



DAVE YOST
Ohio Auditor of State



The Open Meetings Act

Ohio Revised Code
Section 121.22

*Presented by Melissa Gossman,
Assistant Legal Counsel*

OPEN MEETINGS ACT OVERVIEW

- 1 Definitions
- 2 Obligations
- 3 Executive Session
- 4 Liabilities

2

WHO IS SUBJECT AND WHEN?

Applies to "public bodies" when:

- 1 there is a prearranged gathering of
- 2 a majority of the members of a public body
- 3 conducting or discussing public business



3

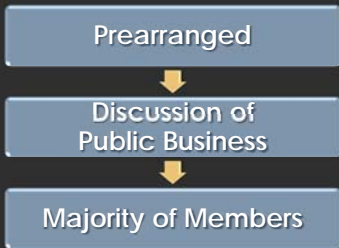
"PUBLIC BODIES"

Includes committees and sub-committees



4

"MEETING"



5

RETREATS, WORK SESSIONS, ETC.?



6

MEETING MUST BE USED FOR DISCUSSION AND DELIBERATION OF "OFFICIAL BUSINESS"

NOT NECESSARILY FOR ...



Information gathering



Presentations



Isolated conversations between employees

7

MEETING OBLIGATIONS

- 1. Notice
- 2. Openness
- 3. Minutes



8

NOTICE RULE REQUIREMENTS

1. Be consistent

AND

2. Actually reach the public

9

OBLIGATION 1: NOTICE

Public bodies establish their own notice rules



10

NOTICE REQUIREMENTS DEPEND ON TYPE OF MEETING

Two Types of Meetings:

Regular	Special
Prescheduled Intervals	Anything other than Regular

11

NOTICE: REGULAR MEETINGS

Regular	
Time	Place

12

NOTICE: SPECIAL MEETINGS

Special		
Time	Place	Purpose

13

SPECIAL MEETINGS: MEDIA

At least 24 hours
notice to all media
outlets that have
requested it



14

EMERGENCY MEETINGS

Immediate Notice Required



- Type of special meeting
- Must include media with notice

15

NOTICE TO PUBLIC OF PLANNED DISCUSSION OF PARTICULAR TOPIC

1. Public body must have a method to sign up for such notice
2. May require payment of reasonable fee

NOTICE

16

OBLIGATION 2: OPENNESS



17

OPENNESS

Vote and take official actions in public



18

OPENNESS

No round-robin meetings



No voting by secret ballot



19

OPENNESS

Forum requirements:

1. Public
2. In area public body serves
3. Large enough



20

RECORDING AND SPEAKING?

Cannot ban non-disruptive recording



Do not have to allow public participation



21

QUIZ

Township trustees hold a regular meeting, where all the members attend, and provide the proper notice to the public. But the doors to the meeting room are accidentally locked while the meeting is ongoing.



Open?



Not open?

22



Proper notice was given



Minutes were taken



Openness denied to latecomers

Potential OMA violation



23

OBLIGATION 3: MINUTES

Requirements:

1. Promptly prepared
2. Filed
3. Maintained
4. Open to public



24

REQUIRED CONTENT

- Not verbatim transcript, but ...
- Must allow public (including those who did not attend) to understand decisions of the public body



25

MINUTES

White v. Clinton Cty. Bd. of Comms., 76 Ohio St.3d 416 (1996)

Court held:

- Minutes should not be limited to a mere recounting of the body's roll call votes
- Must be a "full and accurate record"

Minutes did not enable public to understand rationale behind new policy

- Should have provided a better understanding of the Commissioners orders

IT'S NOT ENOUGH

26

MINUTES

Insufficient and Inaccurate

State ex rel. Long v. Cardington Village Council, 92 Ohio St.3d 54 (2001)

Court found that the Village's minutes:

- **Contained inaccuracies**
 - Erroneously included former council member in roll call
- **Did not contain sufficient facts to understand & appreciate rationale behind decisions**
 - Did not include motions or votes
 - In one case, minutes merely state that "a meeting was held to sign off on all accounts"
- **Failed to state with specificity the reasons for executive session**
 - Listed "personnel" instead of one of the specific matters in O.R.C. 121.22(G)(1)



27

EXECUTIVE SESSION



28

PROPER PROCEDURE

Motion

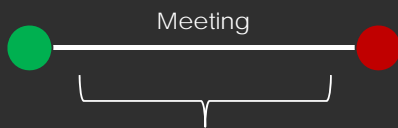
Second

Roll Call Vote

Identify particular purpose and matter

29

Do not **BEGIN** or **END** a meeting
in executive session



Insert executive session here!

30

NINE ACCEPTABLE EXECUTIVE SESSION TOPICS

1. Certain personnel matters (must be specific)
2. Purchase or sale of property
3. Pending or imminent court action
4. Collective bargaining matters
5. Matters required to be kept confidential
6. Security matters
7. Hospital trade secrets
8. Confidential business information of an applicant for economic development assistance
9. Veterans Service Commission applications

31

QUIZ

Township trustees want to go into executive session to discuss a general OMA issue. Chair moves to adjourn with the board's attorney to "discuss some legal matters with the attorney for the trustees." Roll call vote.



Appropriate?



Not appropriate?

32



Started in open session



Roll call vote to enter executive session



Pending or imminent legal action

Potential OMA violation



33

WHO CAN BE PRESENT?

1. Members

- But cannot exclude minority!



2. Anyone else the members invite

34

WHAT NOT TO DO IN EXECUTIVE SESSION

	Vote
Make Any Decisions	
WRONG WAY	Discuss Other Matters

35

EXECUTIVE SESSIONS - CONFIDENTIALITY

The Open Meetings Act does not create a provision for confidentiality

Ethics laws and other privileges may require confidentiality

- BUT – those may not apply if members of the public are invited



NOTE: Just because a record is created in executive session does not make it confidential

36

VIRTUAL PARTICIPATION?



Not unless *specifically* authorized by law...

37

WHO ENFORCES THE OMA?

- "Any person" by filing a lawsuit
- No public entity enforces the OMA



38

POTENTIAL LIABILITIES

1. Fine
2. Attorney fees
3. Invalidation of action(s) taken
4. Removal from office



39

COMMON ORDER OF BUSINESS/AGENDA

- May Establish Order
- Call to order
- Roll call
- Approval of agenda
- Reading, correction and approval of minutes
- Special orders
- Old/unfinished business
- New Business



PRESENTING A MOTION



Maker should say:

- "I move that . . ." OR "I move to . . ."
- Never "I make a motion to . . ." OR "I make a motion that . . ."

- Must be seconded:
 - Indicates only agreement to allow debate

PROCEDURE AFTER A MOTION HAS BEEN MADE AND SECONDED

The chair restates the motion:

"It has been moved and seconded that . . ."

"Are there any questions?"

Once restated it belongs to the body



DEBATE FOLLOWS

- Member must be recognized by chair
- Moving member has privilege of first speech



AFTER DEBATE IS CONCLUDED



Chair puts the matter to a vote

Chair announces result of vote

QUESTIONS?



Open Government Unit
88 East Broad Street
Columbus, Ohio 43215

E-mail: contactus@ohioauditor.gov
Or ogu@ohioauditor.gov
