

Open Meeting Law

Few laws impact the operation of local government as directly as the open meeting law. All town officers need to develop and then maintain a working knowledge of open meeting law requirements. Born from the idea that public business should be conducted in public, the open meeting law requires local governments to do its work at properly noticed public meetings. This simple concept can be very difficult to apply in a given situation.

Refer to *The Practical Guide to the Open Meeting Law* for a detailed discussion of the open meeting law as well as a number of procedural checklists and forms to assist towns. The Guide can be found on the Associations web page (<http://www.mntownships.org/>) under the Resource Center link (click on “open meeting law”).

Who must comply with the open meeting law?

Because public business can be transacted in a variety of settings, the legislature drafted the law very broadly to apply to the governing body of local governments and any committee, subcommittee, board, or department established by the local government. This means the town board, town planning commission, board of appeals and adjustment, joint powers board, park board, and any other town boards or committees must comply with the open meeting law.

When does the open meeting law apply?

Once the scope of the law is understood, the challenge becomes trying to understand to which activities of those boards and committees it applies. To aid in this understanding, keep in mind this general rule: The open meeting law applies anytime a quorum or more of a public body gathers to discuss, decide, or receive information regarding the business of the public body.

The first element of this general rule is the existence of at least a quorum of the public body. Two supervisors constitute a quorum of a three-supervisor board and three supervisors constitute a quorum of a five-supervisor board. Minn. Stat. § 366.01, subd. 1. For other committees or boards, a simple majority of the voting members usually constitute a quorum; however, the bylaws of the group should always be referenced to see if quorum was expressly defined for the group.

The second element relates to the first and emphasizes that the open meeting law usually only applies to voting members of a public body. The concern is that those with the power to make decisions affecting the public do not privately discuss among themselves public business. This concern does not reach to discussions with or among those who do not have the power to make the decision. As such, on three supervisor boards two supervisors may not discuss

public business outside of a meeting, but a supervisor can usually discuss town business with the clerk or treasurer without implicating the open meeting law.

The third element is the “gathering” requirement. This may seem like a minor point, but it has raised questions over whether discussions via electronic communications such as on the telephone or by e-mail are covered. When interpreting the open meeting law, courts often turn to its purposes. When one considers that many of the evils the open meeting law is intended to guard against can be committed through electronic communications, it becomes clear that such communications between supervisors must be avoided.

The fourth element is the “discuss, decide, or receive information” portion of the rule. A misstatement about the open meeting law is that it only applies if a decision is made at the gathering. That is simply not true. Not only does the open meeting law apply to pure discussions among public officers, it can even be interpreted as applying to the passive act of receiving information.

The last element is that the discussion, decision, or information must relate to the business of the public body. So, the open meeting law would apply to two supervisors discussing the proposed adoption of a town-zoning ordinance, but not to discussions of the weather or the local football team.

Some examples will help demonstrate the pervasiveness of the law. Consider, for instance, a quorum or more of the town board attending a meeting of another public body such as the county planning commission meeting. If town business is discussed at the meeting, it is possible to argue the open meeting law is triggered requiring the town board to provide its own notice of the fact it will be at the county meeting. If a quorum of the supervisors also serves on the town planning commission, the open meeting law must be considered and notice provided for both the town board and the planning commission.

What does the open meeting law require?

In an attempt to achieve its goal of allowing public access to local government decision-making, the open meeting law contains a variety of requirements. The primary requirements are: notice must be provided of meetings; meetings must be held in public; certain records must be kept and made available to the public; and limits are imposed on when and how meetings can be closed to the public.