NOTICE OF MEETING
HILLSIDE REVIEW BOARD
CITY OF ST. GEORGE
WASHINGTON COUNTY, UTAH

Public Notice

Notice is hereby given that the Planning Commission of the City of St. George, Washington County, Utah, will hold a **Hillside Review Board** meeting in the Administrative Conference Room, 175 East 200 North, St George, Utah, on **Tuesday, January 24, 2023,** commencing at **4:00 p.m**.

**PRESENT:** Commissioner Emily Andrus
Commissioner Steve Kemp
Commissioner Nathan Fisher
Commissioner Ben Rogers
Commissioner Austin Anderson
Commissioner Lori Chapman
Bob Nicholson, Historic Preservation Commission
Bette Arial, Historic Preservation Commission
Scott Messel, Historic Preservation Commission
James Sullivan, Hillside Review Board
Dave Black, Hillside Review Board
Russ Owens, Hillside Review Board
James Dotson, Hillside Review Board
Jeff Mathis, Hillside Review Board

**CITY STAFF:** City Manager John Willis
Public Works Assistant Director Wes Jenkins
Deputy City Attorney Jami Bracken
Planner III Carol Davidson
Planner III Mike Hadley
Planner III Dan Boles
Development Office Supervisor Brenda Hatch

**EXCUSED:** Rick Atkin, Historic Preservation
Alan Carter, Historic Preservation

Chair Steve Kemp called the meeting to order. Commissioner Anderson led us in the Pledge of Allegiance.

1. **BOARDS AND COMMISSIONS TRAINING**

Jami Brackin presented the Open Meetings training. The training covered Open Meetings, GRAMA and Ethical issues. She presented a Power Point presentation covering the following topics.

Public Meeting v. Public Hearing
Closed Meetings
Conduct &Decorum
Case Law
GRAMA
Ethics Act

Municipal Officers & Employees Act
Utah Public Officers' & Employees Act
Conflict of Interest

# Open Meetings, GRAMA & Other Stuff

Training for the St. George Planning Commission and other Committees

January 24, 2024

Jami R. Brackin
Deputy City Attorney

# What We Will Cover

1. Open Meetings
2. GRAMA
3. Ethics

# OPEN & PUBLIC MEETINGS

# Purpose

52-4-102. Declaration of public policy.

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

(2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:

**(a) take their actions openly; and**

**(b) conduct their deliberations openly.**

# When Is It Applicable

52-4-201. Meetings open to the public -- Exceptions.

(1) A meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.

(2)

(a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.

…

# NOTICE

24 hours prior to the meeting by posting:

1. On the Utah Public Notice website
2. Providing Notice to newspaper or correspondent.
3. City Hall (Principal offices)

# NOTICE

Notice must include:

1. Date, Time, Place and Agenda (with reasonable specificity to notify the public as to the topics)

What about agenda materials?

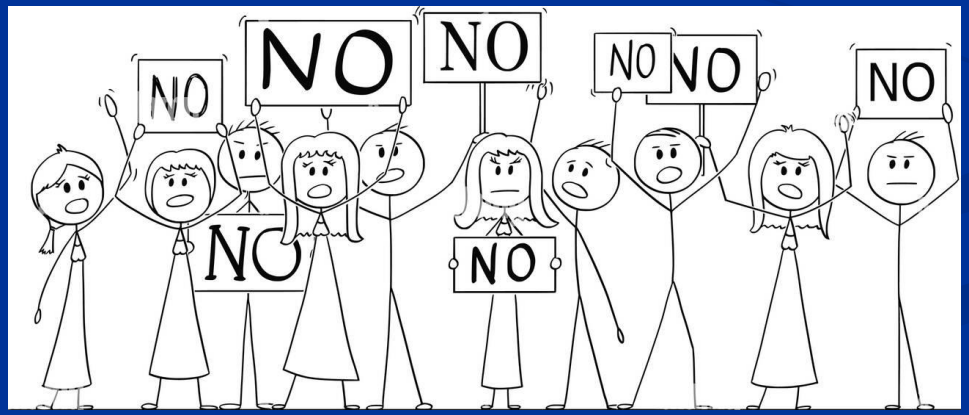
# Public Meeting v. Public Hearing

**Public Meetings**

- Quorum of the public body
- 24-hour notice
- Public input MAY be taken but not required if comments are NOT re items on the agenda

**Public Hearing**

- Held during Public Meeting
- Must have 10-14 days' notice
- Comments re particular agenda item

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# What about….

