



RULES YOU NEED TO KNOW

A Primer for Utah Elected & Appointed Officials June 25, 2020

Agenda for the next 45 minutes

Rule #1 (every good meeting has one...)

**YOU GET TO DO THE
HEAVY LIFTING.....**

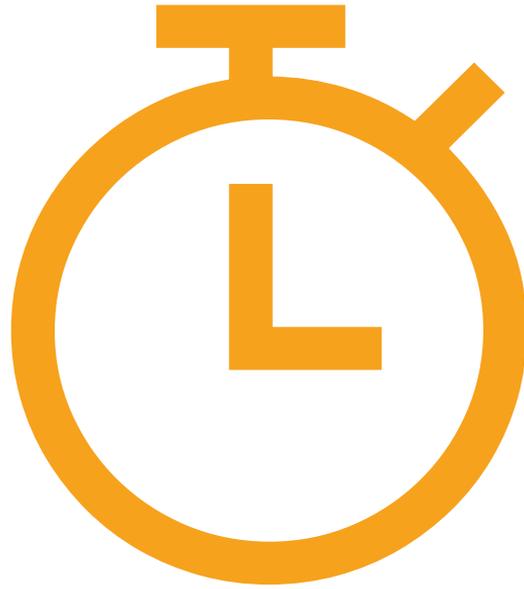


**I am going to tell
you:**

**1. What the state
requires**

2. Where to find it

**3. The resources
you have to figure
out how to comply**



POLL TIME

THE FANTASTIC FOUR



What you need to Know:

1. Write your own rules Title 10
Chapter 3 (the how)

2. Comply with the OPMA (the
process minutes,
transparency)

3. Comply with GRAMA

(who gets what/how do they
get it)

4. Comply with Ethics Act
(the law.....disclosure)

**#1 RULES & PROCEDURES
IN THE PUBLIC SECTOR
WE'VE TRADED EFFICIENCY FOR
TRANSPARENCY**



**DOING THE
PUBLIC'S
BUSINESS IN
PUBLIC**



**THERE IS NO SET
OF MANDATORY
RULES FOR CITY OR
TOWN COUNCIL
MEETINGS IN THE
STATE OF UTAH**



**THERE ARE STATE
REQUIREMENTS TO ADOPT
YOUR OWN RULES FOR
MEETINGS.
THE CONTENT IS UP TO YOU.
TITLE 10 CHAPTER 3 PART 6**

**SAMPLE OF
THINGS
RULES MAY
INCLUDE:**

**Regular and
special
meeting rules**

**Quorum
defined**

Attendance

**How voted
are taken &
reconsidered**

**Rules for the
Council**

**Rules for the
Public**

**Meeting
adjournment**

**WE RECOMMEND
THAT YOU “KIS”**



KEEP IT SIMPLE



**RELY ON
CIVILITY**



**BUT PLAN FOR
ADVERSITY.....**

**TITLE 10-3-504. QUORUM DEFINED.
THE NUMBER OF COUNCIL MEMBERS NECESSARY
TO CONSTITUTE A QUORUM IS:**

**Quorum
Defined**

- 1) In a municipality with a seven -member council, four;**
- 2) In a municipality with a five- member council, three;
and**
- 3) In a municipality operating under a six-member
council form, three excluding the Mayor.**

MEETING RULES AND PROCEDURES

Utah Statutes provide latitude for public bodies to write their own rules of conduct for meetings:

- U.C.A. 10-3-6 for municipalities
- U.C.A. 17-53-202 for counties

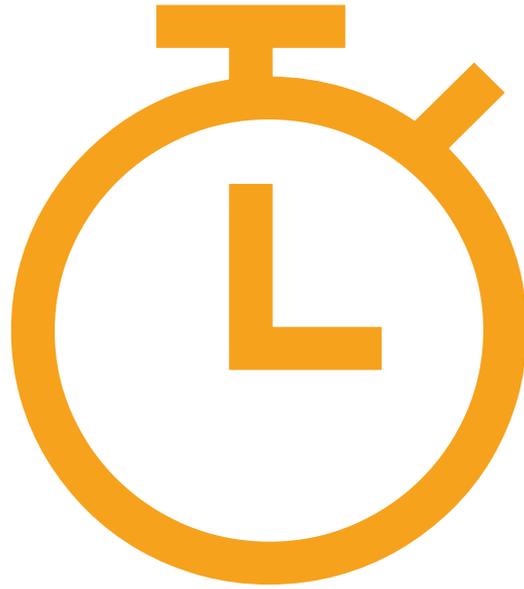
But what the Legislature giveth, the Legislature taketh away...

