

Open Meetings Act

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Policies / Goals of OMA

- ▶ Maximize informed and principled decision-making
- ▶ Better decisions are made through public scrutiny
- ▶ The right to open meetings should be liberally construed
- ▶ Conservative approach to exceptions and executive sessions



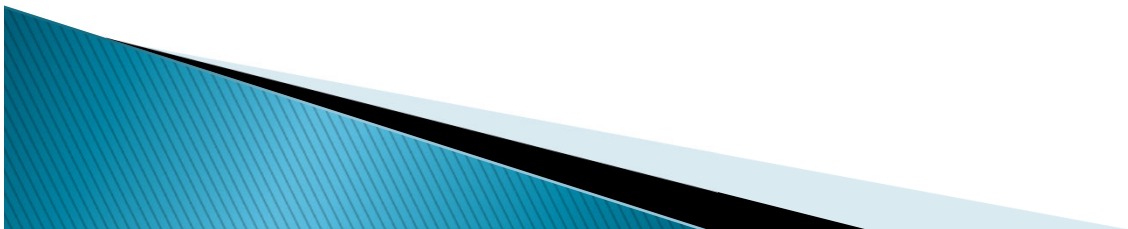
Basic Formula

- ▶ Subject + Members=Public + Notice
- ▶ Subject: within body's authority or duties; includes all steps of deliberative process including inquiry and discussion
- ▶ Members=more than three or majority (committees are included)
- ▶ Public=everyone can attend
- ▶ Notice=date, time, and place, by print or broadcast media and posted at principal office



Timing and Notice of Subject

- ▶ Timing depends on the circumstance.
 - Complex, important vs proforma/ministerial
 - Follow any specific rules you have adopted (7 days)
- ▶ Reasonable Notice
 - Includes the subject with some “specificity and clarity”
 - Be consistent (not “varied and confusing”)
 - Ask: does it encourage/discourage citizen participation?



Exceptions

- ▶ Certain meetings are not included
 - Employee meetings
 - Managerial meetings of service area boards
 - Attendance at member organizations
 - Quasi-Judicial bodies in deliberations only
- ▶ Emergency Meetings
 - Give as much notice as possible. Is it actually an emergency?



Common issues

1. Email—do not hit reply all. If there is general information applicable to the body, send it to the clerk. They can distribute and make it a part of your record.
2. You can have an OMA violation anywhere, even in the grocery store or at a social event, or by touring a site.
3. Group signings—e.g. letters of support. A draft should be proposed to the body and voted on, not just circulated and signed by individuals.
4. Attendance at meetings held by others.
5. Decisions are not required—it is all steps of the process.



They want to have a meeting...

A. Notice. Notice. Notice.

1. General Requirements

Always date, time and place (including location of any teleconferencing).

Teleconferencing site should have materials.

Vote by roll call.

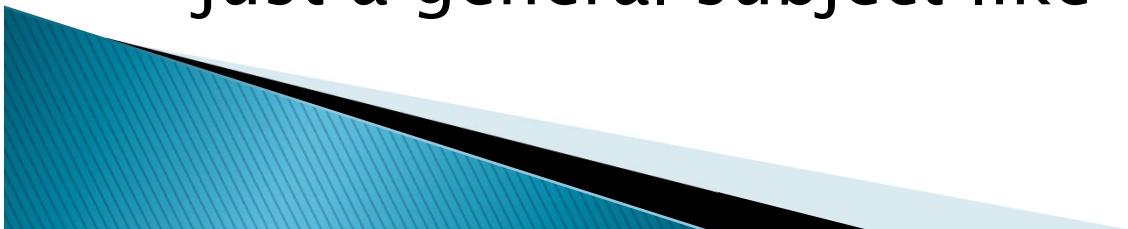
Must post notice at principal office.

Notice by print or broadcast media.



Timing and type of notice

- ▶ Follow your rules if you have them.
- ▶ Minimum of five days.
- ▶ Give more notice the more complex the matter and the more impact it has.
- ▶ If someone's rights are being discussed/affected, then give them personal notice (eg, land use matters).
- ▶ Follow past practice.
- ▶ Give reasonable notice of subject matter (not just a general subject like "historic sites")



Cures and do-overs

- ▶ The OMA provides for a remedy—acts are voidable.
- ▶ There is a public interest analysis, contact Legal asap if you suspect a violation.
- ▶ 180 days.
- ▶ Need a public and substantial reconsideration.



Public Records Act

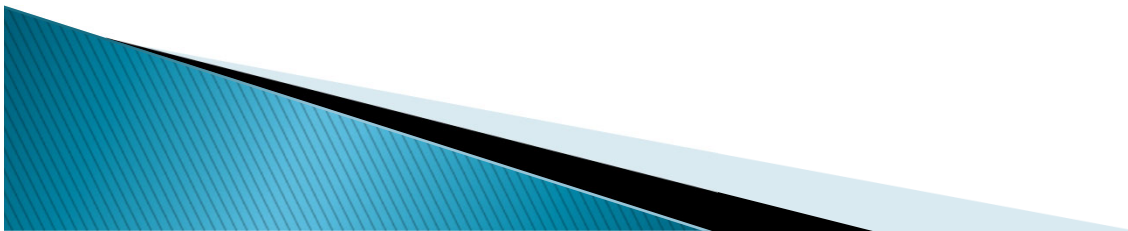
- ▶ Be aware that a public record includes anything that relates to government business, even if on a private email account, phone (including texts), or social media.
- ▶ It is not the means of communication; it is what is being talked about.
- ▶ You open up your personal accounts/devices to search if you use them to transact government business.
- ▶ Use a borough/separate email account for Commission business.



Q&A

Q: Can members meet (including by phone or email) as long as no more than three are included in any particular conversation?

A: Yes, assuming you are not having a serial meeting and that the matter is not assigned to the group as a subcommittee.



Q&A

Q: Are topics and questions discussed at a meeting constrained by what is on an agenda?

A: Yes, reasonable notice includes notice of the subject with some “specificity and clarity.”

Ask: Does this encourage or discourage citizen participation?



Q&A

Q: If I submit information to staff to distribute to the board or commission, does it automatically get printed as part of the agenda packet?

A: No. General information can be distributed to members but will not automatically be shared with public.



Q&A

Q: Can members participate in discussions of other groups about issues related to their duties? Are there discussions that members should avoid?

A: Use caution if the topics can come before the board or commission and be sure:

- (1) No more than three members are present;
- (2) You are not speaking on behalf of the body unless authorized to do so.



Other questions?

