

Mayor Lawrence Flitton

UINTAH CITY COUNCIL WORK

Planning – Zeke Swander

Council Members:

SESSION

Building Inspector-Jeff Monroe

Don Pearson

Gordon Cutler

TUESDAY, November 17<sup>th</sup>, 2015

Treasurer – Mike Ulrich

Jerry Smith

Greg Johnson

6:00 PM

Sheriff – Lt. Talbot

MINUTES

Fire Chief – William Pope

Attendees: Mayor Flitton, Gordon Cutler, Greg Johnson, Don Pearson, Bill Pope, Zeke Swander, Michelle Roberts, Marilyn Pearson and Darinda Wardell. Excused: Jerry Smith

## MEETING MINUTES:

1. **MEETING CALL TO ORDER:** Mayor Flitton called the meeting to order.

**PLEDGE OF ALLEGIANCE:** Led by Don Pearson

2. **ANNUAL TRAINING ON OPEN AND PUBLIC MEETINGS:** (00:00:54)

Presenter: Darinda Wardell

- Darinda Wardell presented and reviewed the annual training for the Open and Public Meetings.
- UTAH CODE ANN. §52-4-101 et seq.
- Declaration of Public Policy §52-4-102
  - (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.
- WHAT DOES THE OPEN MEETINGS ACT DO?
  - "It requires government to take actions openly."
  - "Ensures deliberations allow for an open public process."
- DO I HAVE TO FOLLOW THE LAW?
  - YES, if you are:
    - An administrative, advisory, executive or legislative body of the state or its subdivisions and;
    - Were created by the Utah Constitution, statute, rule, ordinance or resolution
    - Consist of two or more persons
    - Spends, distributes or is supported by tax money
    - Has authority to make decisions about the public's business.
- Examples:
  - DABC Commission
  - State Records Committee
  - Board of Pardons
  - City or County Councils
  - City or County Council Advisory Boards
  - Planning & zoning
  - Board of adjustments
  - Project committees
  - Special Districts
- Who is not subject to Open Meetings law?
  - Political parties, groups and caucuses
  - State Legislative conference, rules and sifting committees
- WHAT IS A MEETING?
- "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, about, or acting upon a matter over which the public has jurisdiction or advisory power."
- WHAT DOES "MEETING" NOT MEAN?
  - A chance meeting
  - A social meeting
  - Meeting of a public body with **both** legislative and executive responsibilities where:
    - No public funds are appropriated for expenditure
    - Meeting solely for discussion or to implement administrative/operational matters for which no formal action by the public body is required
    - Meeting solely for discussion or to implement administrative/operational matters that would not come before the body for discussion or action

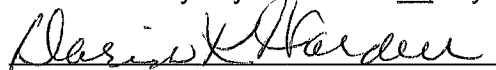
- DO I HAVE TO ATTEND MEETINGS, OR CAN IT BE HELD WITHOUT PEOPLE IN THE SAME ROOM?
  - Can meet by phone or other electronic means which allows all participants to hear or observe communications
  - Must be adopted into existing rules/ordinance
  - Notice requirements still apply
  - Public must have a means to attend or participate
- ARE THERE ANY NOTICE REQUIREMENTS?
  - Yes, notice requires all of the following:
    - Must be posted as a written notice at the place where the meeting will be held
    - Must be given to at least one local general circulation newspaper or local media correspondent
    - After 01OCT2008, by posting notice to the "Utah Public Notice Website" 63F-1-701
    - At least 24 hours prior to meeting post:
    - Agenda including all action items stated with **reasonable specificity**
      - Date
      - Time
      - Place
    - Note certain municipal public bodies may be exempt from posting on the Notice Website based on their budget.
- CAN A MEETING BE CLOSED TO THE PUBLIC? IF SO WHEN?
  - An open meeting can be closed for the following purposes:
    - Discussing an individual's character, professional competence, or physical or mental health
    - Strategy sessions to discuss collective bargaining
    - Strategy sessions to discuss pending or reasonably imminent litigation
    - Discussions regarding security personnel, devices or systems
    - Investigative proceedings regarding allegations of criminal misconduct
    - Strategy sessions to discuss the purchase, exchange, lease or sale of water rights or water shares if public discussion would disclose the appraisal/estimated value of the property under consideration; or would prevent the transaction from being completed under the best possible terms
    - Strategy sessions to discuss the purchase, exchange, lease or sale of real property
      - Public notice of the terms and public approval of sale required
      - Water rights shares under certain conditions
- The decision to close a meeting to the public is always discretionary, not mandatory. The law does not require any meeting to be closed.
- EXCEPTIONS The following must be closed:
  - A meeting of the Health and Human Services Committee to review a fatality review report
  - A meeting of the Child Welfare Legislative Oversight Panel to review a fatality review report
- IS THERE A PROCESS TO CLOSE MEETINGS?
  - YES, 52-4-204
  - A Quorum must be present.
  - Two-thirds of the members present must vote to close the meeting.
  - The body must first hold an open public meeting with proper notice before entering into the closed meeting.
  - The body must publicly disclose:
    - The vote by name of each member for or against entering into the closed meeting
    - The reasons for holding the closed meeting
    - Location of the closed meeting
- You may not:
  - Approve any ordinance, resolution, rule, regulation, contract or appointment
  - Interview a person to fill an elected position
  - Take final action
  - Final votes must be open and on the record
- What about Emergencies:
  - The law allows for meetings for "emergency or urgent" matters if:
    - The best notice practicable is given
    - The minutes include a statement of the unforeseen circumstances that made the meeting necessary
- DO WE HAVE TO KEEP MINUTES AND/OR Recordings?
- YES TO BOTH!
  - Even though there is a recording, the approved written minutes will be the official record.
  - Include both written minutes and recording of open meeting as public records.

