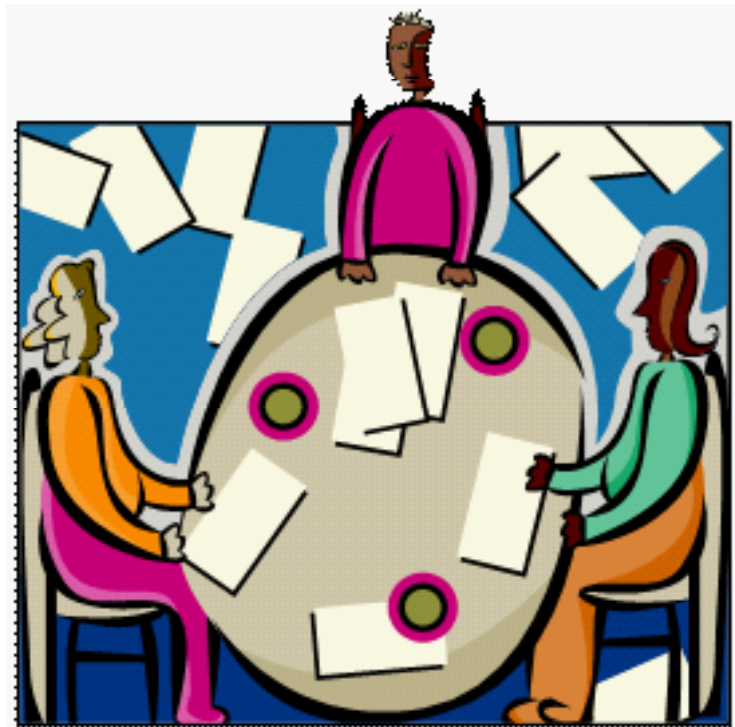


WYOMING OPEN MEETINGS LAW

A HANDBOOK FOR MUNICIPAL ELECTED OFFICIALS



WYOMING ASSOCIATION OF MUNICIPALITIES 2010

*The agencies of Wyoming exist to conduct public business.
Certain deliberations and actions shall be taken openly as provided in this act.”
——Wyoming Statutes §16-4-401*



This brochure was prepared by the Leadership Training Services Board under contract with Community Builders, Inc. a Wyoming-based consulting firm - Bobbe Fitzhugh and Joe Coyne, principals - www.consultCBI.com

WYOMING OPEN MEETINGS LAW

Municipal staff and elected officials should be ever mindful that municipal business is public business, and the public has a right to know how its servants are conducting its business. Representative democracy relies on the informed trust of the citizen. City or town council members serve their communities at a crucial place - that level closest to the people. On some occasions there is an inclination to hold a restricted session in order to avoid hurt feelings or embarrassment, or save money. However, without the informed trust of the citizens, democracy is jeopardized. The best practice is to always conduct the maximum amount of the public's business in public.

Wyoming municipalities are required to comply with the same general public meeting laws as other governmental agencies (Wyo. Stat. 15-1-105).

Those laws, initially adopted in 1973, are known as the Wyoming Public Meetings Law or the Wyoming Open Meetings Law ("WOML"). Wyoming Statutes Title 16, Article 4, Sections 401 through 408 contain the relevant statutory provisions.

STATEMENT OF PURPOSE

The statement of purpose of the WOML is:

*"The agencies of Wyoming exist to conduct public business. Certain deliberations and actions shall be taken openly as provided in this act."
(Wyo. Stat. 16-4-401)*



TO WHOM DOES THE WYOMING OPEN MEETINGS LAW APPLY?

The WOML applies to all agencies and divisions of the state, all counties, municipalities or other political subdivisions created by the Wyoming Constitution, a statute or ordinance, except the state legislature and the judiciary.

The WOML also applies to any sub-agency of a municipality that has been created or authorized by the Wyoming Constitution, statute or ordinance, such as a planning commission. It also applies to subcommittees formed by the governing body if the subcommittee includes a majority of the governing body.



WHICH GOVERNMENT MEETINGS ARE OPEN TO THE PUBLIC?

Wyo. Stat. 16-4-403 states as follows:
“All meetings of the governing body of an agency are public meetings, open to the public at all times, except as otherwise provided. No action of a governing body of an agency shall be taken except during a public meeting following notice of the meeting in accordance with this act. Action taken at a meeting not in conformity with this act is null and void and not merely voidable.”

Meetings may include not only formal meetings but also informal conferences or sessions of members of the governing body for the discussion of public business whether a decision is made or not when a quorum of the governing body is present. Some governing bodies erroneously assume that as long as no action is taken, there is no lawful meeting. For example, governing bodies hold work sessions, presentations or retreats where no formal action is intended to be taken. Under the WOML, such gatherings **do** constitute meetings as defined by law. As such, they must be preceded by any required

public notice and they must be treated the same as any other special meeting.

Meetings may also include the gathering of the members of the governing body who are in communication with each other by means of a telephone conference call or on-line internet discussion. Such meetings, if pre-arranged, would constitute a meeting if a quorum is “present” on the conference call or on-line. Such meetings must be preceded by any required public notice. All members of the public wishing to hear or see the conversation must be permitted access as is required for any special or regular meeting.

