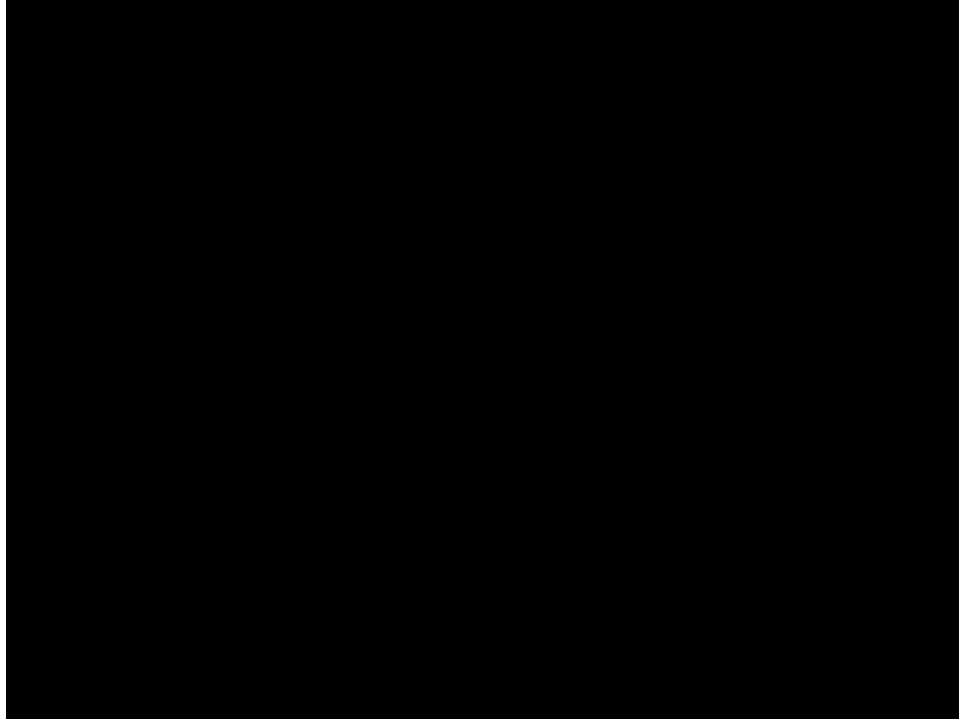


OPEN & PUBLIC MEETINGS ACT

Davis County Attorney's Office
April 20, 2021

WHY DO WE DO THIS EVERY YEAR?



2021 LEGISLATIVE SESSION

SB 72 -- Senator Lincoln Fillmore

- Prohibits a public body from taking a vote in a closed meeting, except for a vote to end the closed portion of the meeting.
- Also provides that a motion to end the closed portion of a meeting may be approved by a majority vote.

2021 LEGISLATIVE SESSION

HB 293 - Representative Mike Petersen

- State bodies must:
 - Post approved minutes of open meetings to the state public notice website
 - Post any materials distributed at the meeting or a link on which the approved minutes are posted
 - Make the approved minutes and public materials available to the public at the public body's primary office
 - If the public body provides minutes online, post the approved minutes and the public materials on the public body's website

2021 LEGISLATIVE SESSION

SB 125 -- Senator David Buxton

- Modifies provisions related to the convening of an electronic meeting. Public bodies that convene an electronic meeting must provide facilities at an anchor location for the public to attend the meeting.
 - **Exceptions:**
 - Substantial risk to health or safety; or
 - Location has been ordered closed; and
 - The public notice includes a statement with summary of facts and information on how public may attend remotely.
- Public bodies that convene electronic meetings may also provide means by which the public who are not physically present at the anchor location may attend the meeting via electronic means.

IMPORTANT DEFINITIONS

What is a Public Body?

- Public body means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:
 - Is created by Utah Constitution, statute, rule, ordinance, or resolution
 - Consists of 2 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

IMPORTANT DEFINITIONS

A Public Body is NOT:

- Political party, political group, or a political caucus;
- A conference committee, rules committee, or a sifting committee of the legislature;
- A school community council or charter trust land council.

IMPORTANT DEFINITIONS

WHAT IS A MEETING UNDER THE ACT?

“Meeting” means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, 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.

IMPORTANT DEFINITIONS

WHAT IS AN ANCHOR LOCATION?

“Anchor location” means the physical location from which:

- a) An electronic meeting originates; or
- b) The participants are connected.

OPEN VS CLOSED MEETINGS

Utah Code Ann. § 52-4-205 provides that *all* meetings are considered open to the public unless it closed for certain, limited reasons:

1. Discussion of the character, professional competence or physical or mental health of an individual;
2. Strategy sessions to discuss pending or reasonably imminent litigation;
3. Strategy sessions to discuss purchase, exchange or lease of real property or water rights IF that would disclose the value of the property or prevent getting the best terms;
4. Investigative proceedings of allegations of criminal misconduct; or
5. Discussion by a county legislative body regarding commercial information provided by a taxpayer about their property.

RECORDING REQUIREMENTS

PUBLIC BODIES ARE REQUIRED TO KEEP MINUTES & RECORDINGS

- Even though there is a recording, the approved written minutes will be the official record.
- Include both written minutes & recording of open meeting as public records.
- Public body shall establish & implement procedures for the public body's approval of the written minutes of each meeting.

RECORDING REQUIREMENTS

If a public body closes an open meeting, the public body:

1. ***Shall*** make a ***recording*** of the closed portion of the meeting;
2. ***May*** keep detailed ***written minutes*** that disclose the content of the closed portion of the meeting.
3. A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through the adjournment of the closed meeting.
4. The recording and any minutes of a closed meeting shall include:
 - a. The date, time, and place of the meeting;
 - b. The names of the members present and absent; and
 - c. The names of all others present, except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.
5. Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

QUESTIONS?