

# *Open and Public Meetings Act* **Annual Training**

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**EMIGRATION CANYON  
METRO TOWNSHIP  
COUNCIL**

**March 23, 2023**

# Spirit of the Act

- Act Openly
- Make Decisions Openly
- Deliberate Openly  
(the hardest part)
- Conduct the People's Business Openly
- Openly = In Public



Jeff Parker / Florida Today

# *Spirit of the Act*

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## Who has to follow the OPMA?

- Any local administrative, advisory, executive, or legislative body which:
  - Consists of two or more persons
  - Spends, distributes, or is supported by tax money
  - Has authority to make decisions about the public's business (which has been interpreted to include advisory groups)



Mr. Lightman / FreeDigitalPhotos.net

# ***What is a Meeting?***

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**1) Quorum (3 members).**

**2) Convene (not chance meetings)**

"Meeting" means the convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held 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 has jurisdiction or advisory power

**Email? OK if not sent to quorum or limited to non-substantive matters (i.e. scheduling). CAN'T act/deliberate behind the scenes.**

***IM? Text? Chat? - This also applies.***

# What is a Meeting? (cont'd)

**Social Events:** OK for members to socialize, just can't discuss/act on matters under their official jurisdiction.

**“Meeting after the Meeting”:**  
Beware of rehashing the meeting with a quorum.



Don Landgren Jr. / The Landmark

**Conference Call:** It's a meeting if a quorum is involved.

# What is a Meeting? (cont'd)

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**Remember:** Email may be a public record under GRAMA.  
(U.C.A. § 63G-2-103).

- Note: any substantive emails regarding Town business are subject to GRAMA and OPMA.

**Bottom Line:** Citizens are entitled not only to *know what* government decides, but to *observe how and why* every decision is reached. Communication by email is not entirely off-limits, but all deliberations must be done in public and recorded.

(U.C.A. § 52-4-210: “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.”)

# Location of Meeting

**The Rule:** On the day of the regularly scheduled meeting, any work sessions or closed sessions must be held at the regular meeting location, unless:

- The regularly scheduled meeting is being held elsewhere;
- There is an emergency or other extraordinary circumstances;
- The meeting is being held electronically; or
- There is a site visit or traveling tour.



*Parks and Recreation*

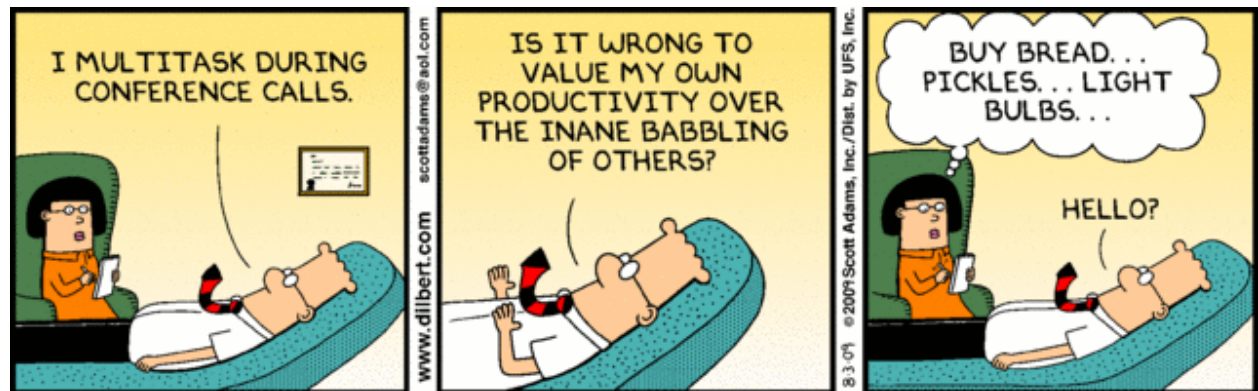
**Notice:** Must provide public notice of the location.



# Electronic Meetings

**Electronic Meeting:** a public meeting convened or conducted by means of a conference using electronic communications.

- LIFE UNDER COVID – State Law allows for meetings without an anchor location with certain requirements.



