

# Public Meeting Law

District Training Week  
February 2021



**OREGON  
DEPARTMENT OF  
AGRICULTURE**

# Housekeeping

- Please mute your microphone and/or telephone.
- The session will be recorded.
- I am not a lawyer – this is not legal advice.
- Feel free to ask questions at any time via the chat box or verbally.
- This only scratches the surface of important topics.
- Recordings and reference materials available on ODA website.



STATE OF OREGON  
DEPARTMENT OF JUSTICE

ATTORNEY GENERAL'S  
PUBLIC RECORDS  
AND  
MEETINGS MANUAL



"Knowledge will forever govern ignorance.  
And a people who mean to be their own governors, must arm  
themselves with the power knowledge gives. A popular government  
without popular information or the means of acquiring it, is but  
a prologue to a farce or a tragedy, or perhaps both."  
James Madison (1822)

JOHN R. KROGER  
Attorney General

January 2011

# Basic Requirements

- Open to public (executive session exemption)
- Advance notice
- Minutes
- Votes public and recorded



# What is a Public Meeting

- Definition of “Public Meeting”
  - Convening of governing body
  - Deliberate to make a decision or deliberate toward a decision
  - Quorum required to make a decision
  - Official actions must be taken by open public vote



# To what bodies does the law apply?

- State and local government “governing bodies” of “public bodies.”
  - Governing Bodies
    - Two or more members of any public body
      - Makes decisions or recommendations
  - Public Bodies
    - Includes municipal corporations (districts), committees, subcommittees, advisory groups



# Do advisory boards, committees, subcommittees, task forces, etc. have to comply with Public Meeting Laws?

- **YES:** If the group has been given authority by the board to make recommendations to the board or make decisions on behalf of the board.
- **NO:** If the group only provides information not being used to make a decision by the board.



# If the board appoints less than a quorum of board members to a committee, do they have to comply with Public Meeting Laws?

- **YES:** If the group has been given authority by the board to make recommendations to the board or make decisions on behalf of the board.
- **NO:** If the group only provides information not being used to make a decision by the board.





# What if the board appoints only one board member to a committee, do they have to comply with Public Meeting Laws?

- **YES:** If the group has been given authority by the board to make recommendations to the board or make decisions on behalf of the board.
- **NO:** If the group only provides information not being used to make a decision by the board.



# What if the board appoints no board members to a committee and only staff and members of the public, do they have to comply with Public Meeting Laws?

- **YES:** If the group has been given authority by the board to make recommendations to the board or make decisions on behalf of the board.
- **NO:** If the group only provides information not being used to make a decision by the board.



# If you are at a social gathering or at a working lunch, do you have to comply with Public Meeting Laws?

- **YES:** If attended by a quorum of the governing body and include discussion of official business.
- **NO:** If discussions at a social gathering are limited to non district topics.



# Quorum

- ORS 174.130 defines quorum as a majority, and ORS 568.570 states a majority constitutes a quorum.
- Majority of board positions must be present, whether or not all positions are filled.
- Majority vote of **ALL** members of a board must occur in order to make a decision
  - Three Yes votes for five member boards regardless of attendance.
  - Four Yes votes for seven member boards regardless of attendance.



# Who may attend?

- Except for executive session, any member of the public may attend any public meeting.
- Right to attend does not include right to participate.
- Public may record or video tape the meeting.



# Executive Session

- A meeting that is closed to certain persons or organizations for the purpose of discussing sensitive matters.
  - Some examples:
    - To discuss employment of public officers, employees or agents.
    - Discuss the dismissal, discipline, or complaints of public officers or employees
    - Discuss performance evaluations
    - Discuss exempt public records
    - Consulting with legal counsel



# Executive Session

- Chair must announce the statutory authority for the executive session before going into executive session.
- News media must be allowed to attend, but are barred from disclosure of discussion unless the board discusses matters outside the scope of the session.
- Minutes are required, but they may be kept in the form of sound tape recording.
- If an employee requests a public session for performance evaluation or discipline matters, the meeting must be held in public.
- Board may not reach a final decision in executive session. The board must go to public session to act formally on any matter.



# Executive Session

- Violation of Executive Session laws are investigated by Oregon Government Ethics Commission.
- Civil penalties for violations given to individual board members.

More detailed sessions at 9am Friday Feb. 19<sup>th</sup> and 6pm Wednesday Feb. 24<sup>th</sup>.



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# Electronic Meetings

Pre-Covid...

- Telephone conference calls are permitted.
- Room with “listening” devices must be provided.
  - This has been waived during health emergency.

Now days...

- Zoom, GoTo Meeting, Hybrid models



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# Notice

## Regular Meetings

- “Reasonably calculated to give actual notice to interested persons including news media which have requested notice.”

## Special Meetings

- 24 hours notice

## Emergency Meetings

- Must attempt to notify media and interested parties. Must indicate nature of emergency in minutes.



# Notice

- Notice must include:
  - Time, place & agenda (principle subjects)
- For executive session, must include reference to law authorizing executive session
- Paid advertising not required



# Notice

- Examples of posting notices
  - Local media representative
  - Press release (not responsible if not published)
  - Mailing and/or interested parties list
  - Notice boards (not sufficient on its own)
  - Website/Facebook (not sufficient on its own)
- Improper notice of meeting is violation of law
  - All decisions are void, though can be retroactively reinstated.

# Notice

- Annual Meetings and Public Hearings
  - “Due Notice”
    - Published twice at least seven days apart with one at least 15 days prior to meeting or hearing.
  - “Cause to be Published”
    - You have to pay for a legal notice...twice.



# Minutes

- *Written* minutes must be provided of all meetings
- Contents
  - All members present
  - All motions, proposals, resolutions, orders, ordinances, and measures and their disposition.
  - The result of all votes and the vote of each member by name.
  - The substance of any discussion on any matter (need not be detailed).
  - A reference to any document discussed at the meeting (subject to public records law).
- Audio recordings of executive sessions generally need not be transcribed.



# Violations

- Can be sued
- Decisions are void
  - May be reinstated retroactively
- “Willful misconduct” causes personal liability
- Complaints of executive session provisions made to Government Ethics Commission.



# Questions?

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