- Public body shall establish and implement procedures for the public body's approval of the written minutes each meeting
  - All minutes must include
    - Date/time
    - Place of meeting
    - Names of all members present or absent
- In addition minutes of open meetings must include
  - All matters proposed, discussed or decided
  - All names and substance of information from individuals giving testimony
  - Individual votes on each matter
  - Any additional information requested by a member
- Minutes of closed meetings must include
  - The names of others present at the closed meeting, unless it infringes on the purpose of the closed meeting
- The closed meeting must be recorded and shall be complete and unedited
- Note: There may be exceptions to this requirement see § 52-4-206(6)(a) and (b)
- Detailed written minutes may be kept
- Minutes and/or recordings of closed meetings are not public records.
- **WHEN ARE THE MINUTES OF MEETINGS PUBLIC?**
  - Written minutes and recordings of open meetings are public records pursuant to 63G-2-101 et seq. (GRAMA) and shall be released within a reasonable amount of time.
  - Written minutes shall be available to the public before final approval when the minutes are only awaiting formal approval.
  - The minutes released prior to final approval must be identified as "unapproved".
  - The recording of an open meeting must be made available within 3 business days.
- **What happens when someone violates OPMA? 52-4-302 52-4-305**
  - A court can void any action in violation of the law
  - Sometimes a violation can be "cured" by discussing and taking a public vote in a subsequent meeting
  - May have to pay court costs and attorney's fees
  - "In addition to any other penalty under this chapter, a member of a public body who intentionally violates or intentionally abets or advises a violation of the closed meeting provisions of this chapter is guilty of a class B misdemeanor." (6 mos. Jail and/or \$1,000.00 fine)
- **Common Violations of OPMA:**
  - Closing meetings without members of the body voting first in an open meeting to close the meeting
  - Conducting a closed meeting for reasons other than those allowed by OPMA
  - Taking official or final action in a closed meeting
  - Failing to properly provide notice of a public meeting
  - Failing to provide adequate notice of a public meeting
- **Who can enforce OPMA?**
  - The courts
  - The Attorney General
  - A County Attorney
  - A private citizen who is an aggrieved party
- **HOW LONG DOES A PARTY HAVE TO PURSUE CORRECTIVE ACTION?**
  - 90 Days
  - 30 Days if it involves bonds, notes, or debt.

**3. MEETING ADJOURNMENT: (00:26:39)**

Greg Johnson motioned to adjourn the meeting.  
 Seconded by Don Pearson  
 All in favor; the motion passed. The meeting was adjourned.

APPROVED by City Council this 1<sup>st</sup> day of December, 2015.



DARINDA K. WARDELL, City Recorder