Many people have the misunderstanding that any time a quorum of the governing body happens to be in the same place and someone mentions a subject related to the municipality, this constitutes an illegal meeting. This is not the case. When a quorum of the governing body happens to show up at the same wedding, restaurant, party, etc., and visit with one another, this does not constitute a meeting unless it was called by **proper authority** and **for**

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proper purpose. **Proper authority** would normally be the mayor or upon the request of two or more members of the governing body for the **purpose** of discussing, deliberating, presenting, informing or acting on public business.

It is not necessarily illegal for a quorum of the governing body to ride in the same vehicle to a convention or some other function without giving proper public notice of a “special meeting.” Such a gathering or incident is not a “meeting” as it was not called by proper authority, nor was the purpose of riding together in the vehicle to discuss, deliberate, present information or take action.

On the other hand, if the mayor were to request a quorum of the council members to ride in a vehicle so they could discuss some specific item of city business, this would constitute a meeting and would not be allowable. Because such meetings are required to

be open to the public, meetings in areas that cannot accommodate members of the public should not occur.

HOW IS “MEETING” DEFINED?

The WOML defines meeting as follows:

“An assembly of at least a quorum of the governing body of an agency which has been called by proper authority of the agency for the purpose of discussion, deliberation, presentation of information or taking action regarding public business.” (Wyo. Stat. 16-4-402(a)(iii))

WHAT CONSTITUTES “ACTION”?

Action means the transaction of official business of the governing body, including a collective decision of a governing body, a collective commitment or promise to make a positive or negative decision, or an actual vote by the governing body upon a motion, resolution, rule, order or ordinance. No action shall be taken by a governing body except during a public meeting, following notice of the meeting in accordance with the WOML.

WHAT ARE THE RIGHTS OF THE PUBLIC AT A PUBLIC MEETING?

“A member of the public is not required as a condition of attendance at any meeting to register his name, to supply information, to complete a questionnaire, or fulfill any other condition precedent to his attendance. A person seeking recognition at the meeting may be required to give his name and affiliation.” (Wyo. Stat. 16-4-403).

“If any public meeting is willfully disrupted so as to render the orderly conduct of the meeting unfeasible, the governing body may order the removal of the person or persons responsible from the meeting room and continue in session. It may also recess the meeting and reconvene at another location. Only matters appearing on the agenda may be acted upon in a meeting recessed to another location. . . . Duly accredited members of the press or other news media except those who participate in disorderly conduct at a meeting shall be allowed to attend any meeting permitted by this section.” (Wyo. Stat. 16-6-4 through 16-6-6).

NOTICE REQUIREMENTS

Prior notice of all meetings must be given as provided in the WOML. The act requires that all municipalities develop their own rules and regulations regarding regular meetings, or make announcements regarding special meetings.

- Wyoming statute requires the governing body to hold regular public meetings. The date, time and place of the regularly scheduled City or Town Council meetings are to be adopted by ordinance, resolution, by-laws or rules.
- Any meeting that is not a regularly scheduled meeting is a special meeting. Special meetings may be called by the presiding officer of the governing body by giving notice of the meeting to each member of the governing body and to each newspaper of general circulation, radio or television station requesting the notice. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at a special meeting. Notice of a special

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meeting is not required to be **published** in any newspaper; however, it must be provided to any newspaper of general circulation, radio or television stations **requesting the notice.**

- The WOML does not specify a minimum time in advance of a special meeting in which notice must be provided. However, because there is a special provision for emergency meetings, the law implies that special meetings would provide more notice than an emergency meeting and at a minimum, notice of special meetings should be given at least 24 hours prior to the special meeting.
- Public bodies may recess meetings to a later time so long as they provide notice during the original meeting.
- Emergency meetings on matters of serious immediate concern require all reasonable efforts to be made to provide public notice. Further, all actions taken

at an emergency meeting are temporary and must be ratified at a public meeting within forty-eight hours of the emergency meeting.

- Day-to-day administrative activity does not require notice.

EXECUTIVE SESSIONS

Executive sessions not open to the public may be called for the following purposes:

- Meetings with the municipal attorney or law enforcement officials to consider matters posing a threat to the security of public or private property, or a threat to the public's right of access.

Consultations with legal counsel except as it relates to items covered under these statutory exceptions cannot be held in closed sessions.

- Meetings to consider appointment, employment, and dismissal of employees or to hear complaints brought against public employees (unless the person requests a public hearing). Witnesses at either a public or private hearing can be excluded during the examination of all other witnesses. Following the hearing, the governing body may deliberate on



its decision in executive session.

- Meetings on matters concerning pending or proposed litigation in which the governing body is or may be a party.
- Meetings on matters relating to national security.
- Meetings of a licensing agency while preparing, administering or grading examinations.
- Meetings to consider the selection of a site or the purchase of real estate when the publicity regarding the consideration would cause the likelihood of an increase in price;
- Meetings to consider the acceptance of donations, gifts and bequests the donor has requested be kept confidential.
- Meetings to discuss information classified as confidential by law.
- Meetings to consider the acceptance or tender of offers regarding wages,

salaries, benefits and terms of employment during such negotiations. Collective bargaining negotiations should be conducted in open public meetings. The sessions at which offers are considered or formulated may be closed.