- Utah Open & Public Meetings Act
- Utah Government Records Access Management Act
- Utah Public Officials Ethics & Disclosure Laws

Procedure

①

SO WE MAKE THE RULES
WHAT ABOUT PROCEDURES?



POLL TIME



OPMA
U.C.A.
52-4

#2

The Utah Open & Public Meetings Act

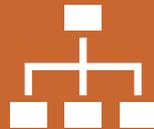
It tells us:

- What bodies are subject to the act;
- What meetings must be open to the public;
- When meetings of public officials can be closed;
- Meeting notice requirements;
- Agenda requirements;
- Minutes and recording requirements; and
- Penalties for violations

OPMA BIG PICTURE



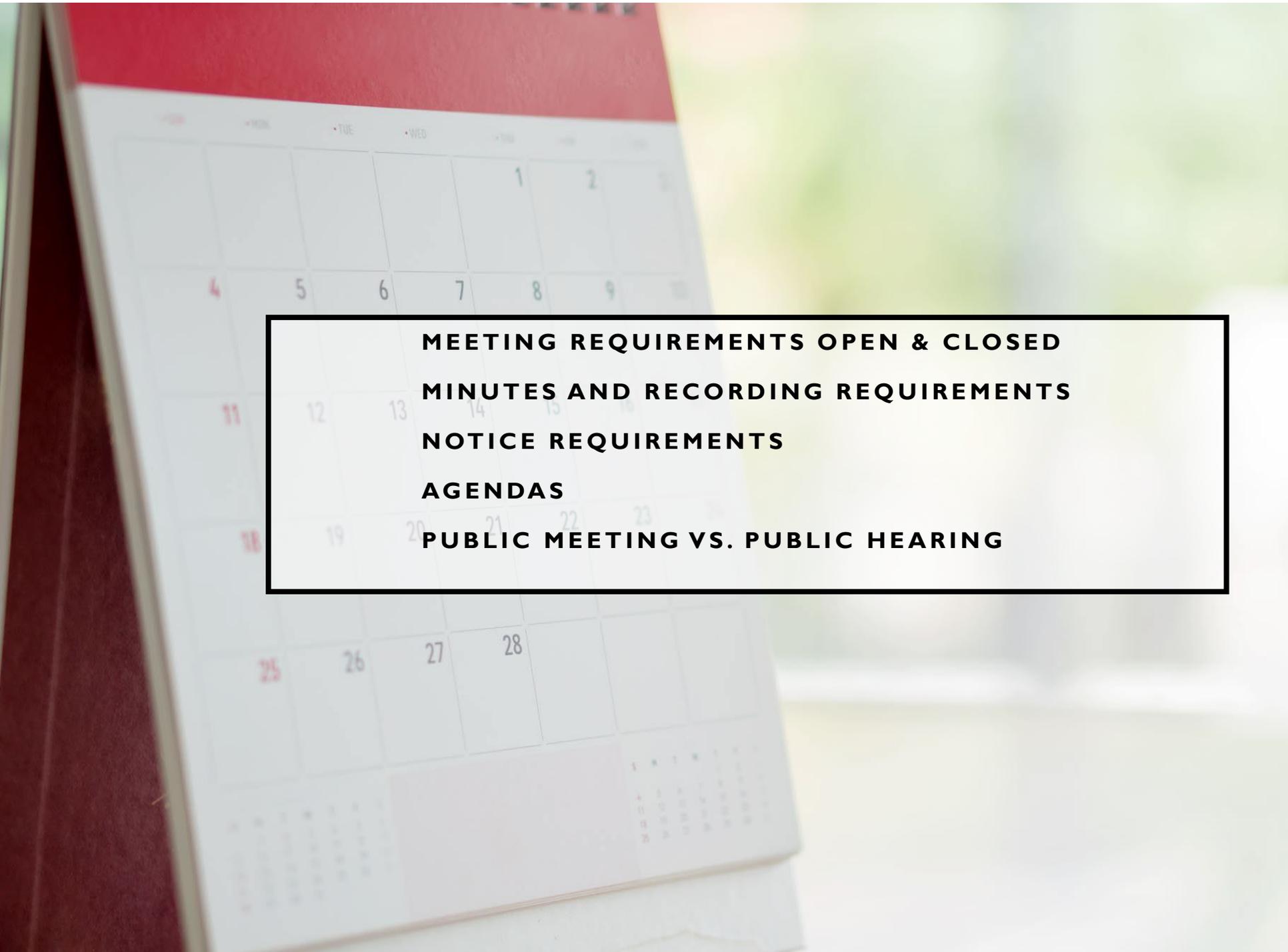
The premise of the Open Public Meetings Act is:



All meetings are open to the public, with limited and specific exceptions.



