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• What constitutes a meeting?

• What is required under the open meetings law?

• When is it permissible to convene in closed session?
95% of 89 = It Depends

Suzie, this is math, not the law.
• What is a “meeting” under the Open Meetings Law?
“Meeting” is defined as:

- The convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body.

DEFINITION OF MEETING – WIS. STATS. S. 19.82(2)
If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purposes of exercising the responsibilities, authority, power or duties delegated to or vested in the body.

“Meeting” does not include any social or chance gathering or conference which is not intended to avoid the open meeting requirements.
SHOWERS TEST

• Two-part test for determining when the statutory definition of a meeting applies:
  • Governmental body meets with the purpose of engaging in governmental business; and
  • Number of members present is sufficient to determine the governmental body’s course of action.
SHOWERS TEST

- Governmental business refers to any formal or informal action, including discussion, decision, or information gathering on matters within the governmental body’s realm or authority.
  - Includes when its members gather to simply hear information on a matter within the body’s realm of authority.
• Numbers Requirement.
  • Generally one-half of the members of the body.
  • If fewer members are needed to block a proposal, then a smaller number could apply ("negative quorum").
“Convening of Members” is not limited to situations in which members of a governmental body are simultaneously gathered in the same location.

- Extent to which members are able to effectively communicate with each other and exercise authority vested in the body.
- Extent to which communications resemble a face-to-face exchange.
CONVENING OF MEMBERS

ALL THOSE IN FAVOR OF WHAT WE DISCUSSED IN OUR E-MAIL THREAD AND AT LARRY’S SON’S BIRTHDAY PARTY SAY “AYE”

“I THOUGHT THIS MEETING WAS OPEN?”

“AYE”

“AYE”

“AYE”

“I”

... HAVE NO IDEA WHAT’S GOING ON

WINK

NUDGE

LANDGREN

THE LANDMARK

3-16
Two basic requirements of open meetings law:
- Advance public notice of each meeting; and
- Conduct all business in open session, unless an exemption applies.
The chief presiding officer of a governmental body (or designee) must give notice of each meeting to:

• The public;
• Any members of the news media who have submitted a written request for notice; and
• The official newspaper designated pursuant to state statute (or a news medium likely to give notice in the area).
Notice must include:

- Time.
  - Must be given at least 24 hours in advance of the meeting unless “for good cause” such notice is “impossible or impractical.” – Wis. Stats. s. 19.84(3)
- Date.
- Place.
- Subject matter of the meeting, including matters intended for consideration in any contemplated closed session.
Subject Matter
  • Based on information available at the time the notice is provided.

  • Reasonableness standard regarding specificity.

  • Rule of thumb: Would a person interested in a specific subject be aware upon reading the notice that the subject might be discussed?

  • Case by case analysis
    • Burden of providing more detailed notice
    • Subject of particular importance
    • Non-routine subject
NOTICE REQUIREMENTS – WIS. STATS. S. 19.84

• Subject Matter
  • Not sufficient
    • “Old business,”
    • “New business”
    • “Other matters authorized by law”
  • Referring to an earlier meeting without identifying any particular subject
• Closed Sessions
  • If closed session is contemplated, the notice must contain the subject matter to be considered in closed session – Wis. Stats. s. 19.84(2).

  • Notice must contain enough information for the public to discern whether the subject matter is authorized for closed session under s. 19.85(1).

  • Notice of closed sessions must contain specific nature of the business as well as the exemption.
May discuss any aspect of any subject identified in the public notice and reasonably related issues, but may not address topics not reasonably related to the information in the notice.

No requirement that agenda must be followed in the order listed on the meeting notice unless an agenda item has been noticed for a specific time.

Not required to discuss every item contained in the public notice.
“Open session” is defined as “a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times.” – Wis. Stats. s. 19.82(3).
Meetings must be held:

• In places reasonably calculated to be large enough to accommodate all citizens who wish to attend the meetings – case by case basis.
• In public places.
• In locations near to the public they serve.
  • Generally, within the territory they serve.
• Reasonably accessible to all citizens including those with disabilities.
  • Allow persons can enter, circulate and leave facility without assistance.
OPEN SESSION REQUIREMENTS

• Tape Recording and Videotaping
  • Allowed as long as it doesn’t disrupt meeting.

• Citizen Participation
  • No requirement to allow public to speak or actively participate in meeting.
  • May set aside time for public comment.
Voting and Meeting Minutes

- No secret ballots except election of officers.
- No voice vote or show of hands unless vote is unanimous.
- No email ballots.
- Must create and preserve a record of all motions and roll-call votes at meetings.
  - Can be done through written minutes.
  - Should be at the meeting or as soon thereafter as practicable.
**CLOSED SESSION**

**Procedure**

- Must pass motion by recorded majority vote to convene in closed sessions. – Wis. Stats. s. 19.85(1).
- Must announce and record in open session the nature of business to be discussed and the statutory exemption authorizing the closed session.
- Must only discuss business identified.
Statutory Exemptions

Eleven exemptions to the open session requirement. – Wis. Stats. s. 19.85(1)

Includes:

- Judicial or quasi-judicial hearings.
- Employment and licensing matters.
- Financial, medical, social or personal information.
- Competitive or bargaining implications.
- Conferring with legal counsel.
QUESTIONS