Electronic Meetings

Allowed by Ordinance

Special Meetings

Allowed with Notice

Emergency Meetings

Allowed with Notice to the body

Closed Meeting

Allowed for appropriate reasons

# CLOSED MEETINGS

Public Meeting may be CLOSED to discuss:

- Character & competence or health of an individual
- Collective Bargaining
- Litigation
- Real Property and water transactions
- Investigations of criminal conduct

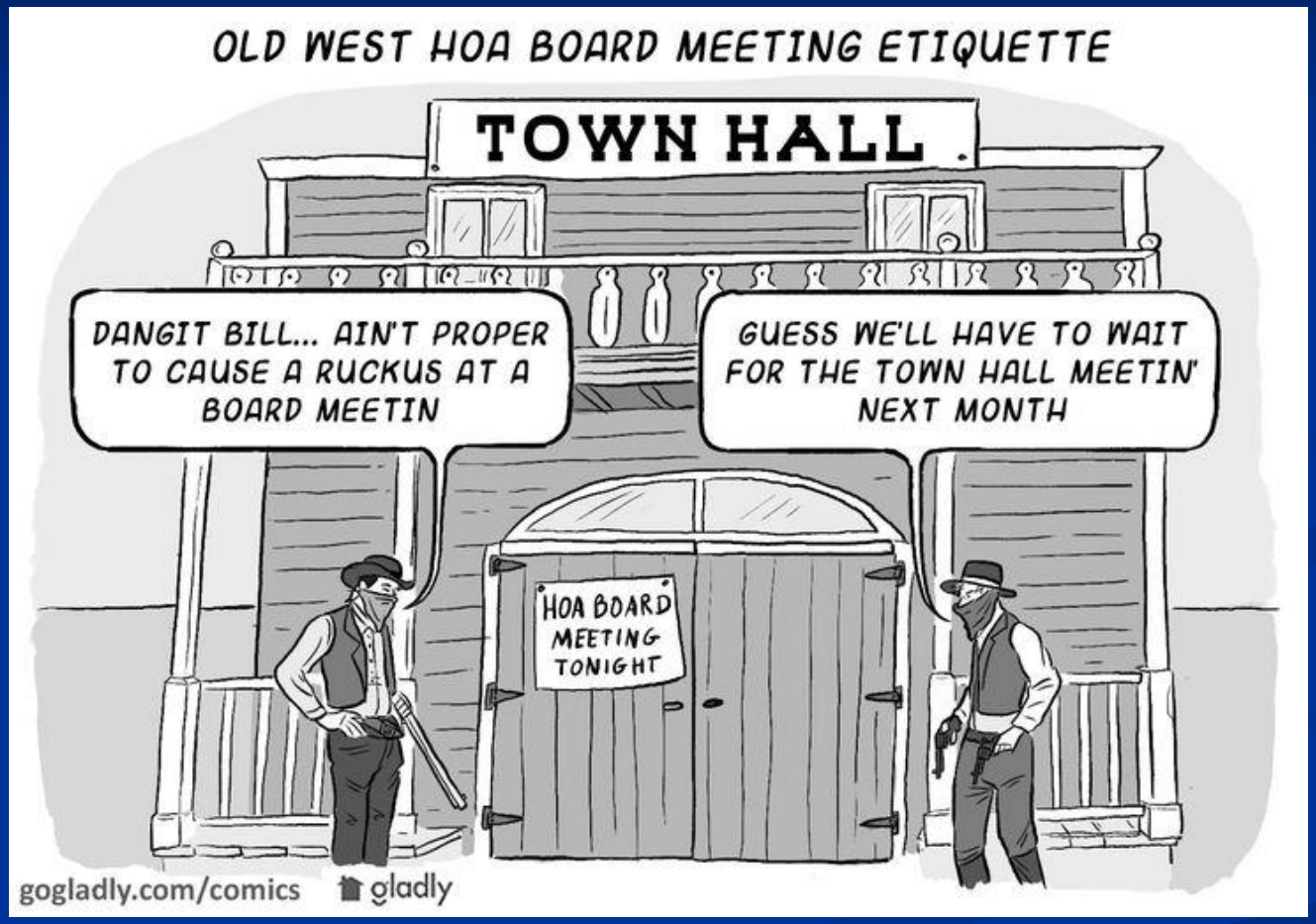
Must have quorum present and a 2/3 majority vote to close.

# CLOSED MEETINGS (cont)

May not be used to:

- Interview applicant for elected positions or to fill vacant position;
- Approve any ordinance, resolution, rule, contract, or appointment; or
- Vote on any issue (other than to reopen)

# Conduct & Decorum



# Conduct & Decorum

| | |
|---|---|
| Member of the body | May be expelled upon 2/3 majority vote |
| Member of the public | May be expelled upon 2/3 majority vote; OR<br>Police may arrest for disorderly conduct. |

# MINUTES

City of St. George
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# MINUTES

Must Include:

- Date, time, place, & members present & absent;
- The substance of all matters discussed;
- Names of citizens providing comment at public hearing AND the substance of their comments;
- Any matter the body wants to be entered into the record; and
- Record of all votes taken.
- Materials submitted at meeting

# RECORDING

May be used for minutes;

Must be kept in full and unedited

Work meetings recorded

Closed meetings recorded UNLESS discussing character & competence of an individual.

# CASE LAW

REMEMBER!

It is the intent of the Legislature that the state, its agencies, and its political subdivisions:

(a) take their actions openly; and

(b) conduct their deliberations openly.

# Wallingford v. Moab City,

## 2020 UT App 12

"…municipalities may not contract around public hearing requirements found in statute or ordinance."

