Open Meeting Law Best Practices

1. Meetings must be properly warned and be open to the public in an accessible location at all times of the meeting unless a legally called executive session has been convened. These steps must occur whenever a quorum, which is a majority of the members of a public body, hold a meeting.

Hold meetings in accessible places.

The group can decide to set a regular schedule of meetings, which must include the dates, time(s) and place(s) of the meetings. If it does, then that can be posted by the Clerk’s Office along with all the other regular meetings. All meetings not on a regular schedule of meetings are “special meetings” that have different requirements for notice.

An agenda for the meeting must also be posted at least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting. Contents of agendas are not defined by law, but should allow interested members of the public to be reasonably informed about what will be discussed and what actions may be taken at the meeting.

2. Members of the public have the right to express their opinion on all matters being considered as long as order is maintained. There can be reasonable rules to maintain order.

Allow public comment but have rules to keep order, including a reasonable time limit, i.e., 3 minutes.

3. The time given to a person can be limited to a reasonable time, i.e., 3 minutes. Having a set amount of time for public comment, i.e., 15 minutes, as an agenda item is a common practice. Allowing people to also speak during a substantive agenda item is also common.

Have an agenda item for public comment and allow time during the substantive discussions for public comment that isn’t repetitive.

4. A meeting is whenever a quorum of the public body comes together to discuss business of the body. A meeting has to be warned according to the requirements of the law. If the meeting is not properly warned, it should not be held. If a quorum happens at the store, at a party, etc. do not talk about business. Scheduling or agenda setting discussions or distributing materials to discuss at a meeting are not considered discussing business, even if done among a quorum of the group.

Do not let a quorum discuss business unless the meeting has been warned properly. Make sure not to stray into business when setting meetings or agendas or sending out preparation materials.

5. Members can attend a meeting by calling in or using Skype, for example. (“electronic or other means”). Email attendance is not allowed. If a member attends telephonically without being physically present, then the member has to identify themselves when the meeting is
convened, or the “show up,” must be able to hear what is happening, and must be able to be heard by all in attendance. If a vote is not unanimous, the vote must be taken with a roll call.

Make prior arrangements for electronic attendance and test the technology to be sure it is working. Call for a decision and make sure to be clear that the decision is unanimous and if it is not, recount the vote using the roll call method.

6. A quorum can attend a meeting without being physically present. If that is going to happen, then at least 24 hours before the meeting or asap before an “emergency meeting”, the group must (1) publicly announce the meeting, (2) post a notice in or near the clerk’s office and in at least 2 other of the designated places in the city, (3) state in the announcement that there will be at least 1 physical location where a member of the public can attend and express their opinions, and (4) have at least one member of the group or a staff person or designee be physically present in the designated location.

To make sure all these requirements can and will be met, give staff enough time to do them.

7. Your written communications related to the group are “public records” and the public can request to review them. These records must be retrievable and should not be deleted without checking with the City staff.

Email communications, rather than text messages, are more easily retrieved and dealt with by city staff. Immediately get in touch with city staff if a public records request is made.

8. Additions to or deletions of items listed on the posted agenda must be the very first item of business at a meeting. Other changes, like changing when an item will be discussed, can be made at any time during the meeting.

Be prepared before the meeting to make agenda additions or deletions at the start of the meeting. If something new comes up, be mentally prepared to discuss it at the next regular meeting or call a special or emergency meeting to discuss it.

9. An “emergency” meeting is a meeting that is needed to respond to an unforeseen occurrence or condition that requires immediate attention. Emergency meetings can be held without a public announcement, without posting any notice, and without giving members 24 hour notice as long as some public notice is given asap before the meeting.

Emergencies are very rare; do not use this option unless it is absolutely apparent that an emergency exists. Better to call a special meeting, which only requires 48 hour notice.

10. Minutes must be taken. They have to cover all topics. They do not have to be transcripts of what everyone says. They have to list the members who were present and all others who are active participants. They have to state all motions, proposals, and resolutions that are made or offered and considered. They have to state what happened to the motions, the results of any votes and a record of the individual votes if a roll call is taken. Minutes have to be posted on the
city’s website within 5 days of the meeting. Minutes do not need to be “accepted” by the group. Minutes can be corrected at the next meeting and if they are, they must be reposted.

Have the minute taker understand the time limits and the minimum requirements. The group should understand this; if it wants more extensive recording of the discussion, then the requirement should be met and corrected minutes posted after.

11. Executive sessions cannot be held except for very limited reasons listed in the law. No formal action can be taken in executive session except to vote to secure a real estate purchase or lease option. The group can get a sense of where people are at.

If you think an executive session may be wanted, contact the City Attorney’s Office for advice.

12. If a member of a public body, or someone acting on the group’s behalf, knowingly and intentionally violates the open meeting law or participates in the wrongful exclusion of a person from an open meeting, the person is committing a criminal misdemeanor and can be fined up to $500. If someone thinks a violation has occurred, they need to inform the group in writing, stating the specific violation and requesting a specific cure. The group can cure the violation and not be liable for attorney’s fees and costs. There must be a public response to a written complaint; within 7 business days, the group must either state that it has determined that there was no violation or acknowledge the violation and state that it intends to cure it within 14 calendar days.

If you get a written complaint, including email, immediately forward it to the chair of the group and the City Attorney and the Chief Administrative Officer so a timely response can be prepared.