a fellow member of the PC regarding a pending conditional use application**

CASE STUDY #5

DISCUSSION WITH MEMBERS OF PC

- **Open Meeting Act**
 - **No violation unless it a meeting**
- **PC Rules**
 - **No Violation**
- **Best Practice**

Discuss but to not commit to a position/vote

CASE STUDY #6

DISCUSSIONS WITH STAFF

- **You are confused by a staff report and you call staff for clarification.**

CASE STUDY #6

DISCUSSIONS WITH STAFF

- **Open Meeting Act**
 - **No violation unless it is a meeting**
 - **PC Rules**
 - **No Violation**
 - **Best Practice**
 - **Discuss the clarifications with the PC at the PC meeting**
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CASE STUDY #7

DISCUSSIONS WITH APPLICANT

- **You are approached by a person who has a conditional use application pending who asks the time of the meeting**

CASE STUDY #7

DISCUSSIONS WITH APPLICANT

- **Open Meeting Act**
 - **No violation unless it is a meeting**
- **PC Rules**
 - **No Violation-does not involve the merits of the application**

QUESTIONS CONCERNING THE OPEN AND
PUBLIC MEETINGS ACT