"The grants of power to municipalities make clear that cities may not take action that is "repugnant to law," id. § 10-8-84(1), or that is "expressly prohibited by law," id. § 10-9a-102(2)."

# Wallingford v. Moab (cont)

One type of requirement that appears in statutes and ordinances, as applicable in certain contexts, is **the requirement that municipalities conduct some of their business in public**, so that the citizens of the municipality may know how the public's business is being conducted. See, e.g., Hutchinson, 624 P.2d at 1121 (stating that "[t]he ultimate limitation upon potential abuses by local governments is the people themselves," whose "vigilance and sound judgment" restricts and directs "all democratic governments").

# Walker v. Tooele County

## (Ruling & Order) 3rd District Court, Case No. 18301487

"The Court concludes that, as a matter of law, the Tooele County Commission's approval and execution of the Southside Agreement was illegal contract zoning."

"Tooele County (including members of the [County] Commission) and Southside engaged in **private discussions** that produced the Southside Agreement." – they had been doing so for 2 years.

"due process demands a new trial when the appearance of unfairness is so plain that we are left with the abiding impression that a reasonable person would find the hearing unfair."

# Summit County v. Hideout

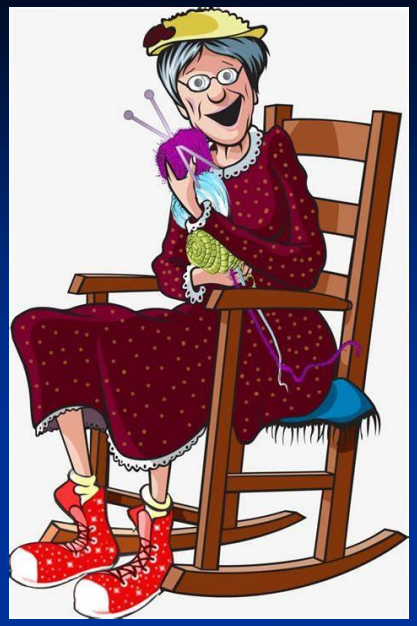
## (Order on Amended Motion to Show Cause)
## 4th District Court, Case no. 200500072

". . .Summit County demonstrated a likelihood of success on the merits that **Hideout violated the Open and Public Meetings Act** ("OPMA"), Utah Code Ann. §§ 52-4-101, et seq., by conducting its deliberations about the July Pre-Annexation Agreement, modifications of the July Pre-Annexation Agreement, and the decision to adopt the July Pre-Annexation Agreement outside of the public meeting where the July Pre-Annexation Agreement was adopted."

# Summit County v. Hideout (cont)

"The type of harm that the provisions of that act are intended to guard against are the passage of resolutions or other decisions made by a municipal body without notice to those affected by those decisions. See Utah Code Ann. § 52-4-102 ("It is the intent of the Legislature that the state, its agencies, and its political subdivisions (a) take their actions openly; and (b) conduct their deliberations openly.")"

# GRAMA



63G-2-102. Legislative intent.

(1) In enacting this act, the Legislature recognizes two constitutional rights:

(a) the public's right of access to information concerning the conduct of the public's business; and

(b) the right of privacy in relation to personal data gathered by governmental entities.

# GRAMA

(2) The Legislature also recognizes a public policy interest in allowing a government to restrict access to certain records, as specified in this chapter, for the public good.

# GRAMA

## What do I need to provide if requested?

**Emails:** USE CITY EMAIL ADDRESS FOR ALL CITY BUSINESS

**Phone logs:** Cell phone logs should be retained for 3 months

**Text Messages:** All text messages should be retained for 3 months if related to City business.

# GRAMA
## (Whispers, Calls & Texts)

**During the Meeting**

Avoid the whispers – open deliberation required
No texting!
No emails!

**Outside of the Meeting**

No Ex parte communications
No deliberations by calls or texts

Questions should be directed to staff

LANDGREN THE LANDMARK 3-16
ALL THOSE IN FAVOR OF WHAT WE DISCUSSED IN OUR E-MAIL THREAD AND AT LARRY'S SON'S BIRTHDAY PARTY SAY 'AYE'
'AYE'
'AYE'
'AYE'
I
... HAVE NO IDEA WHAT'S GOING ON
WINK NUDGE
I THOUGHT THIS MEETING WAS OPEN?

# ETHICS

## Municipal Officers' & Employees Act

| | |
|---|---|
| • Use of office for personal benefit | Prohibited |
| • Compensation for transaction with City | Disclosure required |
| • Interest in business entity | Disclosure required |
| • Investment creating conflict | Disclosure required |

# ETHICS

## Utah Public Officers' & Employees Act

| | |
|---|---|
| • Improperly disclosing information | Prohibited |
| • Accepting Gifts | Disclosure required + prohibited |
| • Offering donation for approval | Prohibited |
| • Conflict of Interest | Disclosure required |

# CONFLICT OF INTEREST

Personal investments or pecuniary interest that create conflict between personal interests and public duties

Allowed with proper disclosure

Disclosure of Private or protected information

Prohibited

# QUESTIONS?

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