Governments exists to aid in the conduct of the peoples business, and they should take their actions openly and conduct their deliberations openly.



MEETING REQUIREMENTS OPEN & CLOSED
MINUTES AND RECORDING REQUIREMENTS
NOTICE REQUIREMENTS
AGENDAS
PUBLIC MEETING VS. PUBLIC HEARING

PUBLIC MEETINGS OPMA TITLE 52, CHAPTER 4

To know what a “Public Meeting” is, you need to look at the definitions-

“**Public Body**” means: any administrative, advisory, executive, or legislative body which consists of two or more persons, is created by law or ordinance, which spends or is supported by taxes, and is vested with the authority to make decisions regarding the public’s business.

“**Meeting**” means: the convening of a public body, with a quorum, whether in person or electronically, 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.

“Meeting” does not mean a chance or social meeting.

Exceptions for P&Z bodies:

- Purely administrative meetings: and
- Closed meetings.

STATE AUDITOR'S CHEAT SHEET

Public Meetings vs. Public Hearings

Open & Public Meetings

- The majority of a governing body meets to discuss, or act upon, the business of the entity.
- Includes workshops or executive sessions.
- Does not include chance or social meetings.

Public Hearings

- Portion of an open meeting at which members of the public are provided with a *reasonable* opportunity to speak (speaking time may be limited)
- Required when an entity imposes or increases a tax or fee, or adopts a budget.



Office of the
State Auditor

Introduction

Types of
Meetings

Notice
Requirements

Record
Requirements

Notice Requirements

Requirement	Regular Meeting	Public Hearing
Media	Must <u>notify</u> at least one newspaper or a local media correspondent. The newspaper can choose whether or not to publish the notice. The entity is not required to pay for the publication of regular meeting notices.	Must <u>publish</u> notice in at least one issue or a newspaper. If the newspaper requires payment to publish the notice, then the entity must pay the fee. If a newspaper of general circulation is not available, then written notice must be posted in three public places within the entity's boundaries.
Physical Posting	Post written notice at the principal office of the governing body, or if no such office exists, at the building where the meeting is to be held.	(Same as Regular Meeting)
Digital Posting	Must post on the Public Notice Website (pmn.utah.gov).	(Same as Regular Meeting)
Number of days	At least <u>24 hours</u> before meeting.	Generally, at least <u>seven days</u> prior to the hearing.



STATE AUDITOR'S CHEAT SHEET

CLOSED MEETING

You cannot simply hold a “Closed Meeting”, you must “close” an open meeting, and only for one of the specific reasons enumerated in statute. The pertinent reasons for P&Z bodies are:

1. Discuss the character, professional competence, or physical/mental health of an individual. (sometimes referred to as the personnel exception, but be careful with that!)
2. Discuss pending or reasonably imminent litigation. (Best to have your attorney in these closed sessions)
3. Discuss the purchase, exchange, lease or sale of real property if public discussion of the transaction would disclose the appraised or estimated value of the property under consideration, or prevent the public body from completing the transaction on the best possible terms...

A SITE VISIT IS NOT A REASON FOR A CLOSED MEETING!

Any action that results from discussion in a closed meeting in violation of the act can be nullified or voided.

CLOSING A MEETING



DO NOT THINK IN TERMS OF A CLOSED MEETING, THINK ABOUT IT AS THE PORTION OF AN OPEN MEETING THAT IS CLOSED.



Must begin as a valid open meeting



Motion to close with 2/3 members present voting in favor



All matters discussed in closed session must be within the specific exceptions that permits closure of the meeting



Closed portions of meetings are for discussion only, any actions should be taken once the meeting is reopened. (A public body may not make motions or vote to take action in a closed portion of a meeting.)

NOTICE REQUIREMENTS

ALL “Public Meetings” must be properly noticed, which means:

- Annual notice of schedule of meetings; and
- Notice at least 24 hours in advance of each meeting.

Provide notice at customary meeting location, to local media, and on state public notice website

24 hour meeting notice must include the date, time and place of the meeting along with an agenda.

