OPMA
Utah Open Public Meetings Act

UT Code 52-4-101 et seq
OV City 2.12.040 - Electronic Meetings
UT Code 52-4-203 - Written Minutes of open meetings - Public Records - Recording of Meetings
GRAMA - Governmental Records Access and Management Act

OPMA applies to Public Bodies and the Planning Commission is a Public Body

- Vested with the authority to make decisions regarding the public's business

What is a Meeting?

- Requires a Quorum - simple majority
    - Quorum is not modified if the group is short members
- Requires Notice and Agenda
- Includes workshops, executive sessions, staff briefings
- In person or electronically
- Purpose: discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power. (Planning commission has advisory power)

What isn't a Meeting?

- A chance gathering or social gathering
- Meeting of members of the public body or specific body that does not constitute a Quorum when no action, either formal or informal is taken
- Not a Quorum for purposes of a meeting
    - Social functions
    - Conventions or Workshops
    - Ceremonial events
    - Press conferences
    - These are not Meetings provided no formal action is taken and any discussion of public business is incidental to the authorized event.

Notice and Agenda for Meetings

- Notice
    - 24 hours in advance of meeting
    - Posted at the public body's office - where else for Planning Commission?
- Agenda
    - Posted with Notice
    - Must be "reasonably specific" - this is a Term of Art - (an average person would be on notice as to all topics of discussion and action planned for the meeting)

        - Boilerplate language/topics are insufficient to meet the requirements
        - Guest speaker invited by the PC must be specified
    - Discussion is limited to items on the agenda - however, if a member of the public asks a question that is not related to an agenda item, the body may respond briefly but not deliberate or make a decision except for the decision to place that item of interest on the agenda for a following meeting
- Additional Notice Requirements
    - In addition a public body that holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once a year of its annual meeting schedule.

Closed Meetings

- Properly noticed meetings may be closed in accordance with OPMA. Examples of when the Planning Commission would close a meeting? To consult with legal counsel?

Electronic Meetings - OV City 2.12.040

- May hold and conduct electronic meetings
- Shall comply w/requirements of OPMA
- Appropriate Notice shall be given to each member of the body prior to EM in order to allow all members the opportunity to participate in the meeting electronically
- All EMs (except for permissible closed meetings or exceptions for health and safety) shall be held in a location that allows public attendance of the EM)
- Meetings shall have a recording and written minutes as per OPMA

UCA 52-4-203 - Written minutes of open meetings - Public Records - Recording of meetings

- Date, time, place of meeting
- Names of members present and absent
- Substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments
- Record, by individual member, of each vote taken by the public body
- Name of each person who makes a public comment and the substance of the comment
- Any other information that is a record of the proceedings of the meeting that any member requests be entered in the meetings or recording.
- We will need a recorder for this

OPMA does not restrict members of a public body from transmitting an electronic message to other members of the public body when the body is not in an open meeting. These electronic messages are generally subject to GRAMA

GRAMA - Governmental Records Access and Management Act

Rights of the Public

- Right ot attend
- Right to record

- If allowing the public to speak, time may be limited but may not be discriminatory based on the speaker's views on the topic

Emergency Meetings

- Due to unforeseen circumstances that must be articulable and cannot wait for the next scheduled meeting
- I can't think of an example applicable to the Planning Commission

What Happens if Someone Violates OPMA?

- Court can void any action in violation of the law
    - May ratify the action in error
- May have to pay court costs and attorney's fees
- A member of a public body who intentionally violates or intentionally abets or advises in violation of the closed meetings provisions of this chapter is guilty of a class B misdemeanor (6 months in jail and/or $1000 fine)

Common Violations of OPMA

- Closing a meeting without members of the public body voting first in an open meeting to close the meeting
- Conducting a closed meeting for reasons other than those allowed by OPMA
- Taking official or final action in a closed meeting
- Taking official or final action in a closed meeting
- Failing to properly provide notice of a public meeting

Disruption of Meetings

- OPMA does not prohibit the removal of any person from a meeting if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

OPMA training is required annually - the presiding officer of the public body shall ensure that this occurs.

Parting Tips and Helpful Suggestions

- 24 hour notice
- Be specific with agenda items
- No "old business/new business"
- "Action taken on items discussed in closed meeting" is not enough
- Close meetings only for allowed statutory purposes and follow the process
- Provide minutes in a timely manner
- Don't text during meetings
- Receive training once per year
- Err on the side of transparency
- When in doubt, consult your legal counsel