



## SPECIAL HERRIMAN CITY COUNCIL AND PLANNING COMMISSION JOINT WORK MEETING AGENDA

Thursday, February 4, 2021

**Notice is Hereby Given** that the Herriman City Council and Planning Commission will hold a special joint work meeting in the Council Chambers of Herriman City Hall, located at 5355 West Herriman Main Street, Herriman, Utah 84096

**\* THIS MEETING WILL ALSO BE CONDUCTED ELECTRONICALLY \***

1. Work Meeting – 6:15 pm (or as soon as possible thereafter)
  - 1.1 Open and Public Meetings Act Training - Chase Andrizzi, Herriman City Attorney
2. Adjournment

In accordance with the Americans with Disabilities Act, Herriman City will make reasonable accommodation for participation in the meeting. Request assistance by contacting Herriman City at (801) 446-5323 and provide at least 48 hours advance notice of the meeting.

**ELECTRONIC PARTICIPATION:** Members of the City Council or Planning Commission may participate electronically via telephone, Skype, or other electronic means during this meeting.

*I, Wendy Thorpe, certify the foregoing agenda was emailed to at least one newspaper of general circulation within the geographic jurisdiction of the public body. The agenda was also posted at the principal office of the public body, on the Utah State Website [www.utah.gov/pmn/index.html](http://www.utah.gov/pmn/index.html) and on Herriman City's website [www.herriman.org](http://www.herriman.org).*

*Posted and Dated this 28<sup>th</sup> day of January, 2021*

*Wendy Thorpe  
Deputy Recorder*



# OPEN AND PUBLIC MEETINGS ACT TRAINING

## Utah Code Title 52, Chapter 4

Presented By:  
Chase Andrizzi, City Attorney  
February 4, 2021



# ROADMAP

- The Open and Public Meetings Act (“OPMA”) requires that public bodies receive annual training on the requirements of OPMA
- What will we be talking about today?
  - Purpose of OPMA
  - Definitions
  - General Rules
  - Notice Requirements
  - Agendas
  - Minutes and Recordings
  - Closed Meetings
  - Electronic Meetings
  - Unresolved Questions
  - Final Notes

## PURPOSE OF OPMA

- The City Council and Planning Commission are “public bodies” under OPMA.
- Public bodies exist to **aid in the conduct of the people’s business.**
- Actions and deliberations of public bodies should be taken and conducted **openly.**

# DEFINITIONS

- **Electronic Meeting:** a public meeting convened or conducted by means of a conference using electronic communications.
- **Meeting:** the convening of a public body, with a quorum present, for the purpose of 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.
- **Public Body:** an 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.
- **Quorum:** a simple majority of the membership of the public body.

## GENERAL RULE

- **EVERY MEETING IS OPEN TO THE PUBLIC**, unless closed in accordance with the following:
  - U.C.A. § 52-4-204
  - U.C.A. § 52-4-205
  - U.C.A. § 52-4-206

# NOTICE REQUIREMENTS

- Every meeting must be preceded by at least 24 hours public notice.
- The notice must include:
  - The meeting's agenda
  - Date of the meeting
  - Time of the meeting
  - Place of the meeting
- This requirement is satisfied when:
  - Notice is posted at City Hall (except for an electronic meeting with no anchor location)
  - Noticed on the Utah Public Notice Website
  - Printed in a newspaper of general circulation or provided to a local media correspondent.



# NOTICE REQUIREMENTS - AGENDA

- The Agenda must be **specific enough** to **notice the public** as to the **topics to be considered** at the meeting.
- Except for Emergency Meetings, public bodies **MAY NOT raise and consider** topics not listed under a properly noticed agenda.
- ANOTHER EXCEPTION: Topics **raised by the public that do not appear on the agenda** may be discussed, but no final action may be taken at that meeting.

# MINUTES AND RECORDINGS

- Written minutes and recordings must be kept and retained for all open meetings.
- The recording must be a complete and **unedited** record of the open portion of the meeting.
- Because public meetings are “open,” anyone in attendance can make their own recording.
- However, the **approved minutes are the official record** of the action the public body takes, not the recording.