PUBLIC HEARING NOTICE

**COLONY LOTS 33 AND 92 PLAT AMENDMENT 36 & 35 WHITE PINE CANYON ROAD, SUMMIT COUNTY, UT
PUBLIC NOTICE IS HEREBY GIVEN THAT THE SNYDERVILLE BASIN PLANNING COMMISSION IN ACCORDANCE WITH THE SNYDERVILLE BASIN DEVELOPMENT CODE WILL CONDUCT A PUBLIC HEARING TO DISCUSS AND POSSIBLY TAKE ACTION ON A PROPOSED PLAT AMENDMENT LOCATED AT THE COLONY, SUMMIT COUNTY, UT.
THE PUBLIC HEARING WILL BE HELD:
TUESDAY, OCTOBER 11, 2016 BEGINNING AT 6:00 P.M.
SHELDON RICHINS BUILDING (SUMMIT COUNTY LIBRARY) 1885 W. UTE BLVD., PARK CITY, UTAH, 84098**

THE APPLICANT IS REQUESTING TO ADJUST BOUNDARIES OF LOTS 33 AND 92 OF THE COLONY DEVELOPMENT. THE APPLICANT IS ALSO REQUESTING TO VACATE PORTIONS OF A SKI RUN AND SKI EASEMENTS IDENTIFIED ON THE COLONY PHASE 3A SUBDIVISION PLAT AND INCORPORATE THOSE PORTIONS INTO LOTS 33 AND 92 OF THE COLONY DEVELOPMENT.

**FOR FURTHER INFORMATION, PLEASE CONTACT AMIR CAUS, AT THE SUMMIT COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT, P.O. BOX 128, 60 NORTH MAIN STREET, COALVILLE, UTAH 84017; CALL AT (435) 336-3117; OR EMAIL AT ACAUS@SUMMITCOUNTY.ORG.
TO VIEW THE STAFF REPORT AVAILABLE AFTER OCTOBER 7, 2016 PLEASE VISIT: WWW.SUMMITCOUNTY.ORG**

MEETING AGENDA

The agenda must list each item to be discussed at the meeting, with reasonable specificity.

An issue that is not on the noticed agenda cannot be acted upon (so it is best not to discuss any item not on the agenda, as doing so may violate the OPMA and is very likely a violation of others due process rights, which will lead to a lawsuit)

WEGOTITRIGHT CITY PLANNING COMMISSION
NOTICE AND AGENDA **FEBRUARY 25, 2020.**

NOTICE IS HEREBY GIVEN THAT THE WEGOTITRIGHT CITY PLANNING COMMISSION WILL HOLD THEIR REGULAR MEETING ON THURSDAY, MARCH 8, 2020 AT 7:00 P.M. IN THE MUNICIPAL CENTER. ADA ACCESS AVAILABLE.

The agenda shall be as follows:

1. Opening and approval of minutes from January 12, 2018

2. Public Input: Input on items not on the Agenda

- A. Reports from Council members
- B. Staff & Council Correspondence.

3. Administrative Action Items:

- A. Conditional use permit for a major home occupation “B”, foot zone therapy at 145 South 300 East.
- B. Preliminary plat approval for Phase 19 at approximately 880 South Sunset Drive.

4. Legislative Items:

a. Public hearing and request to rezone 4.05 acres of property at approximately 880 South Sunset Drive from A-1(Light Agriculture) to R-1-LD (Residential Single Family Low Density) – Symphony Homes.

This is a proposal to change the use of land from low density agricultural uses to 5 single family homes in this neighborhood. This is a policy decision to alter the zone and we want to hear the pros & con's about this change of use from the public before making a decision.

5. Presentation and approval of the Wegotitright City Active Transportation Plan. Public input may be taken at the discretion of the Chair.

EMERGENCY MEETINGS

Must be a legitimate emergency, not just that you forgot the advance notice requirements.

Must provide “best notice practicable” of the time, location and topics to be considered.

An attempt to contact all governing body members must be made.

A majority of the governing body members must approve the meeting.

Should only discuss and conduct business related to the emergency.



MINUTES

Minutes must be taken for ALL Open Public Meetings.*

- *Now a recording can serve as the minutes of a meeting.
- But minutes are supposed to include copies of all materials presented to the body..?

Must include date, time, place, members of the public body present, the agenda, the substance of all matters discussed, a summary of comments made, the names of the members of the public commenting and the substance of their comments, and any other information which is requested to be placed in the minutes.

Draft minutes must be made available within a reasonable time of the meeting, and approved minutes available within **3 days of** approval by the body.

Minutes need to be specific and detailed, but do not need to be a transcription of the meeting.

