

# CLOSED MEETINGS

TRAINING

# OPMA

(UTAH CODE 52-4)

- It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
  - (a) take their actions openly; and
  - (b) conduct their deliberations openly.
- Generally, all parts of all meetings are public.

# REASONS FOR A CLOSED MEETING

(UTAH CODE 52-4-205)

- Discussion of the character, professional competence, or physical or mental health of an individual.
- Strategy sessions to discuss collective bargaining.
- Strategy sessions to discuss pending or reasonably imminent litigation.

# REASONS FOR A CLOSE MEETING

(UTAH CODE 52-4-205)

- Strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state or a political subdivision, if public discussion would:
  - Disclose the appraisal or estimated value of the property under consideration; or
  - Prevent the public body from completing the transaction on the best possible terms;

# REASONS FOR A CLOSE MEETING

(UTAH CODE 52-4-205)

- Strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:
  - Public discussion of the transaction would:
    - Disclose the appraisal or estimated value of the property under consideration; or
    - Prevent the public body from completing the transaction on the best possible terms;
  - The public body previously gave public notice that the property would be offered for sale; and
  - The terms of the sale are publicly disclosed before the public body approves the sale;

# REASONS FOR A CLOSE MEETING

(UTAH CODE 52-4-205)

- Discussion regarding deployment of security personnel, devices, or systems.
- Investigative proceedings regarding allegations of criminal misconduct.
- State procurement code (if adopted)
  - Evaluation committee
  - Protest officer
  - Procurement appeals board
  - Considering a trade secret
  - Review of certain information

# PROHIBITIONS

(UTAH CODE 52-4-205)

- Interview a person applying to fill an elected position.
- Discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.
- Discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

# PROHIBITIONS

## (UTAH CODE 52-4-204)

- A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.
- An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.
- A public body may not take a vote in a closed meeting, except for a vote on a motion to end the closed portion of the meeting and return to an open meeting.

# PROCEDURE TO CLOSE A MEETING

(UTAH CODE 52-4-204)

- Part of an open meeting.
- Quorum is present.
- 2/3 of the council members present must vote to close the meeting (4 members). Members must vote individually.
- The reason(s) for the closed meeting is announced as part of the motion.
- A simple majority may vote to end a closed meeting.

# AUDIO RECORDING

(UTAH CODE 52-4-206)

- Required for closed meetings
- Complete and unedited.
- Retained permanently.
- Exceptions
  - Discussion of the character, professional competence, or physical or mental health of an individual.
  - Discussion regarding deployment of security personnel, devices, or systems
  - Person presiding signs a sworn statement affirming the purpose for closing the meeting.

# WRITTEN MINUTES

(UTAH CODE 52-4-206)

- Not required for closed meetings.
- Detailed not a summary.
- Retained permanently.

# CONFIDENTIALITY

(UTAH CODE 52-4-206)

- Recordings and minutes are protected records and strictly confidential.
  - May be disclosed under a court order only as provided under Section 52-4-304.
  - Shall be disclosed, upon request, to the Office of the Legislative Auditor General under Section 36-12-15.
- What is discussed in a closed meeting is strictly confidential.
- A member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.
- The City can be sued or a person prosecuted by the State Attorney General or the County Attorney.

# P.S.

- Information provided before the meeting.
- Opportunity to review the information and contact staff if there are any questions.
- Meeting can focus on questions for the applicants, public comment, and discussion among the council members.

# POWERS AND DUTIES

(ULCT)

**The best way to avoid problems is to err on the side of public openness.**

# QUESTIONS