An executive session may be held only pursuant to a motion that is seconded and carried by a majority vote of the council members in attendance when the motion is made (Wyo. Stat. 15-1-105). The statutory reason for going into executive session should be stated in the motion.

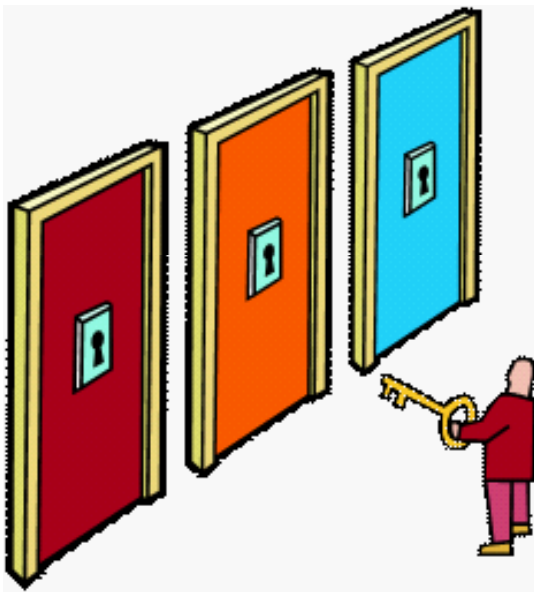
By law no action of the governing body can be taken except during a public meeting. Therefore action cannot be taken during an executive session. Minutes of the executive session are required to be taken. Minutes of the executive session should cite the statutory reasons for which an executive session was called. Detailed minutes of discussions held in executive sessions are not necessary.

MEETING MINUTES

The act requires all governing bodies to record (but not necessarily to publish) minutes of all meetings, including those where no action is taken. Minutes reflect all official acts. If an action is taken, the minutes are to be published. The minutes are public records. There is no requirement for recording discussions and commentary among the council members with regard to the various agenda items. While all official acts must be recorded, how much additional discussion is to be included in governing body minutes is left to the discretion of the governing body.



Minutes are required to be maintained of all executive sessions. Except for those parts of minutes of an executive session reflecting a member's objection to the executive session as being in violation of the WOML, minutes and proceedings of executive sessions shall be confidential and produced only in response to a valid court order (Wyo. Stat. 16-4-405(b)). Minutes of executive sessions should be maintained in a secure location, such as a locked file cabinet, with only very limited and secure access. At least one member of the governing body as well as the clerk or municipal attorney should be able to access the executive session minutes.



VIOLATIONS

Violations of the WOML can have very serious consequences both for the municipality



and for elected officials. All actions taken during a meeting in violation of the Act are considered null and void. Contracts, employment decisions and budget approvals can be set aside and deemed never to have happened when the governing body fails to comply with the WOML.

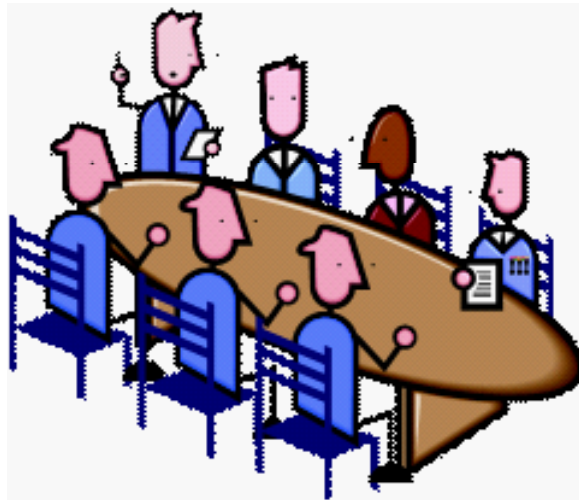
Any member of the governing body who attends or remains at a meeting where an action is taken knowing that the action is in violation of the WOML shall be guilty of a misdemeanor unless minutes were taken during the meeting and the parts recording the member's objections are made public; or, at the next public meeting, the member objects to the meeting where the violations occurred and asks that the objection be recorded in the minutes. Public officers found in violation of the act are guilty of a misdemeanor and can be assessed fines of up to \$750.

Other statutes include criminal penalties that may apply to open meetings violations. Disclosure of information acquired in executive session which is not intended for public disclosure is a violation of the Ethics and Disclosure Act (Wyo. Stat. 9-13-105(c)). For actions prohibited by both the WOML and Wyo. Stat. Title 6 – Crimes and Offenses, the provisions of Title 6 apply.



IN CONCLUSION

Compliance with the Open Meetings Law is a serious matter. Regardless of any penalties, government is most effective and public confidence is the greatest when the public business is conducted in public. Beyond the few exceptions provided in the Wyoming Open Meetings Law, public meetings are to be “open to the public at all times.”



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