MINUTES OF A CLOSED MEETING



Written minutes are optional.



If written minutes are taken, they must include date, time, place, members present and the names of others in attendance if doing so would not undermine the purpose for closing the meeting.



Closed meeting minutes are considered protected documents under GRAMA.

RECORDINGS

ALL Open Public Meetings must be recorded.

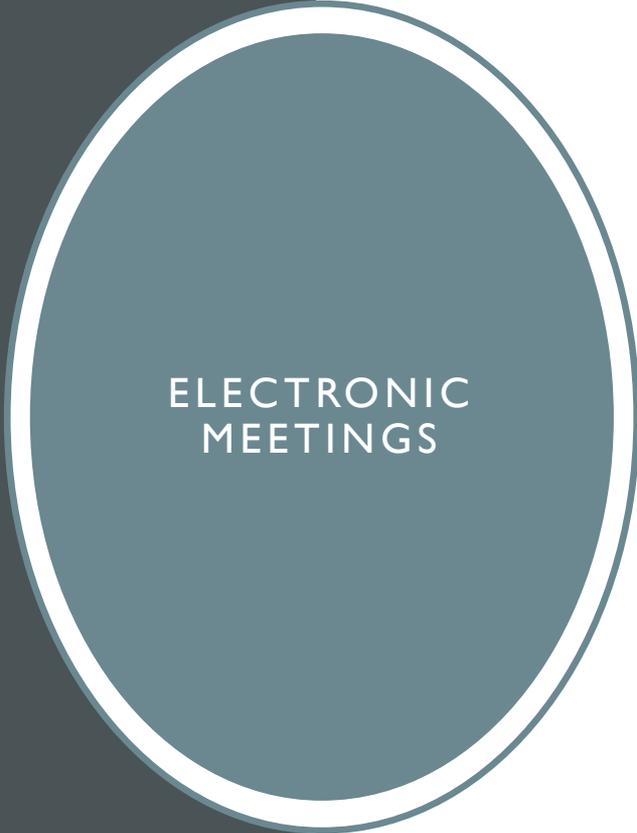
Most closed meetings must be recorded also. (those that are not required to be recorded must have a signed affidavit.)

Recordings may not be edited or altered.

Recordings must be labeled to be easily identifiable

Recording must be made available to the public within 3 days of the meeting.





ELECTRONIC MEETINGS

- Electronic meetings can be conducted using telephone, texting, email, or otherwise.
- **Entity must adopt a rule or ordinance permitting electronic meetings.**
- ~~Must identify an “anchor location”, which is usually the body’s normal meeting place.~~
- Notice of meeting must include information on electronic arrangements.
- “Anchor location” must accommodate the public listening in or, where permitted, participating.
- Person presiding over the meeting must physically be at the “anchor location”.

REP. POTTER HB5002

NARROW EXCEPTION TO THE ANCHOR
LOCATION REQUIREMENT IN THE OPEN
AND PUBLIC MEETINGS ACT

POST AUGUST 20, 2020

IF THE PUBLIC BODY CHAIR MAKES A
WRITTEN DETERMINATION THAT
MEETING TOGETHER CREATES A
SUBSTANTIAL RISK TO HEALTH AND
SAFETY, THE PUBLIC BODY MAY HOLD AN
ELECTRONIC MEETING WITHOUT THE
ANCHOR LOCATION.

DETERMINATION/SUSPENSION OF
ANCHOR LIMITED TO 30 DAYS THEN
MUST BE RENEWED WITH ANOTHER
DETERMINATION

PUBLIC BODY MUST PUT LINK TO
MEETING IN NOTICE

**EXECUTIVE ORDER IS IN
PLACE UNTIL AUGUST 20, 2020**

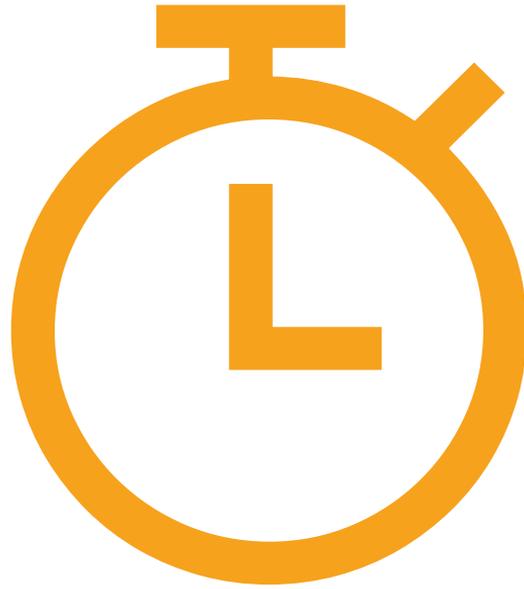


OPMA TRAINING

- The presiding member of a public body is required to ensure that all members of the public body are provided training annually.
- The State Attorney General is responsible to provide annual explanation of changes to the Open & Public Meeting Act to all public bodies.