Scott Adams / Dilbert



# ***Reasons meeting may be closed***

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## **Only Reasons a Meeting may Be Closed:**

- 1. Discussing an individual's character, professional competence, or physical or mental health\***
- 2. Strategy sessions to discuss pending or reasonably imminent litigation (must be specific, not open ended threat)**
- 3. Strategy sessions to discuss the purchase, exchange, lease or sale of real property if public discussion of the transaction 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 AND for sale**
  - (a) the public body previously gave public notice that the property would be offered for sale**
  - (b) the terms of the sale are publicly disclosed before the public body approves the sale**
- 4. Discussions regarding security personnel, devices or systems \***
- 5. Investigative proceedings regarding allegations of criminal misconduct**

**\*Does not require recording**

# OPMA Notice Requirements

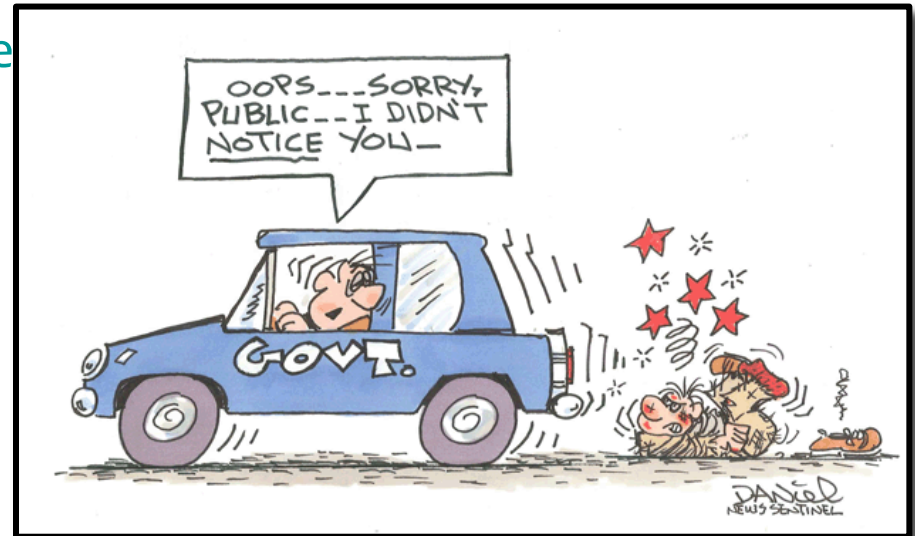
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## Under OPMA:

- Must provide notice at least 24 hours before the meeting.
- Notice must include the agenda, date, time, and place of meeting.
  - Agenda must be specific enough for public to know what will be discussed.

## At a minimum, notice must be:

- Posted on the Utah Public Notice Website; and
- Posted at Town Offices;
- Published in media is met by posting on Public Notice Website



# OPMA Notice

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## OPMA requires:

- notice must be given at least 24 hours before the meeting
- And state the agenda, date, time and place
  - agenda must be with enough specificity to know what will be discussed
- If an item is not listed on the agenda, the council may discuss it at the meeting but cannot take any action on it until it is presented at a meeting with proper notice.

## NOTICE MUST BE (AT A MINIMUM)

1. posted at the principal office of the public body or at the location of the meeting AND
2. posted on the Utah Public Notice Website AND
3. given to at least one local general circulation newspaper OR local media correspondent, OR posted on the Utah Public Notice Website

# *Public Comment*

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- “Open” means the public must be allowed to come and watch but no requirement to allow public to comment (in contrast to a public hearing, where opportunity for public comment is required)
  - Congress in action on the floor – open but no public input
- Topics not on the agenda can be raised by the public and discussed as long as no final action is taken on that topic

# *Minutes and Recordings*

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## **Required for all public meetings.**

- Except for site visits.

**Recordings:** Must be unedited, of entire meeting, clearly labeled, and available to the public.

- Must be made available within three business days.
- Public has right to record meeting, if they can do so without disrupting.

**Minutes:** The official record of the meeting.

- Must be approved by the body.
- Can be released to the public before body approval, as long as they are marked “unapproved.”
- Draft minutes must be available to public within a 30 days after the meeting (and within three days of their approval).
- Must include:
  - Substance of all matters proposed, discussed, or decided
  - Names people giving testimony and substance of their testimony
  - Individual votes
  - Any additional information requested to be added by a member of the body

# Emergency Meetings

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**Notice:** Must give best notice practicable as to the time and place of the emergency meeting, as well as the topics to be considered there.

- Must attempt to notify all members of the body.



*The Lord of the Rings*

**Convening:** Majority of the body must agree to hold the meeting because of an “emergency or urgent matter.”

**Minutes:** Should include a statement of the unforeseen circumstances that made the meeting necessary.

# *Violations of the OPMA*

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## **What happens if someone breaks the open-meetings laws?**

- a member of a public body who knowingly or intentionally violates OR who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a **class B misdemeanor**.
- Action taken in the meeting is voidable if the body violated the Act.