# PUBLIC RECORD OF MINUTES AND RECORDINGS

- **PENDING MINUTES**

- Available to the public within 30 days after the meeting.
- Clear indication that the minutes are still pending approval (not official record)

- **APPROVED MINUTES**

- Available to the public within 3 business days after approval by the public body.

- **AUDIO RECORDINGS**

- Available to public within 3 business days after the meeting.

- **ELECTRONIC MATERIALS (Packet Items)**

- Must be included in the public record



# CLOSED MEETINGS

- Closed meetings are not required. They are PERMITTED under OPMA.
- A closed meeting **may** only be held for:
  - Discussion of character, professional competence, or physical/mental health of an individual
  - Strategy session to discuss collective bargaining
  - Strategy session to discuss pending or reasonably imminent litigation
  - Discussion regarding deployment of security personnel, devices, or systems
  - Investigative proceedings regarding allegations of criminal misconduct
  - Certain procurement-related deliberations

## CLOSED MEETING (cont'd)

- A closed meeting **may** only be held for
  - Strategy session to discuss the **PURCHASE, EXCHANGE, or LEASE** of real property if public discussion of the transaction would:
    - Disclose the appraisal or estimated value of the property under consideration
    - Prevent the public body from completing the transaction on the best possible terms
  - Strategy session to discuss the **SALE** of real property if:
    - Public discussion would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction on the best possible terms
    - The public body previously gave public notice that the property would be offered for sale; AND
    - The terms of the sale are publicly disclosed before the public body approves the sale.

# CLOSED MEETINGS – GENERAL RULES

- There must be a quorum of the public body present.
- 2/3 of the members of the public body present vote to approve closing the meeting.
- Publicly announce and enter into the minutes:
  - Reason for the closed meeting
  - Location of the closed meeting
  - Roll call vote to enter closed meeting
- No approving ordinances, resolutions, rules, regulations, contracts, or appointments.

## CLOSED MEETING RECORDS

- Closed meetings **must** be recorded and there **may** be written minutes kept that disclose the content of the closed meeting.
- EXCEPTION: Closed meeting to discuss competence/character/health of an individual and the deployment of security personnel are not recorded.
  - However, the presiding member of the public body must sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the competence/character/health of an individual or the deployment of security personnel

# ELECTRONIC MEETINGS

- Electronic meetings are permitted public meetings so long as the public body has adopted a resolution, rules, or ordinance governing the use of such meetings.
- Proper public notice of the electronic meeting must be given
  - Posting at the anchor location
  - Describe how members and the public body may connect
- If there is an anchor location, there must be space for interested persons and public to attend.
- If there is no anchor location, must provide means by which the public may hear, or view and hear, the meeting.

## ELECTRONIC MEETINGS (cont'd)

- Public bodies may hold electronic meetings without an anchor location IF the Chair:
  - Makes a written determination that conducting a meeting at the anchor location presents a substantial risk to health and safety of those who may be present.
  - States facts upon which the written determination is based
  - Includes in the meeting, and reads at the beginning of the meeting, the written determination
  - Includes in the public notice information on how a member of the public may view or make a comment at the meeting.
- This needs to be repeated every 30 days after the day on which the chair makes the determination.

# UNRESOLVED QUESTIONS OF LAW

- Use of personal cell phones (and other electronic devices) during public meetings.
- GRAMA vs. OPMA
- OPMA doesn't expressly prohibit the use of electronic devices by public bodies during public meetings. HOWEVER:
  - The purpose of OPMA is to conduct the people's business in the open.
  - Transparency is the goal and openness is the requirement.
  - Communication between members of public body while quorum is present
  - Communication between members of public body and public while quorum is present

## A FEW FINAL NOTES.....

- Reasonable Accommodations
- Disruptive Behavior / Removing Disruptive Participants
- Voiding a public meeting
- Challenging a closed meeting