(Make sure your body is registered so you receive notices.)

The Utah State Auditor's Office provides on-line Open Public Meeting Act training with a certificate to document training has been completed at <http://training.auditor.utah.gov/courses/introductory-training-for-municipal-officials>



POLL TIME



No... its the
Governmental
Records Access and
Management Act!

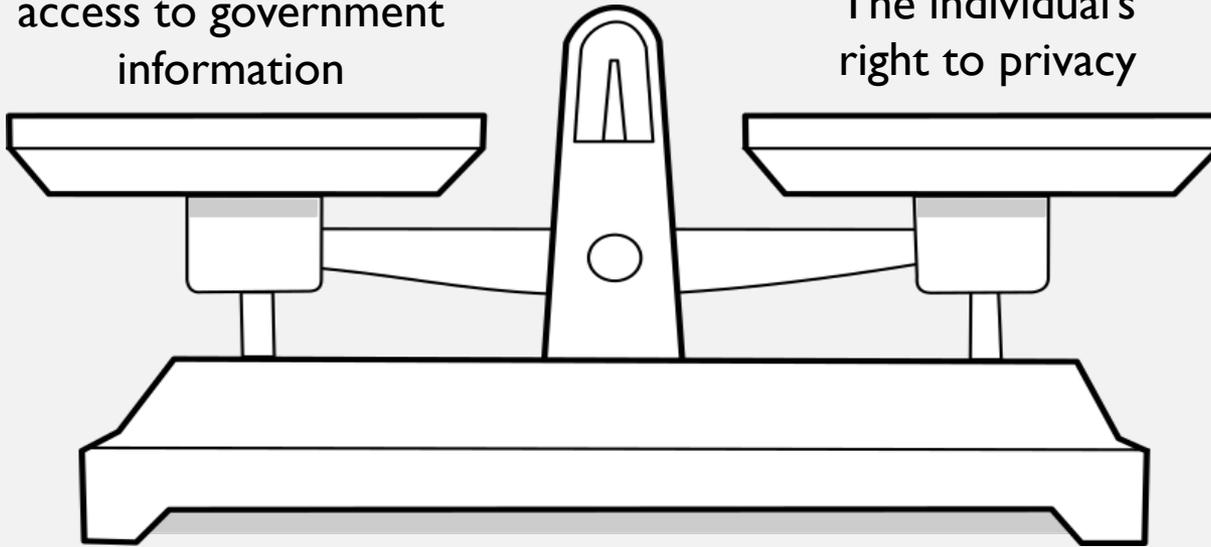
#3 GRAMA BIG PICTURE

Similar to the OPMA, GRAMA creates a presumption that all government records and documents are open and available to the public, with certain limited exceptions.

GRAMA'S BALANCING ACT

The public's right of
access to government
information

The individual's
right to privacy



GRAMA' S 4 MAIN FEATURES

GRAMA requirements can be broken down into four general responsibilities:

1. Classification of records kept;
2. Maintain Records under a Retention Schedule;
3. Provide records access to public and media; and
4. Provide an appeal or review process for dissatisfied persons.

Classifying records, maintaining records under a formal retention schedule, and responding to GRAMA requests are all complicated matters – and should be handled by your agency's Records Officer.

#4 ETHICS

Municipal Officers and Employees' Ethics Act

County Officers and Employees' Disclosure Act

Public Officials and Employees' Ethics Act

Prohibits

- Use of Office for Personal Gain
- Disclosure or use of Protected Information
- "Accepting" "Gifts"

Requires Disclosure

- Assisting in transaction with agency
- Interest in regulated business
- Interest in business doing business with agency
- Investment creating conflict with duties

Penalties

- Removal from office/employment and misdemeanor to felony

RECAP



1. Write your own rules Title 10 Chapter 3 (**the how**)
2. Comply with the OPMA (**the process minutes, transparency**)
3. Comply with GRAMA
(**who gets what/how do they get it**)
4. Comply with Ethics Act
(**the law.....disclosure**)



GOOD LUCK !

www.ulct.org
&
luau.utah.gov