

Quorum

A quorum must be present at the meeting before any action of the governing body can be taken with the exception that less than a quorum may adjourn the meeting from time to time. A quorum is defined by state laws in seven member council forms as four members; three council members in the five member council form and as three council members, excluding the mayor in the six member council form.¹

The reason for the three plus the mayor in the six member form is that the minimum vote required passing any ordinance, resolution, or taking any action is a majority of the voting members of the council without regard to vacancies.² In six member council forms of government the mayor does not vote except in case of a tie. Therefore, if a quorum were any three members of the six member council, including the mayor, the situation would exist where two council members and the mayor were present, but the council could take no action since the minimum vote could never be met. The minimum vote required to pass anything in five member council form of governments is three. The mayor, being a full voting member in a town, is also counted towards the quorum.

The law requires a roll call vote to be taken and recorded for all ordinances, resolutions, and any action that creates a liability against a municipality and that in any other case are at the request of any member. A roll call is to be taken by a yes or no vote and is to be recorded.³ The Utah Open and Public Meetings Act requires the minutes of the meeting to include the vote, by name of council member, on every issue decided. The law also specifically requires that every resolution or ordinance must be in writing before the vote is taken.⁴ It is inappropriate to vote on an ordinance or resolution that is not already in writing and available for the council members to read and review.

The law also specifically states that any ordinance, resolution, or motion of a council having fewer favorable votes than those required is deemed defeated and invalid. It is clear that when the situation arises that members are present but abstain, the abstention is the equivalent of a no vote since it takes three favorable or yes votes to pass any matter (or four in the seven member council situations). If, for example, all five members of a town council are present, and two members vote yes, and two members vote no, and one member abstained; the matter would not pass as it did not get three yes votes. Likewise, if only four members of a town council are present, and two members vote yes, and one member votes no, and one member abstains; the matter does not pass as it has not obtained the minimal three favorable votes.

¹ Utah Code 10-3-504.

² Utah Code 10-3-507.

³ Utah Code 10-3-506.

⁴ Utah Code 10-3-506.